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Statement of the Investment Company Institute
Hearing on "Challenges in the Retirement System"
Committee on Finance
US Senate
May 28, 2019

The Investment Company Institute[1] is pleased to provide these comments to the Committee on Finance in connection with the May 14, 2019 hearing entitled "Challenges in the Retirement System." The Institute strongly supports efforts to promote savings opportunities for American workers. We thank Chairman Grassley and Ranking Member Wyden and members of the Committee for their leadership and recent focus on these important issues.

Thanks in no small part to Congress's efforts to promote retirement savings, as of the end of 2018, Americans have $27.1 trillion earmarked for retirement, with more than half of that amount in defined contribution (DC) plans and individual retirement accounts (IRAs).[2] About half of DC plan and IRA assets are invested in mutual funds, which makes the mutual fund industry especially attuned to the needs of retirement savers. Under the framework of a voluntary system, Congress has made available the tax structure and savings vehicles necessary to promote savings by American workers, and the competitive private marketplace has provided innovative products and services at increasingly lower costs.

We commend this Committee for considering ways to enhance the US retirement system by building upon its significant and well-documented strengths. For its part, the Institute has been vocal in support for policies that would improve access to retirement savings opportunities and make retirement plans more efficient and effective—including permitting "open" multiple employer plans (MEPs) and greater use of electronic delivery. Reforms like these recognize the important role that the private marketplace plays and will build upon the strengths of the current system by expanding coverage to more workers.

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[1] The Investment Company Institute (ICI) is the leading association representing regulated funds globally, including mutual funds, exchange-traded funds (ETFs), closed-end funds, and unit investment trusts (UITs) in the United States, and similar funds offered to investors in jurisdictions worldwide. ICI seeks to encourage adherence to high ethical standards, promote public understanding, and otherwise advance the interests of funds, their shareholders, directors, and advisers. ICI's members manage total assets of US$22.6 trillion in the United States, serving more than 100 million US shareholders, and US$6.6 trillion in assets in other jurisdictions. ICI carries out its international work through ICI Global, with offices in London, Hong Kong, and Washington, DC.

[2] At the end of 2018, US retirement assets totaled $27.1 trillion, DC plan assets were $7.5 trillion, and IRA assets were $8.8 trillion. Investors held $4.0 trillion of IRA assets and $4.2 trillion of DC plan assets in mutual funds. See Investment Company Institute, *The US Retirement Market, Fourth Quarter 2018*, available at www.ici.org/research/stats/retirement.

I. EXECUTIVE SUMMARY

The US retirement system is helping millions of Americans achieve a secure retirement, and there are opportunities to build on its success and cover more workers. Efforts to strengthen the retirement system should be guided by an understanding of how the current system works and the evidence showing that it works well.

- Relying on the complementary components of Social Security, homeownership, employer-sponsored retirement plans, IRAs, and other assets, the American retirement system is working for the majority of American workers and has grown stronger in recent decades.
- Assets specifically earmarked for retirement have increased significantly over time and the majority of private-sector workers needing and demanding access to retirement plans as part of their compensation have coverage.
- The flexibility built into the voluntary employer-provided retirement system has led to numerous innovations that benefit savers and decrease costs for retirement plan products and services over time.
- The current retirement savings tax incentives are crucial to the effectiveness of the US retirement system and Congress should maintain and strengthen these incentives.

Targeted changes building on the strengths and successes of the current national system would reduce cost and increase access. Congress should act on the package of proposals introduced as the Retirement Enhancement and Savings Act (RESA) (S. 972), but should improve the lifetime income disclosure provision.

- RESA would build upon the current system by expanding coverage, participation, and savings rates in DC plans and IRAs. Nevertheless, we urge Congress to broaden RESA's lifetime income disclosure requirement to produce its intended benefits and realize the package's full potential.
- Proposals introduced by Senators Portman and Cardin are the logical next step after RESA and Congress should continue to prioritize improvements to the retirement system. We suggest the addition of two ideas that would provide meaningful benefits to workers—a new type of SIMPLE plan and modernized electronic delivery rules.
- In addition to these reforms, it is imperative to preserve Social Security as a universal, employment-based, progressive pension income program for all Americans.
- State-run auto-IRA programs are not the right approach to increasing coverage and savings rates.

