AMERICAN BENEFITS COUNCIL

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Dear Rob, Vicki, and Lisa:

On behalf of the American Benefits Council (the "Council"), I am writing with respect to the project to update the mortality tables for purposes of the pension rules, including funding, benefit restrictions, and lump sum distributions.

The Council is a public policy organization representing principally Fortune 500 companies and other organizations that assist employers of all sizes in providing benefits to employees. Collectively, the Council's members either sponsor directly or provide services to retirement and health plans that cover more than 100 million Americans.

We strongly support the effort to update the mortality table – i.e., the statutory applicable mortality table -- to reflect the evidence of U.S. defined benefit plan participants' longer life expectancies, as we have discussed. As reflected in our numerous submissions and discussions with you, we are committed to contributing constructively to this process.

**Need for an announcement before September 1, 2017 that the replacement mortality table will not apply for plan years beginning in 2018**

We want in particular to take a moment to focus on ***announcement timing,*** separate from the discussion below regarding the need for a deferred effective date.

For a variety of reasons provided below, and as we have previously advocated, plans have a clear practical need for at least an 18-month period between finalization of new mortality assumptions and the effective date of those assumptions. In terms of timing, the need for an announcement by August 31, 2017 that the new assumptions will not apply to plan years beginning in 2018 has now become urgent. Continued uncertainty will cause plans to divert resources to wasteful planning for rules that will not go into effect.

**Need for an 18-month deferred effective date**

The reasons why it is so important that there be a minimum of an 18-month period between the finalization of any regulations containing new mortality assumptions and the effective date of those regulations are the following:

- **Planning time needed:** An earlier effective date would almost certainly leave insufficient time between publication of the final rules and the effective date of the rules. The new assumptions in the proposed regulations would have a significant effect on plan sponsors' funding obligations, and changes to a company's funding obligations have an effect on the company's entire corporate budget, disrupting or cancelling corporate growth initiatives and potentially having a deleterious impact on jobs. Accordingly, plan sponsors will generally need at least 18 months prior to the effective date to adjust business plans in order to take the new assumptions into account.

- **Inability to use substitute mortality tables under a January 1, 2018 effective date:** Without an extension of the transition period well beyond January 1, 2018, under the proposed regulations, plan sponsors wishing to use a substitute mortality table for the first year of the new tables will be effectively precluded from doing so until ***after*** the effective date. The process to develop the needed experience studies will take months, likely followed by several more months of review by the Service, and possibly further followed by Service-required changes to the substitute table. All of this needs to be done far in advance of the beginning of the year so that companies can reasonably budget and make any changes to corporate initiatives which result from increased funding obligations. As noted, these changes are not simple and can have a far reaching impact on a company's operations. If there is a 2018 effective date, that process cannot feasibly be completed until well into 2018, long past the date for quarterly contributions for 2018 and the date that business plans for 2018 must be finalized. This is not a workable schedule. In effect, the timing would force employers to forego the benefits of a substitute mortality table that Congress required Treasury and the Service to effectuate *back in 2016*.

- **No legal impediment to 18-month delay:** We recognize that the statute requires mortality table revisions every 10 years. But there is no statutory requirement that the revisions be immediately and fully effective. Thus, we see no legal impediment to the 18-month period recommended above. For example, assume that the regulations were not finalized until January 15, 2018. In that situation, no one would contend that such regulations should be effective for 2018. So the 10-year requirement should clearly not be interpreted to require immediate application of rules issued too late to be appropriate for 2018.

- **Time-consuming administrative steps needed:** As explained further below**,** significant changes to (1) administrative and pension calculation systems and (2) valuation calculations and programs will be needed to comply with the regulations, adding to the need for an 18-month period between the regulations' finalization and effective date. The complex defined benefit ("DB") plan calculations (including annuity calculations in hybrid plans), mandatory disclosures (e.g., relative value disclosures), and notices under the Code and Department of Labor regulations are painstakingly programmed into Council members' DB plan administration systems and reviewed with the plan sponsor, so that the benefits and optional payment forms can be properly and fairly reviewed, and informed elections may be made by the prospective payees within the plan's applicable election period for benefits.

    - All of the above will take a long time, and the time needed will be longer by reason of the fact that all plans will need this work simultaneously, putting enormous strains on the time available from the experts providing these services.

As referenced in the last bullet above, for the large number of plans that offer lump sums and other payments subject to section 417(e) (not addressed in the proposed regulations), updating systems will be very time consuming, particularly in light of the need to certify the systems and to review the new rules with plan sponsors. And this information will be needed very soon for participants contemplating retirement in January or February.

While Council members have different internal protocols and schedules for their professional services, here are the tasks, in general and greatly simplified, which our members will need to conduct, especially for DB plan benefit certification:

1. Develop a project scope and change coding to meet any final regulation

2. Prepare and check test cases

3. Comply with internal peer review standards

4. Comply with external industry professional requirements (i.e., Actuarial Standards of Practice ("ASOPs"))

5. Certify that the calculation engine is complete

6. Prepare communications for plan sponsors, both for benefits experts and, in some cases, for participants.

7. Meet with plan sponsors' benefits experts and discuss new assumptions and participant communications.

8. Finalize plans to implement and communicate new assumptions.

This process cannot be squeezed into a short period of time in the case of very significant and complicated changes. Eighteen months is needed between the date of finalization and the effective date of the new assumptions.

We thank you for your consideration of the issues addressed in this letter.

Sincerely,

Lynn D. Dudley

Lynn D. Dudley
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