July 10, 2023

Christine Donahue
ERISA Advisory Council
Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210
Donahue.christine@dol.gov

Re: Statement from Athene Holding Ltd. ("Athene") Regarding 29 C.F.R. § 2509.95-1 ("IB 95-1") in Response to Notice of Meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans (the "Council") Announced at 88 Fed. Reg. 37101

Dear Ms. Donahue:

Athene appreciates the opportunity to submit these written comments in response to the above-referenced notice. We recognize the importance of the Department's guidance to fiduciaries in ensuring retirement security and support its endeavor to review IB 95-1 and consider whether to recommend updates to IB 95-1.

Athene is proud to have provided retirement security to millions of policyholders, including over 600,000 pension participants, and to have been selected by pension fiduciaries in over 40 transactions as their annuity provider. For decades, IB 95-1 has fully protected pension beneficiaries by setting a clear, understandable standard for fiduciaries to follow when considering pension risk transfer ("PRT") transactions. To our knowledge, since IB 95-1 was issued not a single person who has received an annuity from a pension plan has seen any benefits cut due to an insurer's inability to satisfy its obligations.[1] The principles-based approach of IB 95-1 has allowed for changes in business practices designed to better protect beneficiaries, such as the use of reinsurance and separate accounts. This result has been achieved because IB 95-1 impartially sets forth relevant categories of considerations fiduciaries should review and does not express or imply any opinion for or against any particular type of transaction or company.

While we do not believe that amendments to IB 95-1 are currently necessary, in the event any amendments are ultimately proposed, we highlight that there are many interested parties – within both the asset management and insurance industries – who may attempt to influence this process as an opportunity to maintain their historical competitive positions. This could ultimately undermine competition or constrain prudent flows from corporate pension plans. We recommend the Department maintain IB 95-1's principles-based guidance, and not endanger its historic success record by replacing IB 95-1 with a set of prescriptive rules that would reduce flexibility and potentially impair outcomes for beneficiaries.

My colleague Bill Wheeler[2] (Vice Chairman, Athene) and I respectfully request to address the Council in person on behalf of Athene on July 18 to address topics addressed in this letter.

---

[1] For more information, see Consumer Protection Comparison: The Federal Pension System and the State Insurance System, NOLHGA (May 22, 2016), available here.
[2] Bill Wheeler, Vice Chairman, Athene; email: bwheeler@athene.com; phone: (515) 342-3977.

I. Background on Athene

Apollo Global Management ("Apollo") is a publicly-traded holding company with two principal businesses, a retirement services company (Athene) and an asset manager ("Apollo Asset Management").

Athene is a leading retirement services company that provides individuals and institutions guaranteed retirement income solutions. Athene offers attractive retirement products to consumers and, over the last several years, has deployed more capital to provide retirement security to pension participants than any other U.S. insurance company. Athene has nearly two million policyholders and is exceptionally well capitalized, with approximately $24 billion of gross regulatory capital as of December 31, 2022. Independent credit rating agencies have recognized Athene's conservative financial management and ascribed Athene high financial strength ratings: "A+" from S&P and Fitch, "A1" from Moody's, and "A" from AM Best.

In Athene's pension group annuity business, we provide value through guaranteed retirement income to plan participants in a transparent and safe manner. Our business model has been tailored specifically to meet the needs of Americans in and heading towards retirement. U.S. corporations are currently managing $3.5 trillion in defined benefit pension plans, and our pension group annuity and other businesses ultimately serve American workers. We pride ourselves on market-leading, participant-friendly administration and have had a history of excellent participant satisfaction surveys.

Apollo's second business is Apollo Asset Management, an asset manager with approximately $600 billion dollars under management. Apollo Asset Management seeks to provide returns to investors across the risk spectrum from 'AA' rated bonds to equity. Apollo's private equity offering, as one of the products available to investors, accounts for less than 20% of assets under management. Over 70% of Apollo Asset Management's assets under management is allocated to fixed income investments, with a substantial majority invested in investment grade assets. Apollo Asset Management manages assets for both third-party investors and Athene.

The publicly-traded company structure that holds both Athene and Apollo Asset Management has been common in the insurance industry for decades. Other examples of holding companies that own both an insurance company and an affiliated asset manager include Allianz and PIMCO, Prudential and Prudential Global Investment Management, MetLife and MetLife Investment Management, and Equitable and Alliance Bernstein. Apollo has never owned Athene through a private equity fund.