II. THE US RETIREMENT SYSTEM IS HELPING MILLIONS OF AMERICANS ACHIEVE A SECURE RETIREMENT

Retirement policy discussions often start from the premise that retirees' pension income has fallen over time. Contrary to this conventional wisdom, private-sector pension income (DB and DC) has become more, not less, prevalent and substantial over time. Since enactment of the Employee Retirement Income Security Act of 1974 (ERISA), increasing numbers of retirees receive benefits from private-sector pension plans and receive more in benefits from these plans.

- **The US retirement system is working for millions of American workers, and there is opportunity for improvement.** A wide range of work by government, academic, and industry researchers who have carefully examined Americans' saving and spending patterns, before and after retirement, shows that the American system for retirement saving is working for the majority of American workers and has grown stronger in recent decades. Assets specifically earmarked for retirement have increased significantly over time. Adjusted for inflation and growth in the number of households, retirement assets were more than seven times the level at year-end 2018 than at year-end 1975.

- **The US retirement system relies upon the complementary components of Social Security, homeownership, employer-sponsored retirement plans (both DB plans and DC plans offered by both private-sector and government employers), IRAs (both contributory and rollover), and other assets.** In retirement, different households depend on each of these components in differing degrees, reflecting overall saving levels, work history, and other factors. For most households, however, employer-sponsored retirement plans are crucial: about eight in ten near-retiree households have retirement assets (DC plans or IRAs), DB benefits, or both.[3] And, recent joint research by ICI and Internal Revenue Service (IRS) economists,[4] in addition to research by Census Bureau economists,[5] confirm that income from these plans is widespread among retirees, more so than is commonly understood. Thanks to this multi-faceted system, successive generations of American retirees have been better off than previous generations.

- **The significance of Social Security must be considered in any assessment of the US retirement system.** Social Security provides the foundation of retirement security for almost all American workers and it replaces significant portions of income for lower-income retirees. In this respect, Social Security replaces 85 percent of average inflation-indexed annual earnings for workers in the lowest lifetime household earnings quintile; 55 percent for workers in the middle quintile; and 34 percent for workers in the highest quintile.[6] Yet the Social Security system faces a projected long-term imbalance.[7]

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[3] See Figure 8.4, p. 157, in Investment Company Institute, *2019 Investment Company Fact Book* (2019), available at www.ici.org/pdf/2019_factbook.pdf. Near-retiree households have a head of household aged 55 to 64 and either head or spouse is working.

[4] See Brady, Bass, Holland, and Pierce (April 2017), "Using Panel Tax Data to Examine the Transition to Retirement," available at www.ici.org/pdf/ppr_17_brady_tax_panel_data.pdf. The joint ICI and IRS research shows that most individuals in the study were able to maintain spendable income after claiming Social Security, and lower-income individuals typically had higher replacement rates.

[5] See Bee and Mitchell (July 2017), "Do Older Americans Have More Income Than We Think?" available at www.census.gov/content/dam/Census/library/working-papers/2017/demo/SEHSD-WP2017-39.pdf.

[6] Figures represent the mean scheduled replacement rates for retired workers in the 1960s birth cohort, assuming the workers claim Social Security benefits at age 65. See "C-2. Replacement Rate – Prices," in Congressional Budget Office, *CBO's 2018 Long Term Projections for Social Security: Additional Information* (September 2018), available at www.cbo.gov/system/files?file=2018-09/54428-supplementalData.xlsx.

[7] Projections related to these programs are available at www.ssa.gov/OACT/tr/index.html; www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/ReportsTrustFunds/Downloads/TR2019.pdf; and www.cbo.gov/publication/53919.

