### IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)
Teachers Insurance and Annuity Association of America	) ) Attorney: Laura Golden
Serial No. 88/208,417	) Law Office: 103
Filed: November 28, 2018	)
Mark: TIAA RETIREWELL	)

### **RESPONSE TO OFFICE ACTION**

Commissioner for Trademarks P.O. Box 1451 Alexandria, Virginia 22313-1451

In response to the Office Action dated March 11, 2019, Applicant respectfully requests that the Examining Attorney consider the following arguments.

### A. <u>NO LIKELIHOOD OF CONFUSION</u>

The Examining Attorney contends that Applicant's mark, TIAA RETIREWELL, is likely to cause confusion with two earlier-registered marks: US Registration No. 4354760 for the mark LIVEWELL. RETIRE WELL covering "underwriting, issuance and administration of annuities; establishing mutual funds for others, mutual fund brokerage, and mutual fund distribution" in Class 36; and US Registration No. 5353801 for the mark RETIREWELL (Stylized) covering "credit union services" in Class 36. The Examining Attorney refused Applicant's mark because of the perceived similarity of the marks and the relatedness of the goods.

A likelihood of confusion inquiry is made on a case-by-case basis using the *du Pont* factors. *See In re E.I. du Pont de Nemours & Co.*, 177 USPQ 563, 476 F.2d 1357 (CCPA 1973). While not every factor is necessarily relevant or of equal weight, the Trademark Office must

consider pertinent evidence regarding any factor entered into the record. *Id.* at 568–69. The most compelling factors, namely, similarity of the marks and relatedness of the goods as described in the application and registration, may be outweighed by other factors, especially where there is "another established fact probative of the effect of use." *See* TMEP 1207.01. Applicant submits that weighing the *du Pont* factors, the most compelling factors in this case are the fame of the TIAA mark and the weakness of the common elements, as outlined below. Applicant submits that based upon the totality of the evidence in the record, there will be no likelihood of confusion as to the source of the services by consumers.

### A. Dissimilarity of the Marks in their Entireties

The Examining Attorney contends that LIVEWELL. RETIRE WELL and RETIREWELL are confusingly similar to TIAA RETIREWELL in appearance and commercial impression, and that adding a house mark to an otherwise confusingly similar mark will not obviate a likelihood of confusion. Applicant respectfully disagrees. Under TMEP §1207.01(b), citing *In re Nat'l Data Corp.*, 753 F.2d 1056, the "likelihood of confusion cannot be predicated on dissection of a mark, that is, on only part of a mark," but "more or less weight [can] be given to a particular feature of a mark." The Examining Attorney is not viewing the marks in their entireties, but rather is focusing merely on the similar components.

#### B. Dissimilarity of the Marks in Sound and Appearance

The Applicant's mark, TIAA RETIREWELL, and the cited marks, LIVEWELL. RETIRE WELL and the stylized RETIREWELL mark, are not similar in sound or appearance. The Examining Attorney asserts in the Office Action, "[m]arks may be confusingly similar in appearance where similar terms or phrases or similar parts of terms or phrases appear in the compared marks and create a similar overall commercial impression." However, the provided TMEP and case law citations refer to marks such as COMMCASH and COMMUNICASH and MILTRON and MILLTRONICS. Neither of these cases is on point with TIAA RETIREWELL compared with LIVEWELL. RETIRE WELL or RETIREWELL, because the similar portions are in the second portion of the mark at issue, not the first.

In addition, the cited TMEP Section §1207.01(b)(iii), "Comparing Marks That Contain Additional Matter," supports the argument that a different first word may suffice to distinguish marks that contain a commonly-used phrase (in this case, RETIREWELL). "Additions or deletions to marks may be sufficient to avoid a likelihood of confusion if: (1) the marks in their entireties convey significantly different commercial impressions; or (2) the matter common to the marks is not likely to be perceived by purchasers as distinguishing source because it is merely descriptive or diluted. See e.g., Citigroup Inc. v. Capital City Bank Group, Inc., 637 F.3d 1344, 1356, 98 USPQ2d 1253, 1261 (Fed. Cir. 2011) (affirming TTAB's holding that contemporaneous use of applicant's CAPITAL CITY BANK marks for banking and financial services, and opposer's CITIBANK marks for banking and financial services, is not likely to cause confusion, based, in part, on findings that the phrase "City Bank" is frequently used in the banking industry and that "CAPITAL" is the dominant element of applicant's marks, which gives the marks a geographic connotation as well as a look and sound distinct from opposer's marks)." In this case, TIAA is the dominant element of the Applicant's mark, and both LIVEWELL and RETIREWELL are more suggestive of the offered services. Furthermore, the sentence structure as a tagline in the appearance of LIVEWELL. RETIRE WELL gives a different commercial impression than the straightforward TIAA RETIREWELL mark. In addition, the stylization of the RETIREWELL mark and the inclusion of "TIAA" set the marks apart from each other.

88/208,417

### C. Common Elements in Marks are Weak

If the common elements of two marks are "weak," it is "unlikely consumers will be confused unless the overall combinations have other commonality." TMEP § 1207.01(b)(viii) (citing *In re Bed & Breakfast Registry*, 791 F.2d 157 (Fed. Cir. 1986)).

