

United States Senate

WASHINGTON, DC 20510

March 24, 2022

The Honorable Gene Dodaro
Comptroller General
U.S. Government Accountability Office
441 G Street, N.W.
Washington, D.C. 20548

Dear Mr. Dodaro:

We write to request the U.S. Government Accountability Office (GAO) examine the need for stronger spousal protections in defined contribution retirement plans, as such accounts are often a couple's largest asset aside from their home. People plan their futures around their retirement accounts, so it is important that no one have these critical resources undermined by their spouse's decisions without their knowledge or consent.

Unlike traditional defined benefit retirement plans and the Federal government's Thrift Savings Plan that have spousal protections,¹ private employer-sponsored defined contribution retirement plans – which have become the most common retirement savings vehicle – currently provide no similar safeguards. Under current law, one spouse could take a withdrawal from their account without the other spouse's knowledge or consent. This could have a devastating effect on the unknowing spouse and family members, especially if they are less familiar with the household's finances.

Congress has historically emphasized that “a spouse should be involved in making choices with respect to retirement income on which the spouse may also rely.”² Given the rise in the use of defined contribution plans but current lack of defined contribution spousal protections, we respectfully ask GAO to address the following questions:

1. How often are withdrawals made from defined contribution retirement accounts involving married couples?
2. In what circumstances is a married participant able to withdraw money from a defined contribution plan without spousal consent? What is known about the effect on their spouse? What are the perspectives of plan participants and spouses on distributions where spousal consent is not required?

¹ If a defined benefit plan participant dies before beginning to draw a benefit, the plan must provide a qualified pre-retirement survivor annuity (QPSA) to the spouse. If a participant dies after commencement of benefits under the plan, then the surviving spouse will receive a qualified joint and survivor annuity (QJSA) equal to 50% of the participant's benefit. Before a participant can forgo a QPSA or QJSA, the participant must first get the special written permission of the spouse. The same is true for participants in the Thrift Savings Plan.

² S. Rep. No. 98-575, at 12 (1984) (report accompanying the Retirement Equity Act of 1984 establishing spousal protections for defined benefit plans).

3. How could the spousal protections for defined benefit plans and the Federal government's Thrift Savings Plan be applied to the defined contribution plan regime?
4. How could the administrative burdens on plan sponsors and recordkeepers in connection with defined contribution spousal protections be eased?
5. What impact would remote witnessing of written consent agreements to withdrawals or change of beneficiary have on the consent of the spouse?
6. Under what circumstances would obtaining spousal consent prior to a defined contribution plan withdrawal or change of beneficiary be inappropriate?

If you have any questions concerning this request, please contact Kendra Isaacson, Pensions Policy Director & Senior Tax Counsel for Chair Murray, at (202) 224-6572, or Lindsey Seidman, Deputy Staff Director for Ranking Member Burr, at (202) 224-8984.

Thank you for your attention to this matter.

Sincerely,



PATTY MURRAY
Chair, Senate Committee on Health,
Education, Labor & Pensions



RICHARD BURR
Ranking Member, Senate Committee on
Health, Education, Labor & Pensions