Apollo and Athene are supervised by the Iowa Insurance Division (the "Iowa Division") and take pride in transparency. Apollo and Athene make numerous, thorough regulatory filings with the Iowa Division on a variety of matters, including financial and solvency reports, control party disclosures, enterprise risk management reports, corporate governance reports, examination filings, and affiliate transaction filings.

Athene is the only insurer committed to publishing stress testing annually, and voluntarily discloses a breakdown of affiliate assets by type in SEC filings (*e.g.*, 10Ks and 10Qs). All of Athene's key regulatory filings, including for its main Bermuda entity, are publicly available on our website (available here and here).

Every individual asset backing a U.S. pension group annuity is disclosed publicly in a dedicated filing with over 500 pages (available here).

II. Views on Pension Risk Transfer

Corporate plan sponsors manage over $3 trillion in defined benefit pension plan assets, of which over $1 trillion is paying out benefits only to retired, former employees. Managing these legacy pensions can be a challenge. It is not the core business of the plan sponsor, and the pension liabilities contribute to balance sheet volatility. For employers with frozen plans in particular, running and managing a pension plan pulls resources away from the business's ongoing goals without even providing a recruiting/retention benefit for the employer. It is important that employers have the ability to control liabilities and manage risk by purchasing annuities.

The practice of purchasing annuities to provide pension benefits – referred to as PRT – is an integral component of the private pension system. In fact, ERISA expressly permits pension plans to satisfy their obligations by purchasing annuities for plan participants and beneficiaries. These annuity purchases are the exclusive means for completing a standard termination of an ERISA-covered pension plan. They are also the most effective and safe way to reduce the size of ongoing pension plans.

Employers engaging in PRT transactions are effectively transferring the pension liabilities to highly rated, well-regulated life insurers whose core expertise is in managing insurance risk. While employers' ability to satisfy their pension obligations is largely dependent on the continued profitability of the underlying trade or business, the guarantees insurers provide are backed by the insurers' diversified general account, which are highly regulated and invested in investment grade fixed income investments. In addition, insurers are subject to minimum reserve requirements to cover future claims and are required to hold additional capital to back the risks. Moreover, the assets supporting the payment of PRT-related obligations are generally placed in a separate account shielded from other policyholders (and creditors). Insurers also use reinsurance to provide an additional layer of risk protection.

The experience of JC Penney's ("JCP") pension plan demonstrates the importance of PRT transactions to beneficiaries. In early 2020, JCP declared bankruptcy. JCP's assets were acquired by several firms, but the pension plan was left orphaned. The Pension Benefit Guaranty Corporation ("PBGC") would have taken over the plan, cutting benefits for many retirees because of the statutory limits on PBGC's benefit payments.[3] However, JCP's fiduciaries were able to preserve all pension benefits by JCP entering into a PRT transaction with Athene.[4]

III. Views on the Insurance Industry

A. Insurance Industry Capital

Insurers that have access to capital provide fundamentally superior security to policyholders. Unfortunately, the life insurance industry has failed to attract

---

[3] The PBGC reported that *nearly one out of every six* participants in a plan trusteed by PBGC fails to receive the full amount of the benefits promised under their pension plans. PBGC, *PBGC's Single Employer Guarantee Outcomes* (May 2019).

[4] For more information and case studies see Athene, *Overview of US Pension Group Annuities* (June 8, 2023), available here and attached as Appendix 1.

primary equity capital for quite some time. Over the last decade, life insurers in the U.S. and Europe have raised less than $1bn of primary equity capital from the public markets. To compensate, many insurers have had to rely on capital efficiencies and additional leverage through "soft" capital. "Soft" capital allows for optical capital benefits under some capital models for diversification from riskier liabilities such as long-term care, variable annuities with guaranteed riders, and universal life with secondary guarantees. As recently as late 2022, two public insurers collectively took $3bn of losses from remarking assumptions on these types of liabilities.

At the same time, many insurers have had to focus on returning their "hard" capital to shareholders to support stock prices struggling from poorly underwritten liabilities and swollen expense structures. Since 2010, U.S. and European life insurers have returned capital to shareholders equal to over 80% of current market capitalization. While "hard" capital can be used to pay for actual losses, including asset impairments, "soft" capital—obtained through diversification into riskier liabilities—cannot, which adversely affects insurers' risk profile.