The common elements between Applicant's mark and the cited registrations are the words RETIRE and WELL. However, because the common elements of Applicant's mark and the registered mark are suggestive of the services, consumers are unlikely to be confused by the commonality, and they will look to other portions of the mark to differentiate. See TMEP § 1207.01(b)(viii) (citing *In re Bed & Breakfast Registry*, 791 F.2d 157 (Fed. Cir. 1986)). Here, consumers will look to TIAA, LIVEWELL, and the stylization of RETIREWELL to serve as distinguishing features to determine the sources of the services.

### D. Co-existence of Multiple RETIRE WELL Marks for Related Services

Further support that TIAA RETIREWELL can be another entrant to the RETIRE WELL market can be found in the fact that multiple registrations including RETIRE WELL exist, and multiple applications including RETIRE WELL were allowed to proceed. Printouts of the following referenced marks are attached as Exhibit A.

The Insurance Shop, Inc., owns Reg. No. 4990205 for PLAN WELL RETIRE WELL MAXIMIZING SOCIAL SECURITY INCOME in connection with "financial planning consultation; financial planning for retirement; financial retirement plan consulting services; insurance brokerage services; insurance consultancy; providing information and advice in the field of finance, financial investments, financial valuations, and the financial aspects of retirement" in Class 36. Lincoln Investment Planning, LLC, owns Reg. No. 2278351 for WE HELP PEOPLE RETIRE WELL in connection with "financial and investment services for retirement and retirement planning, namely, investment and mutual fund brokerage services, investment advisory services, mutual fund investment, financial planning and investment consultation" in Class 36.

In addition, the Trademark Office found no similar registered or pending mark (including WE HELP PEOPLE RETIRE WELL) to bar registration of Serial No. 77101957 for the mark RETIRE WELL FOUNDATION (an application filed in 2007 by Franklin Resources, Inc., in connection with "financial administration of retirement plans; financial analysis and consultation; financial consultation; financial information provided by electronic means; financial planning; investment advisory services; investment management; mutual fund distribution; mutual fund investment; providing stock/securities market information"). The RETIRE WELL FOUNDATION application never proceeded to registration because the applicant failed to respond to the Trademark Office's office action requiring a disclaimer of the exclusive right to use RETIRE or FOUNDATION apart from RETIRE WELL FOUNDATION, but the examining attorney found no similar or pending mark to bar registration.

Similarly, Ready Retirement, Inc., filed Serial No. 86373268 for RETIREWELL in 2014 in connection with "insurance services, namely, viatical settlement services, life settlement services for insurance policyholders, and senior settlement services for insurance policyholders" also in Class 36. That mark never registered because the applicant failed to file a statement of use or an extension request after the notice of allowance issued, but the examining attorney found no similar or pending mark to bar registration. Significantly, the examining attorney did not deem LIVEWELL. RETIRE WELL to be a bar to registration of RETIREWELL, which included neither stylization nor a house mark to preface RETIREWELL.

The existence of various marks including RETIRE WELL suggests that TIAA RETIREWELL could coexist with the other RETIRE WELL marks without causing confusion.

It is particularly significant that the LIVEWELL. RETIRE WELL registration cited by the Examining Attorney as a bar to registration of TIAA RETIREWELL did not present an impediment to the registration of the RETIREWELL (stylized) mark cited by the Examining Attorney as a bar to registration of TIAA RETIREWELL.

### E. Dominance of First Words

Consumers tend to focus on the first word in a mark as being the dominant feature. In *Palm Bay Imports, Inc. v. Veuve Clicquot Ponsardin Maison Fondee En 1772,* 396 F.3d 1369, 1372 (Fed.Cir. 2005), the first word in the trademark consituted the "dominant feature in the commercial impression." Here, Applicant's first component is TIAA. Conversely, the cited marks' first components, respectively, are LIVEWELL and RETIREWELL. As per the Federal Circuit, consumers look to the first components of a mark to distinguish them from other marks.

#### F. Adding a House Mark

The Examining Attorney contends that "adding a house mark to an otherwise confusingly similar mark will not obviate a likelihood of confusion." However, "will not" is conclusive and not always supported. In *In Re Deutsche Telekom Ag*, 2007 WL 760519 (TTAB Mar. 7, 2007), the court examined whether adding the house mark "T-Mobile" suffices to avoid a likelihood of confusion. The court stated:

We agree with applicant that the basic issue presented in this case is whether applicant's coupling of the term "news express" with its house mark T-Mobile suffices to avoid likelihood of confusion between the applicant's T-Mobile news express mark and registrant's mark NEWSEXPRESS. <u>We find that it does</u>.

As argued by the Trademark Examining Attorney, there are decisions holding that the addition of a house mark to one of two otherwise similar marks may not be of itself sufficient to avoid a likelihood of confusion in trade. On the other hand, it misstates the rule of these cases to conclude that the house mark can be disregarded in the likelihood of confusion analysis. Rather, "... each case requires consideration of the effect of the entire mark including any term in addition to that which closely resembles the [cited] mark." See Rockwood Chocolate Co., Inc. v. Hoffman Candy Company, 152 USPQ 599 (CCPA 1967).

Id. at \*4 (emphasis added). Although a house mark in some instances may not obviate the likelihood of confusion, other factors should be considered in addition to the house mark in order to determine whether there is a likelihood of confusion. Here, because the house mark TIAA, like T-Mobile, is very well known to consumers, the house mark cannot be disregarded and should be deemed sufficient to obviate any likelihood of confusion.

