Private Retirement Benefits in the 21st Century:

ACHIEVING RETIREMENT SECURITY

U.S. CHAMBER OF COMMERCE
Labor, Immigration & Employee Benefits

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On February 5, the U.S. Chamber of Commerce released a white paper titled, "Private Retirement Benefits in the 21st Century: Achieving Retirement Security" prepared by the Chamber's Employee Benefits Committee. The paper focuses on ways to strengthen the current private retirement structure and to address the demographic changes and retirement needs of an evolving workforce.

While highlighting the successes of the voluntary employer-provided system, the paper acknowledges that additional steps are necessary to continue the success of this system. It is imperative for policymakers and regulators to continue to develop additional initiatives that maintain the positive trajectory and build on the success of the private retirement system.

Included are the policy recommendations made in the paper. To read the entire paper and the details of the recommendations, please visit:
www.uschamber.com/achievingretirementsecurity

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I. Strengthening the Current Retirement Structure

a. Support retirement security through tax policy.
   i. Maintain existing tax incentives for retirement savings.
   ii. Encourage Congress to look beyond the 10-year budget window to determine the costs of tax incentives for retirement savings.
   iii. Use revenue from retirement provisions only in the context of comprehensive retirement reform.

b. Enact reforms to Multiple Employer Plans (MEPs) to expand their use.
   i. Implement safe harbors for MEP sponsors and adopting employers to immunize them from noncompliant adopting employers.
   ii. Simplify reporting and disclosure obligations under ERISA.
   iii. Issue guidance that states "employer commonality" is not required to establish a MEP.

c. Streamline notice requirements and encourage the use of electronic disclosures.
   i. Recommend congressional review of all notice requirements.
   ii. Create a uniform standard that allows electronic delivery to be the default delivery option.

d. Develop incentives for plan sponsors that want to maintain defined benefit plans.
   i. Increase Pension Benefit Guaranty Corporation (PBGC) premiums only in the context of comprehensive retirement reform.
   ii. Promote further reforms for multiemployer defined benefit plan funding.
   iii. Develop a permanent solution for nondiscrimination testing for frozen plans.
   iv. Ensure that mortality tables are accurate and consistent.

e. Address the required minimum distribution rules.
   i. Eliminate the required minimum distribution rules.
   ii. Alternatively, enact modifications to the required minimum distribution rules to reflect today's workforce.

f. Increase the involuntary cash-out limit.

g. Facilitate the preservation of retirement assets.

i. Allow 401(k) plan participants to continue to make elective contributions following a hardship distribution.
ii. Extend the rollover period for plan loan amounts.

h. Encourage the increase of plan sponsorship among small businesses.

i. Enhance the small business tax credit for 401(k) startup costs by expanding it and making it refundable.
ii. Create a new optional nondiscrimination test for average deferral percentage testing.
iii. Eliminate top-heavy rules; or, alternatively, relax the rules to encourage greater implementation and maintenance of plans.
iv. Add a small business representative to advisory councils at regulatory agencies with jurisdiction over retirement plans.
v. Facilitate the expansion and use of MEP designs.

II. Addressing the Demographic Changes and Retirement Needs of an Evolving Workforce

a. Encourage employers to offer voluntary products that address longevity issues.

i. Allow employees, within reasonable limits, to access 401(k) plan assets in order to purchase long-term care insurance; and encourage employers to offer long-term care insurance through cafeteria plans.
ii. Encourage employers to offer longevity insurance through cafeteria plans.
iii. Permit employers to offer retiree health savings accounts through cafeteria plans.

b. Eliminate barriers to phased retirement.

i. Continue to treat phased retirement programs and practices as discretionary arrangements.

ii. Ensure that any rules or legislation regarding phased retirement programs retain experienced workers with critical skills, combat labor shortages, and allow businesses to remain competitive.
    1. Clarify that phased retirement benefits are not protected under Code Section 411(d)(6).
    2. Eliminate restrictions against rehiring people who have recently retired.
    3. Allow in-service distributions at an early retirement age as defined in the plan.
    4. Exclude plan beneficiaries that participate in a company's phased retirement program from the general discrimination testing for the plan.
    5. Allow, but do not require, employers to continue to offer health benefits to phased retirees.
    6. Clarify that phased retirees are not held to a different standard under labor laws.

c. Encourage additional distribution options to facilitate lifetime income.
  i. Educate participants about decumulation options.
  ii. Encourage and incentivize employers to offer retirement plans with lifetime income options.

d. Encourage and expand retirement education and literacy, whether provided by employers or others, with appropriate protections that do not expand liability under ERISA.

e. Ensure that state-sponsored retirement programs do not undermine ERISA or create unfair competition in the marketplace.
  i. Maintain ERISA preemption.
  ii. Develop targeted solutions to increase retirement coverage.
  iii. Avoid unnecessary complexity and unfair competition.

f. Encourage the voluntary use of private disability insurance and further the education of its benefits.

III. Encouraging Innovation and Flexibility

a. Provide small businesses a dedicated voice on federal advisory councils.

b. Assess the future role and mission of the PBGC.
   i. Consider new roles for the PBGC and examine its strategic objectives.
   ii. Enhance PBGC governance procedures.
   iii. Encourage collaboration with the Participant and Plan Sponsor Advocate to create a PBGC correction program and missing participants program.

c. Enhance the retirement system by encouraging new plan designs.

d. Encourage the use of automatic plan features.
   i. Increase safe harbor adoption by removing the upper auto deferral limit and relaxing the matching formula.
   ii. Encourage plan sponsors to adjust language about automatic escalation by informing participants they can "opt out," "opt down," or "opt up" so that participants can recognize it is not an all-or-nothing decision.
   iii. Encourage plan sponsors to increase the automatic enrollment default referral rate.

e. Promote the benefits of Employee Stock Ownership Plans (ESOPs).
   i. Educate Congress and the administration about the benefits of ESOPs.
   ii. Support legislation that promotes the formation and maintenance of ESOPs.

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