

TESTIMONY

Before

**The House Committee on Education and the Workforce
Subcommittee on Employer-Employee Relations**

Representative Sam Johnson, Chairman

on

The Retirement Security Advice Act of 2001 (HR.2269)

and

The Employee Retirement Income Security Act of 1974 (ERISA)

July 17, 2001

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Introduction

Good morning, Chairman Johnson, Representative Andrews and Members of the Committee. I am Richard Hiller, Vice President, Western Division of the Retirement Services area of the TIAA-CREF Group, which specializes in managing and administering defined contribution retirement savings plans for over 10,000 primarily educational and other not-for-profit organizations. Most of our two million participants are covered by pension and tax-deferred annuity plans that operate under Section 403(b) of the Internal Revenue Code. Today, TIAA-CREF makes retirement income payments to about a half a million retirees. Our organization manages over \$260 billion in assets.

For over 80 years, TIAA-CREF has worked closely with the higher education community to provide an adequate retirement income to educators and staff. As a result of our joint efforts, 95% of the full-time employees in higher education are eligible to participate in a retirement plan – either a defined contribution plan or a state retirement system. The American Association of University Professors, the American Council on Education, the College and University Professional Association for Human Resources and the National Association of College and University Business Officers join in support of our statement.

We are pleased to share our expertise with the committee as it explores adopting changes to ERISA in the context of the current retirement savings environment and to support the Retirement Security Advice Act of 2001 (HR.2269). During the series of

hearings that led up to the enactment of the Employee Retirement Income Security Act of 1974 (ERISA), Senator Jacob Javits cited TIAA-CREF as a pension role model. This esteemed co-author of ERISA might be surprised to see how employers and employees have embraced the defined contribution pension model. Today, over 40 million workers are covered by defined contribution plans with total assets in defined contribution plans equaling \$2.45 trillion dollars in 1999, of which \$1.9 trillion is in 401(k) plans.

Of course, pension choices were much more straightforward years ago. Defined benefit plans were the corporate retirement model and 401(k) plans did not exist. Performance of the stock market in the mid 70's made it a scary place for the unsophisticated investor. At that time, we offered participants a choice between TIAA, a traditional fixed annuity and CREF, a variable annuity invested in stocks. Most of our participants found the best way to hedge their bets was to use a 50/50 allocation split between the two choices, but the public at large was a long way from embracing mutual funds and, in particular, equities.

Times change – and so have the needs and expectations of not only TIAA-CREF participants but also all workers covered by pensions and 401(k) plans. As a result, TIAA-CREF responded by offering an enhanced range of investment choices and greater income options. This has considerably complicated the decision-making process for our participants – and they are not alone. According to Hewitt Associates, the average participant in a 401(k) plan had eleven investment choices. Moreover, most 401(k) plans aren't structured to provide lifetime payout options in retirement,

retirees often find that they are on their own to decide how to make their money last throughout retirement.

Providing Financial Education

While greater choices have challenged employees making financial decisions, many workers have at the same time become more sophisticated about investing. The questions TIAA-CREF and the employers we work with most frequently hear are: “How should I allocate my retirement contributions?” “Will I have enough when I want to retire?” and “How should I take my retirement income – as an annuity or lump sum?” TIAA-CREF believes that by providing participants with educational resources and information, we can help them make the right financial decision about saving and investing. Our founding charter, written in 1918, established financial education as an important mission for TIAA-CREF and over the last decades we have greatly expanded our efforts to help our participants answer the above questions.

Today we use a variety of tools, techniques and media to carry out our financial education mission. Our publications include one-page stuffers, single topic pamphlets, newsletters for participants and plan administrators and special reports covering key issues. TIAA-CREF materials cover topics including investment options, calculations of retirement income needs, and explanations of various tax issues, such as the recent tax bill which created greater retirement savings incentives. These educational efforts are supported by group seminars, which TIAA-CREF offers in partnership with employers customized to their plan as well as other seminars like our Financial Education Series

(FES), and individual counseling by registered representatives in our phone centers or through face-to-face meetings. In addition, TIAA-CREF uses internet technology to deliver information and service.

To help participants apply financial education to their own situations, TIAA-CREF has developed principles that underlie our guidance. For example, we recommend that participants diversify their retirement accounts among equities and at least two of other asset classes and emphasize that diversification remains important after retirement. When participants reach retirement, we remind them that they should plan to live beyond their life expectancies and we discuss how a lifetime annuity can play a role in ensuring an adequate income for life. For the most part, general education and guidance helps participants to make their decisions. In fact, a survey by Roper Starch determined that 75% of attendees at our FES programs were “very satisfied” with the program and half of all respondents indicated that they had changed, or planned to change, their financial behavior. But, participants want more; they want advice.

The more education and guidance available to an individual, the more he or she is likely to benefit from it. In a 1997 study of TIAA-CREF participants and their investment strategies, economists Professor Bodie and Professor Crane wrote: “. . . our findings suggest that, given enough education, information and experience, people will tend to manage their self-directed investment accounts in an appropriate manner.”