### G. Dissimilarity When Adding an Arguably Famous Mark

Under TMEP § 1207.01(d)(ix), "[w]hen present, the fame of a mark is 'a dominant factor in the likelihood of confusion analysis . . . independent of the consideration of the relatedness of the goods." *See* Recot , 214 F.3d at 1328, 54 USPQ2d at 1898; L'Oreal S.A. v. Marcon, 102 USPQ2d 1434, 1438 (TTAB 2012).

Fame of a mark can be considered if there is relevant evidence of record. TMEP § 1207(d)(ix). The evidence can include the quantity of sales, the amount of advertising, and commercial awareness. The famous mark TIAA represents a company that has five million individual customers at more than 15,000 institutions, with \$970 billion in assets under management, as of December 31, 2018. *See* Q4 2018 Facts and Stats. (See printout attached as Exhibit B.) Furthermore, TIAA has been ranked Best Overall Large Fund Company by the Thomson Reuters Lipper Fund Awards for six consecutive years, from 2013-2018. *See* Q4 2018 Facts and Stats. (See printout attached as Exhibit B.) Applicant submits printouts of eight of its

36 total federal trademark registrations that contain the house mark TIAA to show the variety of the financial and educational services covered by the famous TIAA mark (see Exhibit C). In addition, Registration No. 1605921 for TIAA indicates a first use date of the year 1918, showing more than 100 years of exclusive and continuous use. Based on the foregoing, TIAA can be deemed a famous mark.

The inclusion of the famous mark TIAA as the dominant first portion of the mark sets it apart from the others and clearly identifies for consumers that the source of the goods is TIAA. If the concern is to avoid the services "be[ing] attributed to the same source," as asserted by the Examining Attorney, then Applicant's mark should be approved for publication. In this case, inclusion of the Applicant's famous trademark with the highly suggestive RETIREWELL portion of the mark ensures a lack of confusion.

#### H. Care Taken By Purchasers

It is well settled that when a product or service is particularly expensive, complicated, or important to the consumer, the likelihood of confusion is diminished because of the extra care consumers take to make such purchases. According to TMEP Section 1207.01(d)(vii), "circumstances suggesting care in purchasing may tend to minimize the likelihood of confusion." *See, e.g., Primrose Ret. Cmtys., LLC v. Edward Rose Senior Living, LLC*, 122 USPQ2d 1030, 1039 (TTAB 2016) (finding that, "even in the case of the least sophisticated purchaser, a decision as important as choosing a senior living community will be made with some thought and research, even when made hastily"); *In re Homeland Vinyl Prods., Inc.,* 81 USPQ2d 1378, 1380, 1383 (TTAB 2006).

In this case, Applicant provides services related to the consumer's retirement funding. Consumers carefully review and study retirement options. Furthermore, the purchasing consumer receives frequent communications from the provider of his or her retirement account, further solidifying the source of the services in the consumer's mind. As such, consumers choosing Applicant's retirement products and services are not likely to be confused by the only common element between the marks, RETIRE WELL. Instead, they will focus on the fame and goodwill of the TIAA mark to give them confidence that the services are being provided by a trusted source.

### B. <u>CONCLUSION</u>

Because of the differences in the marks and the fame of the TIAA mark, Applicant has provided evidence to show that there is no likelihood that the subject mark will cause confusion with the cited registrations. As such, Applicant respectfully requests that the Examining Attorney withdraw the refusal for likelihood of confusion and approve Application U.S. Serial No. 88/208,417 for publication.

Respectfully submitted,

/JDS/

Jeremy D. Spier Attorney of Record, GA Bar Member Eversheds Sutherland (US) LLP 999 Peachtree Street Atlanta, Georgia 30309-3996 (404) 853-8192 404-853-8806 (fax) ES Docket: 80350-1035

## **Exhibit A – Referenced Marks**



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### Trademarks > Trademark Electronic Search System (TESS)

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Word Mark Goods and Services	PLAN WELL RETIRE WELL MAXIMIZING SOCIAL SECURITY INCOME IC 036. US 100 101 102. G & S: Financial planning consultation; Financial planning for retirement; Financial retirement plan consulting services; Insurance brokerage services; Insurance consultancy; Providing information and advice in the field of finance, financial investments, financial valuations, and the financial aspects of retirement.

	FIRST USE: 20160418. FIRST USE IN COMMERCE: 20160418
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	86688337
Filing Date	July 9, 2015
Current Basis	1A
Original Filing Basis	1B
Published for Opposition	February 2, 2016
Registration Number	4990205
Registration Date	June 28, 2016
Owner	(REGISTRANT) The Insurance Shop, Inc. CORPORATION INDIANA 204 West Main Street Odon INDIANA 47562
Attorney of Record	John M. Bradshaw

4/5/2019	Trademark Electronic Search System (TESS)
Disclaimer	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "MAXIMIZING SOCIAL SECURITY INCOME" APART FROM THE MARK AS SHOWN
Type of Mark	SERVICE MARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE
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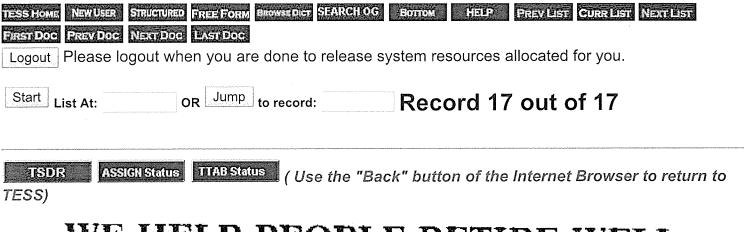
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## WE HELP PEOPLE RETIRE WELL