It is absolutely imperative to preserve Social Security as a universal, employment-based, progressive pension for all Americans.[8]

- **Effective policymaking requires a better understanding of the "coverage gap."** Discussions about retirement plan coverage often rely on misleading or incomplete coverage statistics. The majority of workers needing and demanding access to retirement plans as part of their compensation participate in an employer-sponsored retirement plan.[9] Efforts to expand coverage will be more successful if policymakers better understand the reasons why specific populations are not participating in retirement savings vehicles. In this regard, research suggests that small employers may be less likely than large employers to sponsor plans because a small employer is more likely to have lower-income, younger employees who are less likely to be focused on saving for retirement.[10]

- **The voluntary employer-provided retirement system is characterized by flexibility, competition, and innovation.** A strength of the voluntary employer-sponsored retirement system is the flexibility built into its design. Combined with competition—among employers to offer attractive benefits packages that include retirement plans, and among financial services firms to provide services to those plans—this flexibility has led to tremendous innovation in retirement plan design over the past few decades and to continually lower costs for retirement products and services.

- **Retirement plan sponsors and investors are cost conscious and 401(k) plan assets tend to be concentrated in lower-cost mutual funds.** The cost of 401(k) plans has fallen over time. Fees paid on mutual funds in particular have trended down over the past two decades—both on mutual funds invested in 401(k) plans and industrywide—and investors tend to concentrate their assets in lower-cost funds.[11] In addition, employers sponsoring 401(k) plans and their financial services providers have worked together to automate and simplify the enrollment process, expand the range of

[8] Changes to Social Security will likely increase the importance of employer-sponsored retirement plans and IRAs to provide for retirement adequacy. For a discussion of how different methods of cutting Social Security benefits would impact workers with different levels of lifetime income, see Brady, "Measuring Retirement Resource Adequacy," *Journal of Pension Economics and Finance* 9, no. 2 (April 2010): pp. 235–262.

[9] See Brady and Bass, "Who Participates in Retirement Plans, 2014," *ICI Research Perspective* 24, no. 1 (April 2018), available at www.ici.org/pdf/per24-01.pdf.

[10] See Brady and Bogdan, "Who Gets Retirement Plans and Why, 2013," *ICI Research Perspective* 20, no. 6 (October 2014), available at www.ici.org/pdf/per20-06.pdf.

[11] For example, since 2000, expense ratios that 401(k) plan participants incurred for investing in equity, hybrid, and bond mutual funds have decreased by 42 percent, 29 percent, and 46 percent, respectively; and in 2017, 401(k) plan participants incurred an asset-weighted average expense ratio of 0.45 percent for equity mutual funds. See Holden, Duvall, and Chism, "The Economics of Providing 401(k) Plans: Services, Fees, and Expenses, 2017," *ICI Research Perspective* 24, no. 4 (June 2018), available at www.ici.org/pdf/per24-04.pdf. For an analysis of the "all-in" fees of 401(k) plans, based on in-depth surveys of plan sponsors, see Deloitte Consulting LLP and Investment Company Institute, *Inside the Structure of Defined Contribution/401(k) Plan Fees, 2013: A Study Assessing the Mechanics of the "All-In" Fee,* available at www.ici.org/pdf/rpt_14_dc_401k_fee_study.pdf. For analysis of "total plan cost," based on Form 5500 and industry data, see BrightScope and Investment Company Institute, *The BrightScope/ICI Defined Contribution Plan Profile: A Close Look at 401(k) Plans, 2015*, available at www.ici.org/pdf/ppr_18_dcplan_profile_401k.pdf. For insight into the changing services and educational materials provided by 401(k) plans, see Plan Sponsor Council of America member surveys.

investment options, expand the services provided by the plans, and broaden the array of educational materials offered to participants.

- **The current tax structure—including allowing the deferral of tax on compensation contributed to employer-sponsored retirement plans—provides a strong and effective incentive for individuals at all income levels to save for retirement and, by providing significant tax benefits to American workers of all income levels, encourages employers to sponsor plans.** Changes in the retirement tax incentives could dramatically affect decisions to sponsor a plan and require employers to reevaluate and potentially redesign their retirement plan offerings, or even to decide to eliminate their plans entirely. Consistent with the views of the overwhelming majority of Americans,[12] we urge Congress to maintain the current retirement savings tax incentives, including the contribution limits, and other features that successfully encourage millions of Americans to accumulate savings during their working lives and therefore generate adequate income in retirement.