As workers seek help in making their investment decisions, investment advice is the obvious next step in the financial education spectrum. In a recent American Council

of Life Insurers (ACLI) survey of 401(k) participants, 74% believe that it is in the best interest of workers to have as much information as possible on investing their retirement savings and feel that workers do not get enough guidance from the current system. A similar survey of TIAA-CREF participants found that nearly 70% are interested in obtaining personal recommendations on how to allocate their retirement savings. Another TIAA-CREF survey of participants revealed that 75% wanted advice on retirement income options with an even greater response (84%) among participants in the pre-retirement ages.

Participant Reactions and Need for Greater Assistance

Choosing the right investments for a retirement portfolio is a critical decision for our participants. Over time, the basic financial education we provide participants evolved into general “models” designed to fit general time horizons and risk tolerance parameters, as permitted by the Interpretive Bulletin issued by the Department of Labor. Today, one of the ways we offer guidance and education with an interactive calculator that considers not only risk tolerance and time horizons but also goals and investment preferences.

We recently studied the impact of our asset allocation guidance on our participants’ decision-making process and subsequent actions. The study compared the asset allocation decisions of TIAA-CREF participants who received an asset allocation guidance with “control” groups of other TIAA-CREF participants. This analysis indicated that almost two thirds of the group that received asset allocation guidance

changed their investment mix and they were much more likely to begin using new, recommended investment accounts than were members of the control groups. It is important to stress that allocation guidance is voluntary and that the majority of participants did not follow the software's allocation recommendation "to the letter."

This experience shows that participants seeking out retirement savings advice, evaluate the recommendations and then make adjustments to fit their personal comfort level. Personalized advice is a further enhancement that can enable participants to sort through their complex choices. The preliminary results of a TIAA-CREF Institute-sponsored survey that was just conducted provide further insight on this matter. 86% of the respondents expressed a preference for using a financial advisor who provides quality information rather than one who assumes control over their investment options. Thus, we believe that receiving retirement advice that is personalized to the individual's situation would allow him/her to make more informed decisions without compromising their control.

Providing retirement advice should have a positive impact on employees' retirement savings activity. The pension provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 enhance the retirement savings opportunities for millions of American workers. But, according to an economic analysis of financial planning and its associated costs by Professor Lusardi, many workers may not take enough time to plan for these new retirement savings options. She found that households not planning for retirement end up having much lower savings than households that have thought a lot about retirement. Evidence from this empirical work

suggests that programs that provide investment advice as well as information on saving can give individuals an incentive to start saving, especially among women and low-income workers.

Representative Boehner's legislation, HR.2269, addresses challenge posed by ERISA

Currently, under ERISA, pension plan service providers like TIAA-CREF and employers are significantly constrained from providing individualized investment advice to workers in the plans they service. Although education and guidance as allowed under the Interpretive Bulletin are helpful, many participants want and need more. And while it is possible for a service provider to provide specific investment advice to plan participants, it requires reliance on prohibited transaction exemptions that either the DOL has called into question for this purpose, or else impose onerous restrictions. Moreover, the current guidance, including the Interpretive Bulletin, does not specifically address advice related to the choice of retirement plan payout options.

Consequently, some employers who are willing to help those employees who want customized advice must hire a third party. Wealthier Americans have been able to hire their own investment advisors as necessary, while most middle income families do not. As a result, most employees have been "on their own" in terms of making essential and life affecting investment decisions.

The Retirement Security Advice Act introduced by Chairman John Boehner would allow employers subject to ERISA to provide their employees with access to professional investment advice from a financial institution that is a service provider to the plan.

TIAA-CREF supports this bill because we believe it will provide employees with much needed investment advice in an increasingly complex retirement planning environment. At the same time, it affords substantial protections to employees. While the bill allows “fiduciary advisors” an exemption from the restrictions of ERISA section 406, the advisor is an ERISA fiduciary and is subject to the requirement to act solely in the interest of participants and beneficiaries. If its advice is imprudent, the advisor would be subject to fiduciary liability. The bill also permits investment service firms to provide investment advice to employees in the plans they service with full disclosure of all relevant information about the advisor’s fees and potential conflicts. The participant can choose whether to accept or reject the advice provided.

While remaining responsible as a fiduciary for the selection of the financial advisor and periodically monitoring its performance, the employer would not be responsible for the actual investment advice recommendations. This provides the employer with a significant comfort level to permit a service provider to give advice to plan participants.

At TIAA-CREF, we believe that HR.2269 will be a great advantage for those individuals who are seeking investment advice to be able to receive it from their

retirement plan's financial service provider. Trust of participants is a crucial dimension of their relationship with a financial services firm. The responsibilities of a "fiduciary advisor" are standards that we, at TIAA-CREF, operate under already. Under HR.2269, this high standard will be imposed on any financial advisor that wants to provide investment advice to retirement plan participants.