Word Mark	WE HELP PEOPLE RETIRE WELL
Goods and Services	IC 036. US 100 101 102. G & S: financial and investment services for retirement and retirement planning, namely, investment and mutual fund brokerage services, investment advisory services, mutual fund investment, financial planning and investment consultation. FIRST USE: 19980501. FIRST USE IN COMMERCE: 19980501
Mark Drawing Code	(1) TYPED DRAWING
Serial Number	75312419
Filing Date	June 20, 1997
Current Basis	1A <sup>*</sup>
Original Filing Basis	1B
Published for Opposition	November 10, 1998
Registration Number	2278351
Registration Date	September 14, 1999
Owner	(REGISTRANT) Lincoln Investment Planning, Inc. CORPORATION PENNSYLVANIA 218 GLENSIDE AVENUE Wyncote PENNSYLVANIA 190951595
	(LAST LISTED OWNER) LINCOLN INVESTMENT PLANNING, LLC LIMITED LIABILITY COMPANY PENNSYLVANIA 601 Office Center Drive, Suite 300 Fort Washington PENNSYLVANIA 19034
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	Nancy Rubner Frandsen

4/5/2019

Trademark Electronic Search System (TESS)	

Type of Mark	SERVICE MARK
Register	PRINCIPAL
Affidavit Text	SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20090722.
Renewal	1ST RENEWAL 20090722
Live/Dead Indicator	LIVE

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RETIRE WELL FOUNDATION

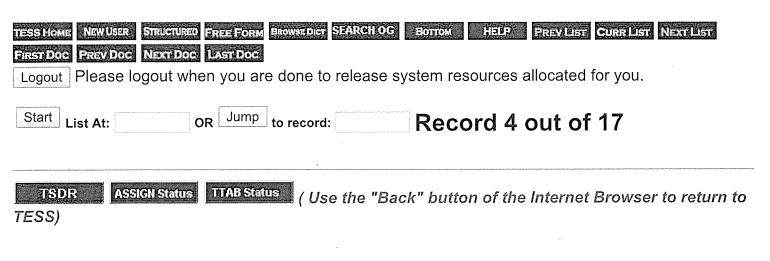
Word Mark Goods and Services	<b>RETIRE WELL</b> FOUNDATION (ABANDONED) IC 036. US 100 101 102. G & S: Financial administration of retirement plans; Financial analysis and consultation; Financial consultation; Financial information provided by electronic means; Financial planning; Investment advisory services; Investment management; Mutual fund distribution; Mutual fund investment; Providing stock/securities market information
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	77101957
Filing Date	February 7, 2007
Current Basis	1B
Original Filing Basis	1B
Owner	(APPLICANT) Franklin Resources, Inc. CORPORATION DELAWARE One Franklin Parkway San Mateo CALIFORNIA 944031906
Attorney of Record	J. Matthew Gowdy
Type of Mark	SERVICE MARK
Register	PRINCIPAL
Live/Dead Indicator	DEAD
Abandonment Date	December 11, 2007



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### Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Fri Apr 5 03:47:06 EDT 2019



# RetireWell

Word Mark Goods and Services Standard Characters Claimed	RETIREWELL (ABANDONED) IC 036. US 100 101 102. G & S: Insurance services, namely, viatical settlement services, life settlement services for insurance policyholders, and senior settlement services for insurance policyholders
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	86373268
Filing Date	August 21, 2014
<b>Current Basis</b>	1B
Original Filing Basis	1B
Published for Opposition	January 20, 2015
Owner	(APPLICANT) Ready Retirement, Inc. CORPORATION DELAWARE 3800 W. Chapman Avenue, Third Floor Orange CALIFORNIA 92868
Attorney of Record	Shannon Marie McKeon
Type of Mark	SERVICE MARK
Register	PRINCIPAL
Live/Dead Indicator	DEAD
Abandonment Date	April 18, 2016

### **Exhibit B – TIAA Q4 Facts and Stats**



## Entering our second century of helping people pursue financial well-being

Founded more than 100 years ago by one of history's great philanthropists, Andrew Carnegie, TIAA is committed to helping institutions and individuals pursue positive outcomes through an array of global, diversified financial services and a long-term investment perspective. Having grown into a Fortune 100 financial services organization, we are grounded by our core values, committed to responsible investing and dedicated to being a force for good, building on our legacy of serving the broad financial needs of those who make a difference in the world.