Only those insurers with sufficient expertise in managing structured credit assets, direct origination, and illiquidity premium have been able to attract primary equity capital, typically from private markets. Over the last decade, Apollo and Athene have raised $16bn of primary equity capital to support the life insurance industry, representing approximately 40% of the total raised by the industry.

B. The Importance of Illiquidity Premium

It has become increasingly difficult for insurers to generate sufficient safe yield to support policyholder obligations in the public fixed income markets alone.[5] Over the last two decades, 84% of investment managers actively managing portfolios of public bonds have underperformed passively managed funds.[6] In addition, while diversification between safe risks within an investment portfolio improves policyholder safety, proper diversification has been harder to achieve in public credit markets alone; correlations across public corporate credit are at historic highs driven partly by the rising popularity of these passive index products. As such, it is prudent for life insurers to seek diversification of risks beyond public corporate credit, including from asset classes like structured credit and "illiquidity" risk appropriate for their long-dated, stable liabilities. In fact, the ability to directly originate and evaluate private and structured credit assets that can offer an illiquidity premium without incremental credit risk has become an essential resource for insurers providing benefits to retirees.

Today, after the Dodd-Frank Act and the movement of high-quality private credit assets into the broader economy, "public" and "private" hold no meaning other than as to liquidity; each can be "safer" or "riskier" than the other from a credit perspective. As we know, banks have liability structures (demand deposits) ill-equipped for the incremental illiquidity presented by private investments. Standing in contrast, however, are those insurers, like Athene, that have long-dated, stable liabilities tailored to capture the attractive illiquidity premium offered by these asset classes. This feature of insurers as effective market stabilizers in contrast to banks

---

[5] Trailing periods ending 2022. Data shown for Intermediate Bond fund managers, which primarily have a duration of 3-7 years.

[6] Morningstar's Active/Passive Barometer, year-end 2022 edition, available here.

has been well documented in a paper by Dr. Timmer, now at the U.S. Federal Reserve.[7]

It is important to keep in mind that Athene and other insurers are subject to a strong state regulatory framework that is fully equipped to oversee investment strategies, investment liquidity, and asset/liability management. Asset risk is an important regulatory focus for all insurance companies. These regulatory measures apply equally to all insurers, regardless of structure or affiliation with an asset manager. It is within this regulatory framework that insurers invest their general and separate account assets supporting annuity obligations. We encourage the DOL to keep the existence of, and federal deference to, this state regulatory framework in mind as they review IB 95-1.

IV. Comments on IB 95-1

IB 95-1 has been highly effective. The Department issued IB 95-1 in the wake of the collapse of a handful of large insurers, and the Department's goal was to protect plan participants from loss by ensuring that employers understand and comply with their fiduciary obligations when purchasing annuities for pension plan participants. As noted above, to our knowledge not a single person who has received an annuity from a pension plan has seen any benefits cut due to an insurer's inability to satisfy its obligations.

IB 95-1's success is due, in large part, to the fact that the guidance takes a principles-based, holistic approach. The guidance requires a fiduciary to select the safest available annuity by providing fiduciaries with a prudent list of factors to consider, requires the fiduciaries to exercise their own judgment, and holds fiduciaries to the highest standard of care under the law. IB 95-1 often results in fiduciaries eliminating insurers from the selection process as a result of this review. In this way, IB 95-1 is highly effective, is able to address changes in the market, and is entirely consistent with the principles-based approach required in ERISA section 404.

While insurance markets have changed over the past thirty years, the factors enumerated in IB 95-1 remain effective in evaluating insurer strength, as its principles-based approach encourages a holistic evaluation of insurers at the time of each transaction. This approach provides market agnostic fiduciary guidance, allowing IB 95-1 to respond dynamically in its approach to measuring insurer strength in the industry as it evolves. Below are several examples of how fiduciaries and independent experts have adapted their application of IB 95-1 since its adoption in 1995:

- Prior to the General Motors PRT transaction in 2012, separate accounts were not commonly offered to provide structural security enhancements to retirement security. Even after a decade of their increased prevalence, not all separate accounts have the same terms. The consideration and evaluation of the protection of separate accounts is now common and is a clear illustration of IB 95-1's guidance to consider structural protections.

- Reinsurance is an effective, well-regulated way for insurers to manage risk. Reinsurance associated with PRT transactions was not common when IB 95-1 was issued but is now an accepted part of PRT transactions and has added protection for beneficiaries. IB 95-1's direction to consider structural

[7] *Cyclical Investment Behavior Across Financial Institutions*, SSRN, by Yannick Timmer, (Nov. 5, 2020), available here and attached as Appendix 2.

protections has led fiduciaries and independent experts to consider, and evaluate, the structural implications of reinsurance on participant retirement security, covering the many varieties of reinsurance that exist today.

