LABOR, IMMIGRATION & EMPLOYEE BENEFITS DIVISION

U.S. CHAMBER OF COMMERCE

2017 RETIREMENT POLICY RECOMMENDATIONS

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In February of 2016, the Chamber issued a white paper on retirement issues entitled *Private Retirement Benefits in the 21st Century: Achieving Retirement Security*.[1] To promote the recommendations in the white paper, the Chamber created a Retirement Security Council made up of a small group of our members to focus on a proactive agenda. This transition document updates the white paper and provides a prioritized list of issues. It also reflects the work of the Retirement Security Council in pushing forward the ideas in the white paper.

I. RIGHTING THE SHIP: CORRECTING THE RETIREMENT POLICY MISTAKES OF THE PAST EIGHT YEARS

This section outlines retirement policy mistakes that have been made in the past eight years and suggests opportunities and ways to correct these policy mistakes.[2]

1 The white paper is a comprehensive document that provides targeted recommendations to improve the private employer-provided system and increase retirement savings. We have listed here items that are a high priority; however, the white paper includes additional recommendations that serve to continue the success of the private employer-provided retirement system and provides additional detail on the items discussed here.

2 As when Bush succeeded Clinton, the Trump win opens the door to rolling back many of Obama's regulations. The press is very focused on these possibilities but keep in mind that this effort will vary depending on the underlying regulation in question, a fact lost on the press. Many were issued under executive orders and thus can be swiftly eliminated through repeal of the relevant executive order by the new president, which provided the underlying authority for the regulations, followed by procedural repeal of the regulations themselves. But others will have to be repealed and/or modified through notice and comment rulemaking. This can be done relatively quickly, but the courts have made clear that this must be a reasoned and deliberative process and not based simply on a change in the presidency. Another option is repeal through the Congressional Review Act (CRA) depending on when the underlying regulation was issued and when this Congress adjourns. In sum, we have huge opportunities here, which we are already working, but each has their own nuances. Ongoing court cases must also be calculated into the strategy.

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In the retirement space, there is often agreement on the end goal—expanding the number of people who are able to achieve a secure retirement. However, many of the rules promulgated during the Obama administration have actually made it more difficult for employers to offer plans and for workers to effectively participate in retirement plans. Consequently, we believe that the following issues need to be undone and/or modified to reach the intended goals of expanding retirement security.

DEFINITION OF A FIDUCIARY

Issue: During the last six years, the Obama administration has been working to revise the definition of a fiduciary under the Employee Retirement Income Security Act of 1974 (ERISA). According to the Department of Labor (DOL), the intent of the revision is to more broadly define the circumstances under which a person or entity is considered to be a fiduciary when giving investment advice to an employee benefit plan or a plan's participants.

Current Status: The Department of Labor finalized its rule on the definition of fiduciary on April 8, 2016. While a number of changes were made, there were not enough to make it a workable rule. Therefore, on June 1, the U.S. Chamber joined eight associations in a lawsuit challenging the rule. Oral arguments were heard on Nov. 17, 2016 and a decision is expected in the first part of 2017.

Because the outcome of the lawsuit is not certain, the Chamber has also asked the DOL for an extension of the implementation date.

Step Requested: The Chamber recommends that the administration delay the implementation date of the rule. This will give time for the litigation to be sorted out and an opportunity for all parties to work together to create a workable rule.

Basic Rationale: In comments on the proposed rule, the Chamber highlighted various concerns– many of which are being pursued through litigation. Specifically, the lawsuit alleges that the final rule is unnecessarily complex and challenging to implement, while disadvantaging small businesses, limiting access to and choice of investment advice, and making saving for retirement more expensive. As the DOL exceeds its statutory authority in issuing this rule, we believe litigation is necessary to prevent this threat to retirement savings.

However, because of the uncertainty of litigation, we continue to be concerned about the implementation date of the rule. The twelve months provided in the final rule is not enough time for plan sponsors and service providers to make the extremely broad changes required to comply with the new rule. The DOL frequently provides much longer implementation periods for far less significant regulations. Therefore, the Chamber recommends an extension of the implementation of the rule.

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STATE-BASED RETIREMENT PLANS

Issue: A number of states are attempting to expand retirement coverage by implementing retirement plans for small employers. These retirement plans range from mandatory programs to open exchanges.[3] While the Chamber supports efforts aimed at increasing retirement coverage, we are concerned that unintended negative consequences could stem from states establishing state-sponsored retirement plans for private-sector employees. The Chamber believes that states should encourage continued private-sector innovation aimed at increasing retirement coverage and avoid placing unnecessary burdens on employers.