### By the numbers



- According to a recent survey of 17 providers, TIAA is the largest manager of qualified plan stable value assets with \$164.6 billion in stable value accumulation values.<sup>6</sup>
- TIAA is the #1 not-for-profit retirement market provider in assets and participant accounts.<sup>7</sup>
- Paid close to \$5 billion to retired clients in 2017, including more than 32,000 annuitants over the age of 90.
- TIAA Traditional has credited interest rates higher than the guaranteed minimum under one or more contracts every year since 1948.<sup>8</sup>

### Investment performance and ratings



of TIAA-CREF mutual funds and CREF variable annuities have **expense ratios below the median of their respective Morningstar categories**<sup>9</sup>



Largest global agricultural investor<sup>10</sup>



Largest commercial real estate managers in the world<sup>11</sup>

- 57% of TIAA-CREF mutual funds and CREF variable annuities received an overall Morningstar rating of 4 or 5 stars across all asset classes, (36% 4 stars and 21% 5 stars).<sup>12</sup>
- Among the highest rated insurance companies in the U.S. by the four leading rating agencies: A.M. Best, Fitch, Moody's Investors Service and Standard & Poor's<sup>13</sup>

### Diversity and inclusion, community service, awards and recognition



Companies for Working Mothers by Working Mother, 2011-2018<sup>14</sup>



Companies for Executive Women by the National Association for Female Executives, 2018<sup>15</sup>



One of DiversityInc's **Top 50 Companies for the sixth year in a row**<sup>16</sup>



The Thomson Reuters Lipper Large Fund Awards are based on a review of 36 companies 2012, 48 companies 2013 and 2014, 37 companies 2015, 34 companies 2016 and 34 companies 2017 risk-adjusted performance. The Mixed Assets Large Fund Award is based on a review of 39 companies 2017 risk-adjusted 2016 and 35 companies 2017 risk-adjusted performance

- #1 Life Insurance
- #1 Participant

- 1. Includes TIAA affiliate companies.
- 2. Includes unique institutional clients serviced by TIAA for either retirement or Keogh plans (prior versions of this fact-sheet utilized a more broadly inclusive definition of "institutions").
- 3. As of December 31, 2018 under management across Nuveen Investments affiliates and TIAA investment management teams are \$970 billion.
- 4. Includes all Wealth Management Advisors and Financial Consultants
- 5. As of December 31, 2017. Other benefits from TIAA include: surrender benefits and other withdrawals, death benefits, health insurance and disability insurance benefits, and all other policy proceeds paid.
- 6. Source: LIMRA 3Q4Q 2017 Stable Value and Funding Agreement Product Survey. Based on a survey of 15 insurance companies and 2 banks reporting \$615.5 billion in stable value amounts associated with qualified stable value assets. TIAA ranked first in total values.
- 7. Based on data from 63 providers in PLANSPONSOR magazine's 2018 DC Recordkeeping Survey, combined 457, 403(b) and money purchase plan data as of December 31, 2017.
- 8. Past performance is no guarantee of future results. Any guarantees under annuities issued by TIAA are subject to TIAA's claims-paying ability. TIAA Traditional is a guaranteed insurance contract and not an investment for federal securities law purposes. Interest in excess of the guaranteed amount is not guaranteed for periods other than the periods for which it is declared.
- 9. Based on Morningstar Direct (as of December 31, 2018) expense comparisons by category, excluding Money Market products. Actual percentage is 97.25%. TIAA-CREF mutual fund and CREF variable annuity products are subject to various fees and expenses, including but not limited to management, administrative, and distribution fees; our variable annuity products have an additional mortality and expense risk charge. Excludes the class W shares, which are not available for purchase by retail investors.
- 10. Pensions & Investments, October 1, 2018, Rankings based on worldwide farmland assets under management as of June 30, 2018, reported by each responding asset manager.
- 11. Based on total assets under management as of December 31, 2017, according to INREV, the European Association for investors in non-listed real estate vehicles for institutional investors.
- 12. Morningstar ratings are based on each mutual fund (institutional share class) or variable annuity account's (lowest cost) share class and include U.S. open-end mutual funds, CREF Variable Accounts and the Life Funds. The Morningstar Rating<sup>™</sup>—or "star rating"—is calculated for managed products (including mutual funds, variable annuity and variable life subaccounts, exchange-traded funds, closed-end funds and separate accounts) with at least a three-year history. Exchange-traded funds and open-ended mutual funds are considered a single population for comparative purposes. The rating is calculated based on a Morningstar Risk-Adjusted Return measure that accounts for variation in a managed product's monthly excess performance, placing more emphasis on downward variations and rewarding consistent performance. Morningstar ratings may be higher or lower on a monthly basis. The top 10% of funds or accounts in each product category receive five stars, the next 22.5% receive four stars and the next 35% receive three stars. The overall star ratings are Morningstar's published ratings, which are derived from weighted averages of the performance figures associated with the three-, five-, and 10-year (if applicable) Morningstar rating metrics for the period ended December 31, 2018. Morningstar is an independent service that rates mutual funds. Past performance cannot guarantee future results. For current performance and ratings, please visit TIAA.org/public/investment-performance.
- 13. For stability, claims-paying ability and overall financial strength, Teachers Insurance and Annuity Association of America (TIAA) and TIAA-CREF Life Insurance Company (TIAA Life) are one of only three insurance groups in the United States to currently hold the highest possible rating from three of the four leading insurance company rating agencies: A.M. Best (A++ rating affirmed as of June 2018), Fitch (AAA rating affirmed as of June 2018) and Standard & Poor's (AA+ rating affirmed as of October 2018) and the second-highest possible rating from Moody's Investors Service (Aa1 rating affirmed as of September 2018). There is no guarantee that current ratings will be maintained. Ratings represent a company's ability to meet policyholders' obligations and do not apply to any product or service not fully backed by the issuer's claims-paying ability. The ratings also do not apply to the safety or the performance of the variable accounts or mutual funds, which will fluctuate in value.
- 14. 100 Best Companies for Working Mothers by *Working Mother* magazine, 2007-2018.
- 15. Top 70 Companies for Executive Women by National Association of Female Executives, 2018.
- 16. One of DiversityInc's Top 50 Companies for the sixth year in a row.
- <sup>17</sup> Based on the Human Rights Campaign Foundation's Corporate Equality Index 2017.
- 18. 29,439 hours served from January 1, 2018 through December 31, 2018.
- 19. The Lipper Large Fund Award is given to the group with the lowest average decile ranking of three years' Consistent Return for eligible funds over the three-year period ended 11/30/12 (36 fund companies), 11/30/13 (48), 11/30/14 (48), 11/30/15 (37), 11/30/16 (34) and 11/30/17 (34) with at least five equity, five bond, or three mixed-asset portfolios. For the Mixed-Assets category, TIAA ranked against 39, 36 and 35 fund families for the three-year period ended 11/30/15, 11/30/16 and 11/30/17, respectively. Note these awards pertain to mutual funds within the TIAA-CREF group of mutual funds; other funds distributed by Nuveen Securities were not included. From Thomson Reuters Lipper Awards, ©2018 Thomson Reuters. All rights reserved. Used by permission and protected by the Copyright Laws of the United States. The printing, copying, redistribution, or retransmission of this Content without express written permission is prohibited. Past performance does not guarantee future results. Certain funds have fee waivers in effect. Without such waivers ratings could be lower. For current performance, rankings and prospectuses, please visit the Research and Performance section on TIAA.org. Securities offered through Nuveen, LLC, and TIAA-CREF Individual & Institutional Services, LLC, members FINRA and SIPC.
- 20. 2015-2018. The World's Most Ethical Company assessment is based upon the Ethisphere Institute's Ethics Quotient® (EQ) framework which offers a quantitative way to assess a company's performance in an objective, consistent and standardized way. The information collected provides a comprehensive sampling of definitive criteria of core competencies, rather than all aspects of corporate governance, risk, sustainability, compliance and ethics. Scores are generated in five key categories: ethics and compliance program (35%), corporate citizenship and responsibility (20%), culture of ethics (20%), governance (15%) and leadership, innovation and reputation (10%) and provided to all companies who participate in the process. The full list of the 2018 World's Most Ethical Companies can be found at https://www.worldsmostethicalcompanies.com/honorees/
- 21. DALBAR's WebMonitor program continuously analyzes financial services websites to evaluate their effectiveness in maximizing their online presence by incorporating content and functionality in a consistent, appealing and user-friendly manner. DALBAR regularly publishes key findings of competitive intelligence and benchmarking data, spotlighting notable trends, best practices, and industry leaders, as of March 31, 2018.

