INSURED RETIREMENT INSTITUTE

June 2, 2022

The Honorable Patty Murray
Chair
Committee on Health, Education, Labor, & Pensions
United States Senate
154 Russell Senate Office Building
Washington, DC 20510

The Honorable Richard Burr
Ranking Member
Committee on Health, Education, Labor, & Pensions
United States Senate
217 Russell Senate Office Building
Washington, DC 20510

Dear Chair Murray and Ranking Member Burr:

The Insured Retirement Institute (IRI)[1] appreciates the opportunity to provide comments on measures contained in the discussion draft of the *Retirement Improvement and Savings Enhancement to Supplement Healthy Investments for the Nest Egg (*RISE & SHINE) *Act*. While the enactment of the *Setting Every Community Up for Retirement Enhancement* (SECURE) *Act* in 2019 established a path toward financial security and dignity, achieving retirement security remains an area of significant concern for America's workers, retirees, and their families. IRI believes the discussion draft of the *RISE & SHINE Act* provides bipartisan, common-sense solutions that address this anxiety by reducing the challenges and obstacles that impede saving for both short-term and long-term financial security.

IRI was pleased to see the discussion draft contained several measures which IRI has expressed support for in our 2022 Federal Retirement Security Blueprint[2] – measures that will help to address the anxiety and insecurity that many workers and retirees across the United States have today[3] about their ability to accumulate sufficient savings to provide them with sustainable income during their retirement years.[4] Drawing on the Blueprint, the following comments highlight IRI's support for specific provisions of the draft *RISE & SHINE Act* as well as offers several suggestions for additional measures that would further enhance the reach and impact the legislation can have on improving and enhancing the retirement security for more of America's workers and retirees.

Measures of the *RISE & SHINE Act* IRI Supports

Authorize the Formation of 403(b) Pooled Employer Plans (PEPs)

Many 501(C)(3) nonprofits, public educational organizations, and religious institutions face financial and administrative challenges, as well as legal risks, when seeking to offer their employees retirement saving plans such as a 403(b) plan. While the *SECURE Act* provided small businesses with the opportunity to utilize a multiple or pooled employer plan (MEP or PEP) to provide retirement savings to employees, the authorization was not extended to the 403(b) plans offered by 501(c)(3) organizations. As a result of not including 403(b) plans in the SECURE Act, organizations eligible to offer a 403(b) plan must still assume financial and administrative challenges and legal risks when offering a plan. Therefore, many do not offer a retirement plan to their employees.

[1] The Insured Retirement Institute (IRI) is the leading association for the entire supply chain of insured retirement strategies, including life insurers, asset managers, broker-dealers, banks, marketing organizations, law firms, and solution providers. IRI members account for 90 percent of annuity assets in the U.S., include the foremost distributors of protected lifetime income solutions, and are represented by financial professionals serving millions of Americans. IRI champions retirement security for all through leadership in advocacy, awareness, research, and the advancement of digital solutions within a collaborative industry community. Learn more at www.irionline.org.

[2] "IRI 2022 Federal Retirement Security Blueprint", March 2022. The IRI Blueprint offers thirty-three public policy measures that, if enacted into law, would expand opportunities for more of our nation's workers to save in workplace retirement plans, facilitate the use of lifetime income products to better insure against the risk of outliving savings, and preserve and promote access for retirement savers to obtain information more readily about their retirement accounts.

[3] "Saving For Retirement at Work: Views of Voters Ages 25+", AARP, October 2021. This survey conducted by the American Association of Retired Persons (AARP) of voters aged 25-plus found that more than six in 10 (63 percent) are anxious about whether they will have enough money saved to live comfortably throughout their retirement years. Further, the survey found that virtually all voters (99.7 percent) say that it is essential for people to save money for retirement while they are working. Almost all of those employed workers (96 percent) say that having a workplace retirement savings plan is vital in helping them save for retirement.

[4] "Retirement Readiness Among Older Workers 2021" Insured Retirement Institute. March 2021. The IRI study found that 66 percent of older Americans – aged 40 to 73 – do not think they will have enough income to last throughout their retirement, and more than 55 percent have saved less than 10 percent of their income

Section 102 of the *RISE & SHINE Act* amends the SECURE Act and authorizes nonprofits, public educational organizations, and religious institutions to form and use 403(b) PEPs in the same manner as other small businesses are permitted to do so under the SECURE Act. The expansion of PEPs to 403(b) plans affords nonprofit, public educational, and religious institution employers the same relief from burdensome administration challenges that now discourage these employers from offering their employees a workplace retirement plan. They would now be able to achieve the same economies of scale and delegate responsibility for sponsoring the plan to a professional plan fiduciary. This measure was also included in the *Improving Access to Retirement Savings Act (*S.1703-117th Congress*)*, the *Securing a Strong Retirement Act of 2022 (*H.R.2954-117th Congress*)*, and the *Retirement Improvement and Savings Enhancement* (RISE) *Act* (H.R.5891-117th Congress). IRI strongly supports the passage of this measure because it facilitates expanded access to retirement savings plans for more workers.