Current Status: On August 25, 2016, the DOL issued a final regulation to clarify when an automatic Individual Retirement Account (IRA) established through state law and administered by a state for non-state employees would not be covered by ERISA, making it less likely that a court would find the state law to be preempted. At the same time, the DOL has issued a proposed regulation that would allow certain political subdivisions to create and administer automatic IRAs for private employees. In addition, the DOL issued an interpretive bulletin that provides guidance for states that want to establish plans under ERISA.

The Chamber opposes the creation of state plans for private employees and has commented on both the state and city plan guidance.

Steps Requested: The Chamber believes that the state-based plans should be preempted by ERISA. As such, we recommend that the administration repeal the DOL guidance immediately. The Chamber will work with the administration and Congress to clarify that any plan offered to private employees should be covered by ERISA.

Basic Rationale: ERISA has been a key component of our retirement system's legal framework for over 40 years, regulating important aspects of employer-provided plans at the federal level. Employers have depended on ERISA to ensure that they can offer plans on a nationwide basis, providing fairness to all employees regardless of where they live or work. The Chamber is concerned that state actions establishing and regulating private employer-provided plans will create unnecessary complexity in the system. Layering a state-imposed retirement regime on top of ERISA will cause unnecessary burdens, particularly for small businesses, and it could have a

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3 While no state has a functional state-run plan at this time, several states have passed legislation that can or will lead to the formation of state-run plans. The California Secure Choice Retirement Savings Trust Act (S.B. 1234)—signed into law on September 28, 2012—requires employers with five or more employees that do not already offer a qualified retirement plan to enroll their employees in a new type of savings plan based on IRAs at a contribution rate of 3 percent, with a guaranteed benefit. The Illinois Secure Choice Savings Program Act (S.B. 2758)—signed into law on January 4, 2015—requires employers with 25 or more employees that do not already offer a qualified retirement plan to enroll their employees in a state-run automatic enrollment payroll deduction Roth IRA with a 3 percent payroll deduction, but employees are able to change their deduction amount and can affirmatively opt out if they wish. A match or employer contribution is not required. The Washington Small Business Retirement Marketplace (S.B. 5826)—passed in both the Washington Senate and House—provides for a small business retirement marketplace that allows employers with fewer than 100 employees to voluntarily choose from a range of investment options provided through the marketplace.

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stifling effect on the very purpose of ERISA. Even a small employer can have operations, employees, or facilities in more than one state and, therefore, could have difficulty complying with differing state requirements. The purpose of ERISA's preemption provision was to avoid this very situation. It could also create unfair competition between the government and the private sector. Therefore, the Chamber supports ERISA preempting all state laws that "relate to" employee benefit plans covered by ERISA.

FORM 5500

Issue: The Form 5500 is an information document that health care and retirement plans must file with the Pension Benefit Guaranty Corporation (PBGC), Department of Treasury (Treasury), and the DOL (collectively referred to as the "Agencies"). The Agencies have recently issued a proposal that expands the reporting requirements for both health care and retirement plans—including who must file. Although the rule is still in proposed form (and will probably not be finalized before the end of the year), it has created a high level of angst among our membership.

Current Status: On July 21, the Agencies issued a proposed rule modifying the Form 5500 Annual Return/Report forms including the Form 5500 Annual Return/Report of Employee Benefit Plan (Form 5500 Annual Return/Report) and the Form 5500-SF Short Form Annual Return/Report of Small Employee Benefit Plan (Form 5500-SF). The Chamber submitted comments on the proposal on December 5, 2016.

Step Requested: The Chamber recommends that the new administration re-propose the changes to the Form 5500 taking into account the comments from interested parties.

Basic Rationale: The Chamber supports the goals of public disclosure on the Form 5500 and recognizes the necessity of capturing data for enforcement and research purposes. We also appreciate that the reporting and disclosure rules must take into account changes and trends in employee benefit plans and services that require periodic adjustments to the information collected. However, the Agencies must also take into account the compliance burden presented by preparing and filing the Form 5500 and its associated schedules and attachments, in particular the burden it puts on small businesses. The remarkable expansion in number of plans newly required to file, as well as the extraordinary increase in the amount of detailed information required by the proposed rule significantly increases the amount of time and effort necessary to complete the form. The Chamber does not believe the depth and breadth of the additional burden resulting from these expanded requirements is justified by the limited gains in transparency and enforcement ability they provide.