This material is for informational or educational purposes only and does not constitute investment advice under ERISA. This material does not take into account any specific objectives or circumstances of any particular investor, or suggest any specific course of action. Investment decisions should be made based on the investor's own objectives and circumstances.

### Investment, insurance, and annuity products are not FDIC insured, are not bank guaranteed, are not bank deposits, are not insured by any federal government agency, are not a condition to any banking service or activity, and may lose value.

Investment products may be subject to market and other risk factors. See the applicable product literature, or visit TIAA.org for details.

#### You should consider the investment objectives, risks, charges, and expenses carefully before investing. Please call 877-518-9161 or go to

#### TIAA.org/prospectuses for a current prospectus that contains this and other information. Please read the prospectus carefully before investing.

TIAA-CREF Individual & Institutional Services, LLC, Teachers Personal Investors Services, Inc., and Nuveen Securities, LLC, Members FINRA and SIPC, distribute securities products. Annuity contracts and certificates are issued by Teachers Insurance and Annuity Association of America (TIAA) and College Retirement Equities Fund (CREF), New York, NY. Each is solely responsible for its own financial condition and contractual obligations.

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### **Exhibit C – TIAA Sample Registrations**



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<i>,</i> ,	
Word Mark Goods and Services	TIAA IC 036. US 101 102. G & S: ADMINISTERING AND UNDERWRITING LIFE INSURANCE AND RETIREMENT PLANS FOR OTHERS. FIRST USE: 19180000. FIRST USE IN COMMERCE: 19180000
Mark Drawing Code	(1) TYPED DRAWING
Serial Number	73825913
Filing Date	September 18, 1989
Current Basis	1A
Original Filing Basis	1A
Published for Opposition	April 17, 1990
Registration Number	1605921
Registration Date	July 10, 1990
Owner	(REGISTRANT) TEACHERS INSURANCE AND ANNUITY ASSOCIATION/COLLEGE RETIREMENT EQUITIES FUND CORPORATION NEW YORK 730 THIRD AVENUE NEW YORK NEW YORK 10017
	(LAST LISTED OWNER) TEACHERS INSURANCE AND ANNUITY ASSOCIATION OF AMERICA CORPORATION NEW YORK 730 THIRD AVENUE NEW YORK NEW YORK 10017
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	Elisabeth A. Langworthy
Type of Mark Register Affidavit Text	SERVICE MARK PRINCIPAL SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20091102.