Recommended Adjustments to IRI-Supported Measures in the *RISE & SHINE Act*

Provide Opportunities to Accumulate or Access Emergency Savings While Ensuring Maintenance of Retirement Savings

RECOMMENDATION TO ENHANCE EXISTING MEASURE: Authorize multiple options through which employers can offer emergency savings programs to facilitate choice

Workers and retirees are chronically under-saved, not just for retirement but also for short-term expenses and emergencies. According to several studies, fewer than 4 in 10 Americans have the savings to cover an unexpected expense of $1,000[5], and 35 percent of Americans now have less in savings accounts than they did prior to the pandemic.[6] Likewise, retirement savings have been impacted. A study conducted by the Transamerica Center for Retirement Studies found that nearly 20 percent of workers reported contributing less to workplace retirement plans, and 1 in 5 either withdrew or plan on withdrawing funds from retirement savings as a result of the financial effects of the pandemic.[7] A study by the Nationwide Retirement Institute of financial professionals found that 91 percent would like to see measures enhancing emergency savings while encouraging retirement savings enacted by Congress.

Section 202 of the *RISE & SHINE Act* helps America's workers and retirees save more for both near- and long-term expenses. It enables employers to offer post-tax emergency savings accounts into which employees are automatically enrolled to fund emergency expenses. The provision also caps these emergency savings accounts at $2,500 with remaining contributions deposited into workplace retirement savings plans. This measure was also included in the bipartisan *Emergency Savings Act* (S.4310 – 117th Congress) introduced by Senators Cory Booker (D-NJ) and Todd Young (R-IN).

While this measure reflects one approach that can be taken to provide a way for workers to accumulate emergency savings through a workplace savings arrangement, IRI respectfully submits that rather than authorizing only one approach to enhance emergency savings opportunities while encouraging retirement savings, other approaches – including in-plan emergency savings, like that proposed by Senators Michael Bennet (D-CO) and James Lankford (R-OK) in the bipartisan *Enhancing Emergency and Retirement Savings Act* (S.1870 –117th Congress) – should also be authorized to allow employers and participants a choice of approaches by which they would have an opportunity to both accumulate and access emergency savings when needed.

Annual Audits for Groups of Plans

RECOMMENDATION TO ENHANCE EXISTING MEASURE: Expand use of single filing of Form 5500 to plans of all sizes.

A major objective of the *SECURE Act* was to expand access to workplace retirement plans to nearly 40 million workers at small and mid-sized businesses.[8] To help achieve this policy goal, the SECURE Act established several plan types

[5] "Fewer Than 4 in 10 Americans Could Pay a Surprise $1,00 Expense From Savings, Survey Finds." January 2021.
[6] "Survey: Nearly 3 Times as Many Americans Say They Have Less Emergency Savings Versus More Since Pandemic." August 2020.
[7] "Retirement Security Amid COVID-19: The Outlook of Three Generations." May 2020.
[8] "Workers at small firms may get more access to 401(k) plans under new federal rule." CNBC. July 29, 2019

that enable small businesses to band together to achieve economies of scale and reduce administrative burdens and legal risks – making the offering of workplace retirement savings to employees easier and more cost-effective. Among these were Group of Plans (GoP) that, unlike the single plan MEPs and PEPs also created under the SECURE Act, are groups of individual stand-alone plans bound together by a mutual plan menu, named fiduciary, plan year, and trustee and a single filing of Form 5500.

The single filing of form 5500 measure was designed to streamline the oversight and plan audit process while reducing the administrative costs for the participants of a GoP. However, smaller plans within a GoP (those will less than 100 participants) are now subject to additional auditing requirements that they otherwise would have been exempt from if they were independent plans. This adds audit processes that otherwise would not apply to these smaller plans and results in the incurrence of additional administrative costs.

Section 502 of the *RISE & SHINE Act* clarifies that plans filing under a GoP need to only file a single audit if they have fewer than 100 participants. As a result of the clarification provided by this bill, more small business employers will be encouraged to take advantage of the GoP and use it to offer their employees the opportunity to participate in workplace retirement savings.

While IRI is supportive of this provision, IRI respectfully submits that the section be amended to allow for all plans – regardless of size – to take advantage of the single filing of Form 5500. As they are a part of the GoP, utilizing the same investment options, fiduciary, and trustee, allowing even larger plans (those with more than 100 participants) to file a single Form 5500 would make utilization of a GoP more advantageous and economic.