III. TARGETED CHANGES TO THE CURRENT NATIONAL SYSTEM WOULD REDUCE COST AND INCREASE ACCESS

As Chairman Grassley observed in his opening statement, the private retirement system has shown great promise, with DC plans now being the primary savings vehicle. Americans have more retirement assets saved now than ever before. Congress should seize the opportunity to make straightforward bipartisan changes to strengthen the system yet further. We therefore commend Chairman Grassley and Ranking Member Wyden for prioritizing the passage of the Retirement Enhancement and Savings Act (RESA) (S. 972), which would improve access to retirement savings opportunities and make retirement plans more efficient and effective. ICI has long supported many of the provisions included in this important legislation. We also believe RESA could and should be easily improved prior to enactment by adding much needed flexibility to its lifetime income disclosure requirement, thereby allowing innovative and highly effective retirement income estimates already in use today to continue. With that change, this package will enable more American workers to achieve a secure retirement.

Fortunately, the Committee recognizes that RESA is not the end of the conversation. Riding the momentum of RESA, Senators Portman and Cardin have put forth additional ideas for improving the retirement system that deserve serious consideration.[13] Reforms like the next generation of automatic enrollment designs, higher catch-up contributions for near-retirees, delaying the age for required distributions, and streamlining the complicated web of notices and disclosures provided to participants will take our retirement system to the next level. Along with these ideas, we offer two proposals that should be included in any post-RESA conversation: a new "deferral-only" plan modeled after existing SIMPLE plans and modernizing the rules for electronic delivery of plan information. Finally, we share the view expressed by Ranking Member Wyden that Congress should ensure Social Security is on sound financial footing and maintain its current character as a universal, employment-based, progressive pension for all Americans.

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[12] See Figures 2 and 3 in Holden, Schrass, Seligman, and Bogdan, "American Views on Defined Contribution Plan Saving, 2018," *ICI Research Report* (February 2019), available at www.ici.org/pdf/ppr_19_dc_plan_saving.pdf.

[13] See Retirement Security and Savings Act of 2019 (S. 1431).

A. RESA Would Expand Coverage, Participation, and Savings

RESA, and its counterpart in the House—the Setting Every Community Up for Retirement Enhancement Act (SECURE Act) (H.R. 1994)—would help bring more employers into the system and generate better outcomes for plan participants. ICI supports the provisions described below.

Open MEPs for Small Employers. RESA's flagship is the set of provisions designed to enable the use of "open" multiple employer plans (MEPs). ICI supports easing restrictions on open MEPs, but targeting the provision to employers with no more than 100 employees—the employer segment most in need of solutions to encourage retirement plan sponsorship.[14] Allowing small employers to participate in a MEP—regardless of the employer's industry or any other preexisting relationship with other participating employers or the plan sponsor—will reduce administrative and compliance costs and burdens, and ultimately improve the availability of retirement plans to employees of small employers. Smaller employers also may be challenged by the fiduciary responsibility and liability of selecting and monitoring service providers and plan investment options. By providing a level of liability relief for selecting investment options, small employers would be encouraged to participate in a MEP, while ensuring that plan participants are protected.

Additional Incentives to Adopt a Retirement Plan. RESA includes other simple, common sense changes that will encourage plan sponsorship, such as increasing the tax credit available to small employers starting a retirement plan and extending the deadline to adopt a retirement plan for a given year to the due date (with extensions) of the employer's tax return for that year.

Plan Designs That Are Beneficial to Participants. Studies show that automatic enrollment raises the participation rates of lower-income and younger workers because these groups are typically less likely to participate in a DC plan where affirmative elections are required.[15] RESA would encourage the use of automatic enrollment by providing a new tax credit for small businesses starting a new plan with automatic enrollment or adding the feature to an existing plan.

RESA also would improve the current automatic enrollment safe harbor established under the Pension Protection Act of 2006. The safe harbor's 10 percent cap on deferral is viewed as a barrier to escalating automatic contributions to levels that in some cases may be more appropriate for ensuring retirement adequacy. Accordingly, there is broad agreement across the retirement plan community for removing (as RESA would do), or at least raising (as the SECURE Act would do), the 10 percent cap.

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[14] For a discussion of how retirement plan coverage varies by employer size, see Brady and Bogdan, note 10, supra. The Bureau of Labor Statistics NCS also finds that retirement plan coverage varies with employer size. See NCS data, note 20, infra.