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## TIAA DIRECT

Word Mark	TIAA DIRECT
Goods and Services	IC 036. US 100 101 102. G & S: Banking services. FIRST USE: 20120216. FIRST USE IN COMMERCE: 20120216
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	85524575
Filing Date	January 25, 2012
Current Basis	1A
<b>Original Filing Basis</b>	1B
Published for Opposition	July 17, 2012
<b>Registration Number</b>	4321894
<b>Registration Date</b>	April 16, 2013
Owner	(REGISTRANT) Teachers Insurance and Annuity Association of America CORPORATION NEW YORK 730 Third Avenue New York NEW YORK 10017
Attorney of Record	Elisabeth A. Langworthy
Prior Registrations	1605921;2617632;2731742;AND OTHERS
Disclaimer	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "DIRECT" APART FROM THE MARK AS SHOWN
Type of Mark	SERVICE MARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

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## TIAA CHARITABLE

Word Mark Goods and Services	<b>TIAA</b> CHARITABLE IC 035. US 100 101 102. G & S: Charitable services, namely, promoting awareness of charitable giving to the public and encouraging philanthropy and charitable giving. FIRST USE: 20151109. FIRST USE IN COMMERCE: 20151109
	IC 036. US 100 101 102. G & S: Charitable services, namely, procuring donations of money, securities, and other investment assets for others; investing and reinvesting money, securities, and other investment assets and applying the income and principal thereof for charitable purposes through contributions to charitable organizations; administering financial charitable contributions and accounts; providing philanthropy consultation relating to charitable giving; providing financial information and guidance to encourage the making of financial charitable contributions. FIRST USE: 20151109. FIRST USE IN COMMERCE: 20151109
Standard Characters Claimed	·
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	86334198
Filing Date	July 11, 2014
Current Basis	1A
Original Filing Basis	1B
Published for Opposition	May 12, 2015
	4937473

Registration Number								
Registration Date	April 12, 2016							
Owner	(REGISTRANT) Teachers Insurance and Annuity Association of America CORPORATION NEW YORK 730 Third Avenue New York NEW YORK 10017							
Attorney of Record	ELISABETH A. LANGWORTHY							
Prior Registrations	1605921;2617632;4321894;AND OTHERS							
Disclaimer	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "CHARITABLE" APART FROM THE MARK AS SHOWN							
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Register	PRINCIPAL							
Live/Dead Indicator	LIVE							
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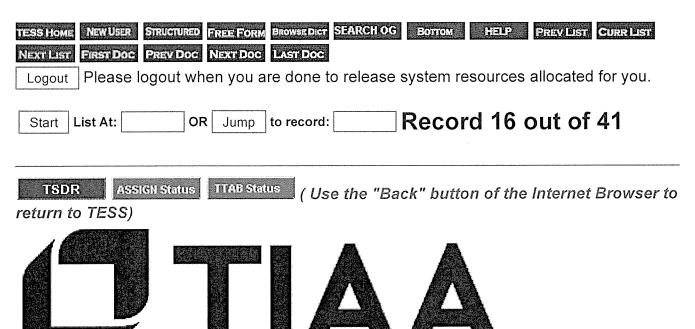
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### Word Mark TIAA

Goods and Services IC 035. US 100 101 102. G & S: Retirement plan recordkeeping services. FIRST USE: 20160222. FIRST USE IN COMMERCE: 20160222

IC 036. US 100 101 102. G & S: Underwriting and administering insurance, namely, life and annuities; providing financial services, namely, investment, administration, distribution and overseeing of investment vehicles, namely, mutual funds and annuities, to sponsors and participants of retirement and deferred compensation plans and to the general public; providing financial services, namely, investment, administration, distribution and management of assets to individual and institutional investors, endowments and trusts, through a range of registered and unregistered investment vehicles, joint ventures and other structures across a variety of asset classes, namely, equity, fixed income, real estate and alternative investment strategies; administering trusts and tuition savings programs for others; broker/dealer and investment advisory services for a variety of investment vehicles, namely, mutual funds, annuities, IRAs and managed account programs; banking services and trust services, namely, fiduciary representative and investment management services. FIRST USE: 20160222. FIRST USE IN COMMERCE: 20160222

IC 041. US 100 101 107. G & S: Educational services, namely, conducting educational workshops, conferences, and roundtable discussions in the fields of retirement trends and lifelong financial security, governance, financial stewardship, and organizational success and distribution of materials for informational, educational, training, and research purposes in connection therewith; educational services, namely, conducting practice management programs for financial advisors featuring relationship building techniques designed to enhance client acquisition, development, and retention efforts; educational services, namely, providing educational workshops on financial insurance, investment and retirement products and services and related issues to groups who influence institutional and individual decisions on financial products and their providers. FIRST USE: 20160222. FIRST USE IN COMMERCE: 20160222

Mark Drawing Code	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code	26.19.04 - Cubes (geometric)
Serial Number	86396101
Filing Date	September 16, 2014
<b>Current Basis</b>	1A
Original Filing Basis	1B
Published for Opposition	March 31, 2015
Registration Number	5091684
Registration Date	November 29, 2016
Owner	(REGISTRANT) Teachers Insurance and Annuity Association of America CORPORATION NEW YORK 730 Third Avenue New York NEW YORK 10017
Attorney of Record	ELISABETH A. LANGWORTHY
Prior Registrations	1605921;2617632;4365871;AND OTHERS
Description of Mark	Color is not claimed as a feature of the mark. The mark consists of stylized cube with capitalized letters "TIAA".
Type of Mark	SERVICE MARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE
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## TIAA INSTITUTE