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II. PROMOTE PRIVATE SECTOR INNOVATION

This section details positive policy proposals that go beyond correcting the record of the last eight years. There are a number of provisions that have garnered bipartisan support but have suffered from lack of support from the administration. We encourage the new Congress and administration to move forward with the following statutes and regulations as quickly as possible. Note that this list will evolve as circumstances dictate and more proposals are vetted by Chamber members. Obviously there will be opportunity to explore more far-reaching proposals as we get a better grasp on what is actually doable.

MULTIEMPLOYER PENSION REFORM ACT

Issue: The precarious state of underfunding by many multiemployer plans threatens insolvency for such plans and for the PBGC and is a serious threat to participating employers. The Multiemployer Pension Reform Act (MPRA) was passed at the end of 2014 and is a significant first step in comprehensive reform. The MPRA was bipartisan legislation that dealt with the very difficult issue of multiemployer plans teetering on bankruptcy. A bold approach was necessary to permit the survival of plans in critical and declining status and the solutions offered by MPRA—partition by the PBGC and benefit suspensions by the underfunded plans—should be recognized as essential components of an overall approach to restoring financial stability to troubled plans.

Current Status: Since the passage of MPRA, there have been attempts to undo all or parts of these provisions in bills introduced by Senator Portman: and Senator Sanders. The Chamber opposes any undoing of these provisions. Moreover, to date, the Treasury Department has failed to pass any applications for benefit suspensions. There is concern that this lack of passage is contradictory to Congressional intent.

Steps Requested: The Chamber urges the administration to maintain the provision in MPRA. First, the Chamber recommends that the administration work with all interested parties to ensure that the provisions of MPRA—particularly the provisions on benefit suspensions—are carried out as Congress intended. Second, the Chamber urges the administration to reject any attempt to undo MPRA.

Basic Rationale: Any undoing of MPRA would have dire consequences that would fall on the most vulnerable population. Given the current situation of some multiemployer plans, there are no painless solutions. For plans in critical and declining status, the choices are between bearable pains today or devastating results in the future. The MPRA provides tools necessary to avoid such devastation.

OPEN MEPS

Issue: A Multiple Employer Plan (MEP) is a single plan that is maintained by a MEP sponsor and one or more unrelated employers ("adopting employers"). The Chamber views MEPs as a possible tool to encourage small businesses to implement retirement plans. Moreover, MEPs

allow for the pooling of resources to give small businesses the opportunity to tailor plan provisions in a way that would not be possible in a prototype plan. However, there are also 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. This liability can be a daunting hurdle for many employers. In addition, some employers may be discouraged by the inability to find a MEP sponsor or by the notice and disclosure requirements that are not assumed by the plan administrator.

Current Status: Several pieces of legislation have been introduced that include open MEP proposals. Most recently, the Senate Finance Committee passed the Retirement Enhancement and Savings Act of 2016.

Steps Requested: The Chamber urges the administration to support Congress in making the following changes to the multiple employer plan rules to enable expanded use of these plans:

- Implement safe harbors for MEP sponsors and adopting employers to immunize them from noncompliant adopting employers.
- Simplify MEP reporting and disclosure obligations under ERISA. Particularly, reconsider the annual audit requirements and consolidate Form 5500 filings and Summary Plan Description (SPD) notices.
- Issue Internal Revenue Service (IRS) and DOL guidance that states "employer commonality" is not required to establish a MEP. While the Chamber believes that there is no basis to apply this requirement to MEPs, there is sufficient ambiguity to create reluctance on the part of the employers who might otherwise consider participation in a MEP.

Basic Rationale: With the spread of state-sponsored retirement plans, there is increased pressure to encourage private-sector solutions to address the coverage gap. MEPs offer an attractive and cost-efficient alternative for small businesses for which a stand-alone 401(k) plan is not feasible.

MEPs can promote better retirement savings behavior for employees by providing them a menu of investment options, better ensuring that plan participants will be able to tailor their portfolios to their needs and retirement goals. MEPs can also provide small businesses with enhanced opportunities for cost-effective retirement planning education programs for employees through the pooling of resources with other small businesses. Another 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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NONDISCRIMINATION TESTING FOR FROZEN PLANS

Issue: Many companies designed their transition from a defined benefit structure to a defined contribution structure in a way that allowed older, long-service employees who were close to retirement to maintain their then-current defined benefit pension plan. However, as these grandfathered employees continue to work, they are becoming highly compensated employees. Since no additional employees are entering the plan, the number of non-highly compensated employees is becoming smaller. This phenomenon is making it difficult for companies to pass the discrimination testing. The Chamber believes that companies that passed nondiscrimination testing at the time of the plan freeze should be deemed as continuing to pass as long as no significant amendments are made to the plan.