Additional Measures IRI Recommends for Inclusion in the *RISE & SHINE Act*

Facilitation of Lifetime Income Solutions as Default Accumulation and Distribution Options

RECOMMENDATION: Include the Lifetime Income for Employees Act (H.R. 6746-117th Congress).

IRI research has shown that workers are highly interested in having protected lifetime income solutions, such as annuities, included in workplace-defined contribution retirement plans. An IRI survey[9] found that seven in 10 workers of the youngest age cohort (age 40-45) say they are very or somewhat likely to allocate a portion of their plan to annuities, and 87 percent believe it is vital that the income from savings is protected for life. Furthermore, Allianz Life's 2021 July Quarterly Market Perceptions report[10] highlighted the demand for protected lifetime income solutions in workplace plans. The Allianz report found that 73 percent of employer-sponsored participants would consider an option that offers protected income for life in their plan if available, and 59 percent said they would consider adding an annuity to their plan if one was available.

One way for Congress to address workers' interest in having protected lifetime income solutions offered to them through their workplace-defined contribution plans is to remove a barrier in existing Department of Labor (DOL) regulations that prohibits their use as a qualified default investment alternative (QDIA). By eliminating this regulatory barrier, retirement savers gain the ability to accumulate assets using a protected lifetime income solution without needing to make underlying investment selections inside their workplace retirement savings plan.

Recently, the bipartisan *Lifetime Income for Employees Act* (H.R. 6746-117th Congress) was introduced in the U.S. House of Representatives by Representatives Donald Norcross (D-NJ) and Tim Walberg (R-MI). The bill amends the existing QDIA safe harbor regulations to allow plan sponsors to select annuities that provide a guaranteed return on investment that have a delayed liquidity feature. The measure allows no more than 50 percent of investments to be allocated into a qualifying annuity component, ensuring that QDIAs continue to offer retirement savers a diverse mix of asset classes. The bill also provides provisions to ensure that those savers who defaulted into a QDIA with an annuity

[9] "Retirement Readiness Among Older Workers 2021", Insured Retirement Institute. March 2021.
[10] "Allianz Life Announces Entry into Defined Contribution Market with Launch of Allianz Lifetime Income+Annuity," Allianz Life Insurance Company of North America, July 2021.

component are notified of their participation within 30 days of the initial investment and have the option to reallocate their investment penalty-free within 180 days.

The solution offered by the *Lifetime Income for Employees Act* was in fact the subject of testimony and discussion at the recent hearing held by the Senate Committee on Health, Education, Labor, and Pensions "Rise and Shine: Improving Retirement and Enhancing Savings" held on March 29, 2022[11]. At that hearing, Doug Chittenden, Head of Client Relationships, Teachers Insurance and Annuity Association of America (TIAA) provided testimony about the bill. The witness testified as to how the amendments to the existing regulations called for in the bill would expand the options available to employers in their selection of an appropriate default investment for their employees to address the future lifetime income needs of retirement savers, especially for employers looking to establish guaranteed income features that were a hallmark of defined benefit pensions.

IRI would also note that Senator Murray (D-WA) in her closing remarks as Chair of the committee said in reference to the testimony provided by Mr. Chittenden, "And I just want to note that I especially appreciate the discussion about the need to add lifetime income into defined contribution plans so people can be sure their retirement assets will last, and I hope we can include ideas that achieve the right balance here -- here in our legislation." IRI respectfully submits a request that the *Lifetime Income for Employees Act* be included in the final draft of the *RISE & SHINE Act* as it has already been raised and discussed by the committee at a hearing earlier this year.

In addition to the *Lifetime Income for Employees Act*, IRI respectfully submits that the *RISE & SHINE Act* also include a measure that IRI has proposed in our 2022 Federal Retirement Security Blueprint that further addresses workers' and retirees' anxiety and insecurity about outliving their retirement savings. Our proposal we submit for your consideration is for Congress to change existing federal laws and regulations to provide employers with a fiduciary duty safe harbor if offering lifetime income solutions as a default distribution option for defined contribution plans. Any legislative solution should also ensure that fiduciary duties required under the *Employee Retirement Insurance Security Act* (ERISA) are complied with and those savers are notified of this default annuitization and have the right to opt-out. Offering protected lifetime income distribution options as a default in defined contribution plans helps to further protect individuals from longevity risk and enhance their retirement security.

Establishment of a National, Online Retirement Savings Account "Lost and Found"

RECOMMENDATION: Include the *Retirement Savings Lost and Found Act* (S.1730/H.R.5832-117th Congress).