[15] The EBRI/ICI 401(k) Accumulation Projection Model demonstrates the increases in retirement income that can result from automatic enrollment. Replacement rates, modeled after adding automatic enrollment and investing contributions in a target date fund, increase significantly. See Holden and VanDerhei, "The Influence of Automatic-Enrollment, Catch-Up, and IRA Contributions on 401(k) Accumulations at Retirement," *Investment Company Institute Perspective* 11, no. 2, and *EBRI Issue Brief*, no. 283 (July 2005), available at www.ici.org/pdf/per11-02.pdf and www.ebri.org/docs/default-source/ebri-issue-brief/ebri_ib_07-20054.pdf.

The legislation would also simplify another favorable plan design option for 401(k) plans —the nonelective contribution safe harbor—by eliminating an unnecessary notice requirement and permitting delayed adoption of the safe harbor design.

Relief for Older Retirement Savers. The legislation would provide individuals with more flexibility to manage their retirement savings according to their own needs by updating outdated rules for older savers. For example, both RESA and the SECURE Act would eliminate the maximum age (70½) for making traditional IRA contributions. In view of the variability in how individuals save throughout their working lives, increases to life expectancy, and the corresponding potential for individuals to continue working past traditional retirement age, the law should not prevent workers aged 70½ and older from saving for retirement.

The SECURE Act would amend the Internal Revenue Code to increase the required beginning age for required minimum distributions (RMDs) from 70½ to 72, to reflect changing patterns of retirement savings and increases to life expectancy. Since the RMD rules were first added to the Code in 1962, Congress has applied the RMD rule to virtually all tax-advantaged retirement accounts, but has never reexamined the required beginning age to reflect changing patterns of retirement savings or increases to life expectancy.[16]

Relief for Terminating 403(b) Plans. We appreciate that the legislation also would fix a problematic aspect of current 403(b) regulations that, in some situations, can prevent an employer from effectively terminating its plan (even if, for example, the employer goes out of business). The solution not only makes completion of a termination possible, but also preserves the rights of participants in their 403(b) accounts.

B. RESA's Lifetime Income Disclosure Provision Must Be Remedied

RESA and the SECURE Act require DC plans to provide annuity-based lifetime income estimates to participants and beneficiaries at least annually. This well-intentioned provision has been introduced as a stand-alone measure in past Congresses as the Lifetime Income Disclosure Act (LIDA).[17] ICI has long supported the benefits of illustrating income streams for DC plan participants, but has deep concerns with mandating a single illustration method as LIDA would do. Information on how an account balance might translate into a regular stream of income in retirement is useful, helping workers determine if their retirement savings habits are on track and whether to adjust their savings rates or allocations. Although these illustrations are not currently required, many plan sponsors and their service providers already include lifetime income illustrations or otherwise offer access to retirement income calculators or similar tools. These voluntarily provided illustrations and tools typically are carefully designed and vetted through focus groups and similar research, and have been well received by participants.

As drafted, LIDA would mandate a lifetime income illustration using a single specified calculation method—an estimated monthly annuity payment based on the participant's current account balance.

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[16] According to the Social Security Administration's Period Life Expectancy Table, the life expectancy of a person aged 65 in 2015 is about five years longer for men and about four and a half years longer for women than it was in 1962 (when the 70½ rule was first added). See 2014 OASDI Trusties Report Table V.A3. Period Life Expectancy, Social Security Administration, available at www.ssa.gov/oact/TR/2014/lr5a3.html#hist and 2019 OASDI Trustees Report Table V.A4. Period Life Expectancy, Social Security Administration, available www.ssa.gov/OACT/TR/2019/V_A_demo.html#226697.

[17] Most recently H.R. 2367 and S. 1574 in the 116th Congress.

Despite the existence of several other well-established ways to illustrate lifetime income, the bill would mandate and provide a federal safe harbor for only one method based on a specific financial product. While annuity-based illustrations may be a reasonable choice for some, there is no single best method of illustration for all plan participants. Other illustration calculation methods (such as illustrations based on systematic withdrawals) may be more consistent with actual participant distribution strategies and easier for participants to understand.[18] The bill's one-sided inflexible mandate will most certainly stifle the use of these other illustration methods in use today and the development of more innovative methods in the future.