- Administration and information security have experienced significant transformation since the adoption of IB 95-1. Nevertheless, as directed by IB 95-1, fiduciaries and independent experts now frequently evaluate aspects of insurer suitability not in existence at the time, including an insurers' capability and track record of administering benefits through a web portal, and the measures and protocols to prevent IT security breaches.

- Asset allocation and investment characteristics have evolved since the adoption of IB 95-1. IB 95-1 appropriately directs fiduciaries and independent experts to evaluate portfolio risks and asset-liability management under current market conditions, without favoring certain asset classes or expressing a specific view on the appropriateness of any assumption or asset class.

There is simply no compelling need to overhaul IB 95-1. In this regard, Principal Deputy Assistant Secretary Ali Khawar recently reaffirmed that it is not the Department's job to put a "thumb on one side of the scale" when it comes to particular investment strategies, "but instead to take our thumb off the scale entirely" because "[i]t is up to the investment decision maker to decide what is appropriate in any given circumstances."[8] The same principle applies here and is consistent with the Department's longstanding practice. IB 95-1 neutrally sets forth categories of considerations fiduciaries should look at but does not express or imply any bias for or against any particular type of investment, jurisdiction, or financial metrics.

We recommend caution when making findings about annuity selection or when considering changes to IB 95-1. Fiduciaries, consultants, and plan professionals generally understand the Department's legal positions, and they incorporate IB 95-1's principles into annuity selection decisions.[9] Changes to IB 95-1 could have the effect of undermining the availability of products and level of benefits available to participants, reducing competition between safe insurers thereby leading to higher costs to plans.

V. Responses to Issues Raised

The insurance industry is dynamic, and over the years, insurers and regulators have adapted to changing realities. As discussed above, insurers have had to reevaluate investment strategies in light of fundamental changes to the financial markets.

Insurers' efforts to modernize and protect policyholders are frequently the subject of debate. It is our understanding that some stakeholders, including certain interested companies and asset managers, have raised concerns with the Council and the Department about Athene's investment allocation to structured credit and the use of Bermuda-based reinsurance. We address these purported concerns in turn:

---

[8] Brian Croce, *DOL took thumb 'off the scale' in finalizing new ESG rule, official says*, Pensions & Investments (June 6, 2023), available here.

[9] *See, e.g.,* Appendix 1.

A. Structured Credit

The criticisms of structured credit fail to account for the evidence that today's *investment grade* structured products present *safer credit risk* than equivalently rated corporate bonds. Financial markets changed considerably after the 2008 financial crisis, and structured credit products now provide investors better diversification, credit enhancement, and structural protections.[10]

Structured credit is perceived in certain quarters to be riskier than corporate credit in part because of its role in the 2008 financial crisis. This is misplaced guilt by association. Today's asset backed securities, including CLOs, bear no resemblance to the sub-prime residential mortgage-backed securities (RMBS), which were the risky, highly-levered, undiversified structured credit products that played a role in the crisis. In fact, commercial real estate equity investments are closer in risk exposure to the risks manifested in 2008 than today's CLO's.[11] Specifically, today's structured credit offers safer credit risk than comparably rated corporate credit for the following reasons:

- The underlying assets are highly diversified across the broad economy rather than concentrated in one sector (e.g., real estate) thereby spreading risk;

- Senior, investment grade securitization tranches are repaid first from the underlying cashflows produced by the assets and have priority in claims for repayment; and

- Structured products feature structural protections that add credit support in times of stress, such as cashflow diversion triggers that ensure high-rated tranches will be repaid.