Today, workers in America change jobs more frequently, and they often leave retirement savings in plans maintained by their previous employers. Over the past decade, 25 million workplace retirement plan participants changed jobs and left behind a retirement savings plan. Millions more have left two or more accounts. According to the Government Accountability Office (GAO), this has resulted in roughly $8.5 billion in "lost" retirement savings.[12]

To facilitate workers tracking their past and possibly forgotten workplace retirement accounts, IRI respectfully requests the addition of provisions, such as those found in the *Retirement Savings Lost and Found Act* (S.1730/H.R.5832-117th Congress), *Retirement Security and Savings Act* (S.1770-117th Congress), the *Retirement Improvement and Savings Enhancement Act* (H.R.5891-117th Congress), or the *Securing a Strong Retirement Act of 2022* (H.R.2954-117th Congress) into the *RISE & SHINE Act.* All these bills would establish a national, digital database utilizing information already provided to the Department of Treasury, where retirement savers can locate their former employer-sponsored retirement savings accounts to ensure they are not leaving retirement savings behind. Creating a one-stop-shop database at the DOL helps workers track their past and possibly forgotten workplace retirement accounts, potentially providing them with additional opportunities to either establish or rollover their found savings into a new or their current retirement savings account, thereby increasing their retirement savings.

[11] Senate Committee on Health, Education, Labor and Pensions Hearing – "Rise and Shine: Improving Retirement and Enhancing Savings", March 29, 2022
[12] "401(k) Plans: Greater Protections Needed for Forced Transfers and Inactive Accounts", GAO, November 2014.

Creation of a Retirement Security Financial Literacy Portal for Federal Student Assistance Recipients

RECOMMENDATION: Include the *Financial Fitness Act* (H.R. 5779 – 117th Congress).

Balancing student loan repayments with competing financial priorities, including saving for retirement in workplace retirement plans, has become a significant challenge for America's workers. According to the Federal Reserve, the student loan debt owed in the United States hit $1.7 trillion in late 2020.[13] This represents a roughly 102 percent increase in student debt over the last decade.[14] This growth in student loan debt is having an impact on workers' ability to save for retirement. A study by Fidelity Investments found that 45 percent reported that debt inhibits their ability to save for retirement by preventing contributions to workplace plans or limiting the amount they can save.[15]

The *Financial Fitness Act* (H.R. 5779 – 117th Congress) is bipartisan measure introduced by Representatives Teresa Leger Fernandez (D-NM) and Victoria Spartz (R-IN). It would create a centralized portal at the Department of Education for federal financial aid recipients that provides information about planning and saving for their retirement as part of its financial literacy content. Adding a requirement that this portal includes counseling information about planning and saving for retirement will provide a helpful new tool to those who have received federal student aid. It will empower them with valuable information as they enter the workforce about the distinct types of retirement savings accounts and help them make well-informed financial decisions about their retirement years during their working years.

Further, IRI has submitted in our letter of support for these measures a request that the bills be amended to extend access to this financial literacy portal to recipients of financial aid from the Department of Labor's job training and apprenticeship programs. Doing so would allow this essential information about saving for retirement during one's working years to be provided to those workers entering the workforce who do not attend college or receive the benefits of federal financial aid for their higher education.

IRI respectfully requests that these bills be included in the *RISE & SHINE Act* to create a financial literacy portal for the recipients of federal student aid, job training, and apprenticeship programs.

Conclusions

IRI has historically supported and advocated for the advancement of bipartisan, common-sense solutions to help America's workers and retirees take another step forward on the path toward financial security in retirement. IRI appreciates the opportunity to express our support and submit suggestions for additional provisions for your consideration to include in the final draft of the RISE & SHINE Act that will be presented to the committee at the mark-up.

Thank you for your continued leadership in pursuing retirement security legislation. As the Committee on Health, Education, Labor, and Pensions considers solutions to bolster retirement security, IRI welcomes the opportunity to work with you and your staff to advance the bill. If you have any questions, please do not hesitate to contact me, Paul Richman, IRI's Chief Government and Political Affairs Officer, at (202) 469-3004 or prichman@irionline.org or John Jennings, Assistant Director of Government and Political Affairs, at (202) 469-3017 or jjennings@irionline.org.

Sincerely,

Wayne Chopus
President and CEO
Insured Retirement Institute

[13] "Student Loans Owned and Securitized, Outstanding." Federal Reserve Bank of St. Louis
[14] "U.S. student debt has increased by more than 100% over the past 10 years." CNBC. December 22, 2020
[15] "Fidelity's Annual Snapshot of America's Student Debt: Boomers Burden With the Most Student Debt." Fidelity Investments