It is important to remember that there are various quite valid strategies and products available for retirees to attain lifetime streams of income, each with its own attributes and trade-offs.[19] In this context, therefore, there is no justification for extending the government's imprimatur to promote one specific product. ICI and many of our members have repeatedly offered reasonable alternative language to build flexibility into LIDA—allowing for other illustration methods and continued future innovation—while preserving the benefits of the proposal and the ability to use the exact annuity-based illustration method favored by bill proponents. Expanding LIDA to reflect market realities rather than promoting one financial product is good public policy.

C. Provisions in the Retirement Security and Savings Act Would Build on RESA

Senators Portman and Cardin introduced the Retirement Security and Savings Act of 2019 (S. 1431), a robust collection of proposals that would continue the work started by the architects of RESA to build on the strengths of the private-sector retirement system. Several of its provisions take RESA a step further in terms of generating greater savings, including:

- Creating a new automatic enrollment safe harbor designed to generate higher contribution levels. with higher minimum default contribution rates and a "stretched" matching contribution formula to encourage participants to contribute at least 10 percent of pay.
- Permitting inflation adjustments to the IRA catch-up contribution limit to reflect increases in the cost of living.
- Providing a higher catch-up contribution limit of $10,000 for individuals age 60 or older.
- Increasing the RMD age to 75 and updating the mortality tables for calculating RMD payments.
- Allowing employers to provide matching contributions to a retirement plan for employees making student loan repayments.

[18] In fact, there are distinct drawbacks to annuity-based estimates, as such illustrations can fluctuate greatly from year to year based solely on prevailing interest rates and have no relevance to actual annuity rates in effect when a participant is nearing retirement.

[19] All retirement income products and strategies involve tradeoffs and consideration of an individual's personal circumstances, such as other assets or income (including from Social Security), health status and life expectancy, the need for emergency reserves, specific goals in retirement, and the need to provide for other family members. Significantly, the majority of near-retiree US households already are highly annuitized. See Statement of the Investment Company Institute to ERISA Advisory Council, August 15, 2018, available at www.ici.org/pdf/18_erisa_qdia.pdf. As explained further in our 2018 statement to the ERISA Advisory Council, individuals entering retirement who need more annuity income should first consider delaying claiming Social Security before purchasing an annuity in the market.

- Allowing designated Roth contributions to SIMPLE IRAs.

The Retirement Security and Savings Act also would improve the disclosure of information to retirement plan participants by:

- Directing Treasury, DOL and the PBGC to review current reporting and disclosure requirements applicable to plans and recommend ways to streamline and improve the disclosures;
- Permitting plans to consolidate certain required notices (such as the QDIA notice and certain safe harbor design notices) into a single streamlined notice; and
- Changing current DOL rules for target date fund performance benchmarks, in order to simplify and make these benchmark comparisons more understandable to participants.

Finally, we are pleased that the bill would expand the IRS retirement plan compliance program to better address common errors that are relatively easy to fix without expensive and time-consuming IRS filings. The bill also would expand the compliance program to IRAs, representing a major step forward in the sensible administration of IRAs.

D. Additional Reform Ideas Deserve Attention

New SIMPLE Plan. While open MEPs will be an attractive option for small businesses looking to start a retirement plan, there are certain barriers to offering a plan not addressed by that option or other existing options like SIMPLE IRAs.[20] For workplaces where the majority of workers are focused on saving for goals other than retirement—such as education, a home, or an emergency fund—a different solution makes sense. Because these workers may place less value on compensation paid as retirement benefits as opposed to take-home wages, the required employer contributions discourage the adoption of SIMPLE plans. Creating a new type of SIMPLE plan for small employers would encourage greater plan creation and coverage in smaller workplaces. The new plan would be modeled on existing SIMPLE plans, but would not require employer contributions.[21] Such a plan would accommodate any employee who wants to save for retirement, while preserving the incentives for the employer to step up to a SIMPLE IRA or 401(k) plan.