The comparatively low credit risk of structured securities is evident in default rates since the global financial crisis. No investment grade CLO debt security issued in the last decade has defaulted, compared to annualized default rates of 0.08% for BBB corporate debt. In modern history, only the Great Depression of the 1930s would have caused defaults sufficient to trigger impairments to investment grade CLO debt, reflecting a time period in which corporate bonds suffered significant actual defaults.[12]

As we explained above, investment grade structured credit, such as CLOs, provides a prudent means for insurers to fund retiree benefits through the ability to capture an illiquidity premium without taking incremental credit risk. For more information about insurers' investment in CLOs and other structured credit, we call your attention to the following papers:

---

[10] *See, e.g.,* (1) *A Bottom-Up, Reduced Form Credit Model Approach for the Determination of Collateralized Loan Obligation Capital* by Jarrow and Deventer (2023), attached as Appendix 3 and available here; (2) *The Case for Collateralized Loan Obligations for Global Insurers* by PineBridge Investments (2023), attached as Appendix 4 and available here; (3) *Asset Insulators* by Chodorow-Reich, et al. (2020), attached as Appendix 5 and available here; (4) *Understanding Structured Credit:Perspectives for Insurance Capital Requirements*, by Doug Niemann, Athene (2022), attached as Appendix 6 and available here; and (5) Appendix 2.

[11] Athene Perspectives on Commercial Real Estate (April 2023), attached as Appendix 7.

[12] Appendix 6; *see also Moody's Annual Default Study: Corporate default rate will risk in 2023 and peak in early 2024* (March 13, 2023).

- *A Bottom-Up, Reduced Form Credit Model Approach for the Determination of CLO Capital* by Jarrow and Deventer (2023), attached as Appendix 3 and available here;

- *The Case for Collateralized Loan Obligations for Global Insurers* by PineBridge Investments (2023), attached as Appendix 4 and available here; and

- *Understanding Structured Credit: Perspectives for Insurance Capital Requirements*, by Doug Niemann, Athene (2022), attached as Appendix 6 and available here.

B. Bermuda-based Reinsurance

Many insurers that participate in the pension annuitization market have used some form of reinsurance. This reinsurance helps provide an additional layer of protection for annuitants, and insurers and regulators go to great lengths to ensure that their reinsurance is sound and financially secure. Athene and other insurers have used Bermuda-based reinsurance, in particular, because it helps increase the capital available to support their domestic operations.

The insurance industry has struggled to raise capital domestically. Many insurers, including Athene, have established Bermuda-based reinsurers as a means to raise foreign capital to support domestic annuitants. Reinsurance in Bermuda allows for capital formation and attractive investment to foreign third-parties, similar to U.S. stocks and bonds. Foreign investors can invest in the U.S. market in a more tax-efficient way, and this allows foreign capital to support U.S. businesses under the oversight of U.S. regulators in a form that would not otherwise be available. This is why approximately 70% of the capital raised to support the (re)insurance industry globally is raised in Bermuda.[13] Given significant growth in retirees over the next decade, insurers providing benefits through PRTs will require more capital in the years ahead, and therefore continuing to allow safe, regulated avenues to raise capital effectively is vital for the health and growth of this industry.

Bermuda is a common jurisdiction for international reinsurance because it is viewed by domestic and foreign regulators as a well-regulated jurisdiction with a highly developed financial sector and substantial regulatory oversight capabilities. Bermuda is one of the few jurisdictions that (i) meets or exceeds insurance standards developed by the International Association of Insurance Supervisors (of which the Federal Reserve, Treasury, and state regulators are members), (ii) meets international regulatory standards, including standards set by the International Monetary Fund, (iii) has cooperation agreements in place with many US regulators, (iv) has received full EU Solvency II Equivalence, and (v) is approved by the NAIC as a Reciprocal Jurisdiction (2019) and as a Qualified Jurisdiction (2014), after undergoing a thorough review.

Athene has carefully constructed its balance sheet to provide highest level of safety to policyholders. For example, although Athene uses a Bermuda-based reinsurer, all of the underlying assets available to pay pension annuities remain in the U.S. and on Athene's U.S. balance sheets in separate accounts. These separate accounts are then mandatorily backstopped by the reinsurance treaties that require quarterly funding of any separate account deficits to the extent of the reinsured reserves. Pension fiduciaries evaluate structural protections including reinsurance. Regarding capital, Athene holds capital and uses reserving standards based on the *most prescriptive* of the NAIC regulatory environment, the Bermuda regulatory

[13] More information is available in the Bermuda Monetary Authority's *2018 Annual Report*.

environment, and rating agency standards. Athene's reserving standards and capital ratios are substantially similar in Bermuda and the U.S., and there is no regulatory arbitrage.[14]

Any changes that deter plan fiduciaries from recognizing the value of reinsurance could harm participants as it could lead to fiduciaries picking annuity providers that do not have a strong reinsurance backstop. Changes could also interfere with the state insurance regulatory system, reinsurance markets, and Covered Agreements.