Word Mark Goods and Services	TIAA INSTITUTE IC 036. US 100 101 102. G & S: Conducting financial research in relation to higher education, nonprofit and public sectors in order to foster better understanding, decision-making and innovation by policymakers, researchers, financial advisors and leaders of higher educational institutions. FIRST USE: 20160222. FIRST USE IN COMMERCE: 20160222
	IC 041. US 100 101 107. G & S: Hosting educational events on topics related to financial security and organizational effectiveness for individuals who influence institutional and individual decisions on financial products and their providers. FIRST USE: 20160222. FIRST USE IN COMMERCE: 20160222
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	86932135
Filing Date	March 8, 2016
<b>Current Basis</b>	1A
Original Filing Basis	1A
Published for Opposition	December 20, 2016
Registration Number	5154210
	March 7, 2017

Registration Date	
Owner	(REGISTRANT) Teachers Insurance and Annuity Association of America CORPORATION NEW YORK 730 Third Avenue New York NEW YORK 10017
Attorney of Record	James H. Johnson, Jr.
Prior Registrations	1605921;4321894;4365870
Disclaimer	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "INSTITUTE" APART FROM THE MARK AS SHOWN
Type of Mark	SERVICE MARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

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### AT TIAA, WE'RE WITH YOU FOR LIFE

Word MarkAT TIAA, WE'RE WITH YOU FOR LIFEGoods and<br/>ServicesIC 035. US 100 101 102. G & S: Retirement plan recordkeeping services. FIRST USE: 20170227.<br/>FIRST USE IN COMMERCE: 20170227IC 036. US 100 101 102. G & S: Underwriting and administering insurance, namely, life and

annuities; providing financial services, namely, investment, administration, distribution and overseeing of investment vehicles, namely, mutual funds and annuities, to sponsors and participants of retirement and deferred compensation plans and to the general public; providing financial services, namely, investment, administration, distribution and management of assets to individual and institutional investors, endowments and trusts, through a range of registered and unregistered investment vehicles, joint ventures and other structures across a variety of asset classes, namely, equity, fixed income, real estate and alternative investment strategies; administering trusts and tuition savings programs for others; broker/dealer and investment advisory services for a variety of investment vehicles, namely, mutual funds, annuities, IRAs and managed account programs; banking services and trust services, namely, fiduciary representative and investment services. FIRST USE: 20170227. FIRST USE IN COMMERCE: 20170227

Standard<br/>Characters<br/>ClaimedMark Drawing<br/>Code(4) STANDARD CHARACTER MARKSerial Number87393751Filing DateMarch 31, 2017Current Basis1AOriginal Filing<br/>Basis1A

Published for Opposition	January 9, 2018						
Registration Number	5572986						
Registration Date	October 2, 2018						
Owner	(REGISTRANT) Teachers Insurance and Annuity Association of America CORPORATION NEW YORK 730 Third Avenue New York NEW YORK 10017						
Attorney of Record	James H. Johnson, Jr.						
Prior Registrations	1605921;5091684;5091686						
Type of Mark	SERVICE MARK						
Register	PRINCIPAL						
Live/Dead Indicator	LIVE						
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## TIAA BANK INFINITY

Word Mark	TIAA BANK INFINITY
Goods and Services	IC 036. US 100 101 102. G & S: Banking and financing services; banking consultation; on- line banking services. FIRST USE: 20180604. FIRST USE IN COMMERCE: 20180604
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	87688946
Filing Date	November 17, 2017
Current Basis	1A
Original Filing Basis	1B
Published for Opposition	April 24, 2018
Registration Number	5557072
<b>Registration Date</b>	September 4, 2018
Owner	(REGISTRANT) Teachers Insurance and Annuity Association of America CORPORATION NEW YORK 730 Third Avenue New York NEW YORK 10017
Attorney of Record	James H. Johnson, Jr.
<b>Prior Registrations</b>	1605921;4321894;5091684;AND OTHERS
Disclaimer	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "BANK" APART FROM THE MARK AS SHOWN
Type of Mark	SERVICE MARK

Register PRINCIPAL Live/Dead Indicator LIVE

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## TIAA BANK FIELD

Word Mark TIAA BANK FIELD
 Goods and Services IC 041. US 100 101 107. G & S: Entertainment services in the nature of organizing and presenting professional football games, exhibitions and concerts; providing sports and entertainment information via a global computer network or a commercial on-line service; organization of sports events; fan club services; football games, exhibitions, competitions; motorcross and monster truck events; and musical, comedy and dance performances performed before live audiences and broadcast via television, cable television, satellite television and radio broadcast. FIRST USE: 20180604. FIRST USE IN COMMERCE: 20180604
 Standard

Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	87799715
Filing Date	February 15, 2018
<b>Current Basis</b>	1A
Original Filing Basis	1B
Published for Opposition	May 29, 2018
Registration Number	5591939
Registration Date	October 23, 2018

Live/Dead Indicator	LIVE
Register	PRINCIPAL
Type of Mark	SERVICE MARK
Disclaimer	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "FIELD" APART FROM THE MARK AS SHOWN
Prior Registrations	1605921;4321894;5091684;AND OTHERS
Attorney of Record	James H. Johnson, Jr.
Owner	(REGISTRANT) Teachers Insurance and Annuity Association of America CORPORATION NEW YORK 730 Third Avenue New York NEW YORK 10017

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