CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

GLENN SPENCER
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May 16, 2018

The Honorable Tim Walberg
Chairman
Subcommittee on Health, Employment
Labor, and Pensions
U.S. House of Representatives
Washington, D.C. 20510

The Honorable Gregorio Kilili Camacho Sablan
Ranking Member
Subcommittee on Health, Employment
Labor, and Pensions
U.S. House of Representatives
Washington, D.C. 20510

Re: Enhancing Retirement Security: Examining Proposals to Simplify and Modernize Retirement Plan Administration

Dear Chairman Walberg and Ranking Member Sablan:

The Chamber appreciates your work to modernize the private retirement plan system. According to recent data from the Bureau of Labor Statistics (BLS), there has been an upward trend in the percentage of private employers offering retirement plans to their workers, including the percentage of workers having access to retirement plans.[1] In 2017, 66% of all workers in the private sector were offered a retirement plan by their employer, according to the BLS.[2] However, additional steps are necessary to continue and expand the success of this system. Last year, the Chamber issued *Securing America's Retirement*, a legislative roadmap that details specific proposals on which Congress can act to strengthen retirement security for workers. Many of the themes featured in today's hearing reflect the recommendations made in our legislative roadmap.

In particular, the Chamber supports legislation that promotes open multiple employer plans (MEPs). The Chamber views open MEPs as a possible tool to encourage small businesses to implement retirement plans. A MEP is a single plan that is maintained by a MEP sponsor and one or more unrelated employers ("adopting employers"). MEPs offer an attractive and cost-efficient alternative for small businesses for whom a stand-alone 401(k) plan is not feasible.

A key advantage of a MEP is the centralized functions that the MEP sponsor can provide. Costs are shared among the adopting employers, regardless of the number. For example, one plan administrator, trustee, and named fiduciary can act for the entire MEP. The MEP can provide centralized payroll, one investment line-up, and one annual report and audit for the entire plan. This translates to substantial economies of scale and cost efficiencies over stand-alone plans for small businesses.

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[1] U.S. Department of Labor, Bureau of Labor Statistics, National Compensation Survey: Employee Benefits in the United States, "Retirement Benefits: Access, Participation, and Take-Up Rates, Private Industry Workers," Tables 1 and 2, (March 2017), available at https://www.bls.gov/ncs/ebs/benefits/2017/ownership/private/table02a.pdf. For past years and the recent historical trends relating to Table 2, see http://www.bls.gov/ncs/ncspubs.htm.
[2] Id.

However, there are currently significant disadvantages to participating in a MEP, the biggest being that every employer is jointly liable for the qualification failures of every other employer in the MEP—referred to as the "one bad apple" rule. In addition, Department of Labor guidance suggests that "employer commonality" is required to establish a MEP. Amending these rules could significantly expand the use of MEPs.

The Chamber also supports increasing the cash out limit. Currently, plan sponsors are allowed to automatically cash out, without participant consent, accounts for separated participants that are less than $5,000. Plan sponsors find this to be a valuable rule because it streamlines administrative costs associated with participants who are no longer affiliated with the employer. Congress last increased the cash-out limit from $3,500 to $5,000 in 1997, and before that the limit was increased in 1984.[3] Moreover, this limit is not subject to indexing as are many other limits in the retirement system.[4] Consequently, an increase in the cash-out limit is long overdue. Absent congressional action, employers will have to assume rising financial costs and fiduciary liabilities for former employees' assets, which is particularly burdensome for small businesses. Therefore, the Chamber recommends that Congress increase the involuntary cash-out limit and include automatic indexing so that the cash-out limit does not become outdated.

To promote lifetime income, the Chamber also encourages Congress to update the annuity provider safe harbor. One deterrent to providing annuities from a defined contribution plan is the annuity selection rule. Even with Department of Labor guidance issued with respect to annuity selection from a defined contribution plan, the provider selection requirements are overly complex. It is particularly difficult for small businesses to compare different annuity options. Consequently, clarifying this safe harbor would be useful to all plan sponsors.

These ideas are some of the recommendations that the Chamber included in *Securing America's Retirement.* The recommendations address the needs of the shifting American workforce, reducing barriers small businesses face in developing retirement plans, and making it easier for all Americans to save for their futures.

We look forward to working with all interested parties and Congress to modernize the current private retirement system and to continue to build upon its success. Thank you for your consideration of our comments and our legislative roadmap.

Sincerely,

Glenn Spencer

cc: Members of the Subcommittee on Health, Education, Labor, and Pensions

[3] The cash-out limit was increased from $3,500 to $5,000 in the Taxpayer Relief Act of 1997 (P.L. 105-34). Before 1997, the limit was increased from $1,750 to $3,500 in the Retirement Equity Act of 1984 (P.L. 98-397).

[4] Many dollar limits relating to retirement benefits and contributions are adjusted annually for cost-of-living increases without congressional action. For a list of indexed tax provisions, see Internal Revenue Service, "COLA Increases for Dollar Limitations on Benefits and Contributions," available at https://www.irs.gov/Retirement-Plans/COLA-Increases-for-Dollar-Limitations-on-Benefits-and-Contributions. PBGC premiums are also subject to indexing. See PBGC Premium Rates, "Scheduled Increases Years after 2016," available at http://www.pbgc.gov/prac/prem/premium-rates.html#scheduled.