C. Context from Asset Management Industry

The evolution and growth of PRT transactions as a meaningful part of pension risk management is a clear and undeniable revenue headwind for the pension asset management industry. One asset manager, who has been a decade long critic of PRT and a significant investor in Athene's Funding Agreement Backed Notes (FABN), has suggested that fiduciaries should focus solely on insurer FABN credit spreads as a measure of PRT participant security.[15]

Fiduciaries evaluate the entirety of insurer's financial security, including but not limited to capitalization, credit ratings, administrative track record, credit impairments, investment track record, and liability risk, as well as FABNs credit spreads, as part of their IB 95-1 evaluation, and have sought context to understand more fully the different drivers of FABNs and PRTs. Sole reliance on any one of these measures is inappropriate.

Importantly, FABN credit spreads are disconnected from participant security in several ways and from the stability provided by capital and structural protections specific to PRT transactions. FABN policyholders and PRT policyholders are subject to different structural protections and regulatory and fiduciary oversight, whereby drawing meaningful conclusion from FABN spreads about PRT policyholder security is a seriously flawed and ill-informed argument.

Credit spreads are subject to technical supply and demand dynamics that do not reflect underlying credit risk. This is especially true in niche, relatively illiquid markets such as FABNs. FABNs are not registered with the SEC, typically have a smaller transaction size, and require understanding of structure and insurance laws. These factors mean that FABNs have a smaller buyer base and FABN spreads are often more volatile than corporate spreads. These technical factors – supply/demand dynamics, market inefficiencies, and buyer preferences for different durations and credit characteristics – contaminate any fundamental analysis and are entirely irrelevant to the determination of PRT participant risk.

We discuss these issues in detail in the paper attached as Appendix 10.

V. Ensuring an Effective Process

As discussed above, PRT is integral to the pension system, and even small changes to IB 95-1 could have unintended consequences. It is very important that the

---

[14] *See, e.g.,* Athene presentations attached as Appendix 8 and 9.

[15] NISA is a market leading LDI manager for pension funds, who has sponsored a Pension Risk Transfer conference for the better part of a decade to argue against the merits of PRT. Notably, NISA was an investment manager for approximately a third of the plans that undertook PRT transactions with Athene to date, and for over 40% of the current largest 100 private sector pension plans nationally (from IRS Form 5500 filings). As described in Appendix 10, NISA's purchase of Athene's FABN indicates that it found value in Athene's credit relative to Athene's FABN spread.

Department engages in a prudent process for reviewing and evaluating IB 95-1. At the last Council meeting, Principal Deputy Assistant Secretary Khawar said the following:

> "*There have been and there are going to be a lot of informal stakeholder consultations but also more formal stakeholder consultations, public comment opportunities, all of those kinds of things.*"

To date, the Department has not publicly solicited comments on IB 95-1 or formally engaged with the regulated community.

Congress directed the Department to review IB 95-1 in consultation with the Council and report on its findings to Congress. We will defer to the Council's considered judgment as to what information collection the Council believes is necessary and appropriate for it to consult with the Department on IB 95-1, but we question whether one open meeting is sufficient for the Department to adequately consult the Council.

We strongly encourage a formal notice and comment rulemaking pursuant to the Administrative Procedures Act if the Department determines that any amendments to IB 95-1 may be warranted. This is important for several reasons, including that (i) IB 95-1 was published in the Code of Federal Regulations; (ii) IB 95-1 speaks in mandatory terms regarding factors that "a fiduciary must evaluate"; (iii) specific perceived concerns about particular types of investments, jurisdictions or financial metrics are not a natural interpretation of any provision of ERISA; and (iv) the Department has previously recognized that notice and comment rulemaking would be required were it to attempt to set "minimum standards for annuity providers . . . in order to ensure a reasonable likelihood that participants or beneficiaries on whose behalf annuities are purchased will receive their promised pension benefits."[16]

*   *   *

We appreciate the Council's efforts to consult with the Department on IB 95-1 and would be pleased to have the opportunity to discuss the issues with the Council.

Sincerely,

Sean Brennan
Executive Vice President of
Pension Group Annuity and
Flow Reinsurance
100 West Putnam, Greenwich, CT 06830
Email: sbrennan@athene.com
Phone: (203) 489-7002

cc: The Honorable Lisa Gomez, Assistant Secretary of Labor

[16] *Annuitization of Participants and Beneficiaries Covered Under Employee Pension Plans*, 56 Fed. Reg. 28,638 (June 21, 1991).