Modernize E-delivery Rules. Allowing plans to make e-delivery the default method for communicating with participants (but allowing participants to opt for paper) will enhance the effectiveness of ERISA communications and yield cost savings for the economy and plans that decide to opt for e-delivery.[22]

[20] Small businesses often face challenges in establishing and maintaining retirement plans. Fifty-three percent of workers at firms with fewer than 100 workers are covered by a plan, as compared with 85 percent of workers at larger firms. See National Compensation Survey (NCS) "Table 2. Retirement benefits: Access, participation, and take-up rates, private industry workers, March 2018;" available at www.bls.gov/ncs/ebs/benefits/2018/ownership/private/table02a.pdf.

[21] It would have contribution limits above traditional and Roth IRA limits, but below existing SIMPLE plan limits. We note that a conceptually similar provision, referred to as the "starter k" plan, has been proposed by then Ranking Member Orrin Hatch (R-UT) in S. 1270, the "Secure Annuities for Employee (SAFE) Retirement Act of 2013."

[22] An important study on electronic delivery, led by Professor Peter Swire, concluded that shifting the default method of delivering DC plan participant disclosures to electronic delivery, rather than relying on outmoded paper delivery systems, would produce significant improvements in the efficiency and effectiveness of disclosure. See Peter Swire and DeBrae Kennedy-Mayo, *2018 Update*

Under our proposal,[23] any document that is required by ERISA or the Internal Revenue Code to be furnished to a participant, beneficiary or other individual (a "recipient") may be furnished electronically under a number of alternative methods: (1) direct delivery of the document to the recipient's email address; (2) posting on a continuously available website, if the recipient is notified that the document is available; or (3) any other electronic means reasonably calculated to ensure actual receipt. The proposal includes robust safeguards for participants who prefer to receive documents in paper form.

Preserve Social Security. The Institute also recognizes the significance of Social Security as the foundation of retirement security for almost all American workers. We urge Congress to preserve Social Security as a universal, employment-based, progressive pension for all Americans.

E. State-Run Plans Are Not the Right Answer

The ideas described in our statement build on the strengths of the private retirement system and would provide more effective tools to employers and their workers saving for retirement. Still some will continue to believe that the national voluntary system is not enough and that government-run solutions are necessary. Recent efforts by state and local governments to place workers into government-run auto-IRA programs, however, are flawed in several ways. They are costly by comparison[24] and they effectively lack the protections of ERISA.[25] Smaller employers in particular will be less likely to adopt more effective retirement savings plans—like SIMPLE IRAs and 401(k) plans—instead falling back on the state- or city-mandated default IRA program. Furthermore, for employers operating in multiple jurisdictions (which can include small businesses), state and municipal programs will result in overlapping and inconsistent requirements, in total disregard of ERISA's long-standing preemption doctrine.

Instead of promoting this sub-optimal approach to increasing coverage, Congress should implement targeted reforms at a national level that will enable the private-sector retirement system to reach more workers under the protective umbrella of ERISA. The reforms outlined above would do just that and render the less effective state-based programs unnecessary.

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ICI greatly appreciates the opportunity to offer this statement for the hearing record and looks forward to working with the Committee as it considers how to improve retirement security for American workers.

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to Delivering ERISA Disclosure for Defined Contribution Plans: Why the Time Has Come to Prefer Electronic Delivery, available at http://peterswire.net/wp-content/uploads/2018-Update-to-Delivering-ERISA-Disclosure-for-DC-Plans-002.pdf.

[23] A similar proposal for modernizing the rules for electronic delivery appears in H.R. 4610, the Receiving Electronic Statements to Improve Retiree Earnings Act, introduced in the 115th Congress by Reps. Jared Polis (D-CO), Phil Roe (R-TN), Ron Kind (D-WI) and Mike Kelly (R-PA).

[24] See Duvall, "IRA Investors Are Concentrated in Lower-Cost Mutual Funds," *ICI Viewpoints* (August 8, 2018), available at www.ici.org/viewpoints/view_18_ira_expenses_fees.

[25] State run mandatory IRA programs in Oregon, California, Illinois, Connecticut, and Maryland, for example, take the position that they are exempt from ERISA coverage, despite automatically enrolling workers into savings programs where investment and contribution decisions are made for individuals by default.