Current Status: The Treasury Department issued proposed regulations in 2014. The regulations create additional complexity and do not provide relief for all frozen DB plans. Despite working with Treasury to address these issues through comments and meetings, the agency has not yet issued a final regulation. In the interim, it has issued temporary relief for the last three years.[4] Since the business community has been unable to get a workable response from the Treasury Department, we have asked Congress for support. At the end of 2016, the Senate Finance Committee introduced legislation appropriately addressing this situation.

Steps Requested: Develop a permanent solution for nondiscrimination testing for frozen plans. If changes are not made to the testing requirements, companies may be forced to close these plans to the grandfathered employees as well. Therefore, it is critical to develop a permanent solution for frozen plans that are in danger of failing the nondiscrimination rules under the tax code. Companies cannot continue with this uncertainty. As such, we are asking Congress and the administration to provide permanent relief that works for all plans.

Basic Rationale: Under current law, defined benefit plans that cover non-union employees cannot benefit highly paid employees disproportionately. In recent years, many plan sponsors have implemented what is referred to as a "soft freeze"; that is people hired into a company after a fixed date will no longer be covered under a DB plan, but rather receive a generous defined contribution plan. At the same time, employees that were already under the DB plan are "grandfathered" and continue to accrue benefits under the DB plan.

While "soft frozen" arrangements are beneficial to older, longer serving employees, over time nondiscrimination testing problems can arise. As the grandfathered group of employees eligible for the pension plan ages, the group naturally becomes more highly compensated. This occurs simply because 1) the younger employees, who began their careers as non-highly compensated employees gain seniority and grow into higher paid middle or upper management positions, becoming highly compensated over time, and 2) turnover among the grandfathered employees is typically greater among younger, shorter service employees, who do not fall into the highly compensated category. As a result, the grandfathered group can cause the pension plan to

4 Treasury Notice 2014-5, Treasury Notice 2015-28 and Treasury Notice 2016-57.

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inadvertently violate Treasury nondiscrimination testing regulations that are intended to prevent pension plans from favoring higher paid employees.

PBGC PREMIUMS

Issue: Increases to Pension Benefit Guaranty Corporation (PBGC) premiums have occurred more and more frequently—three times in the past four years—as significant revenue raisers.[5] These increases are done without regard to policy or consideration of whether the increases are needed. Premium increases foster economic uncertainties, hamper investment, endanger jobs, and constrain economic growth. PBGC premiums should be affordable, administrable, fair, consistent, and predictable. Moreover, premiums should not be increased except as part a long-term plan to address the future of private-sector defined benefit plans and the PBGC.

Current Status: On April 15 2016, Congressmen Jim Renacci (R-OH) and Mark Pocan (WI-02) introduced the Pension and Budget Integrity Act of 2016 (H.R. 4955), which would prohibit Congress from increasing PBGC premiums to offset general government (non-pension) program spending. In addition, on July 14, 2016, Senator Enzi introduced S.3240, the Pension and Budget Integrity Act of 2016. This bill prohibits provisions that increase or extend an increase of PBGC premiums from being counted as an offset to determine budget points of order for legislation in the House or the Senate.

Step Requested: Take PBGC premiums "off-budget" to prevent budget gimmickery. Premiums paid by employers who voluntarily provide retirement benefits go directly to the PBGC, not to the Treasury. If passed, H.R. 4955 and S.3240 would prevent PBGC premium increases from being used to fill budget holes and, thus, allow for a policy discussion about the PBGC premiums.

Basic Rationale: Premium increases restrict the employers' ability to fund and maintain their defined benefit plans, creating a disincentive to maintain these plans. ERISA, which created the PBGC, originally explicitly required that PBGC be an "off-budget" program. Congress mandated that PBGC's mission is "to encourage the continuation and maintenance of voluntary private pension plans," but increased premiums are driving single employer plan sponsors out of the defined benefit system. Congress increased premiums four times over the past decade, going from $30/person in 2006 to a scheduled $80/person in 2019. As a result, many plan sponsors are deciding to exit the system. Unfortunately, these decisions to hike premiums were largely divorced from discussions about pension policy; Congress simply needed additional revenue for other government programs. By law, these funds can only be used to pay benefits to plan participants. The practice of counting increased PBGC premiums as general revenue for purposes of budgetary scorekeeping is inconsistent with good governance and sound budgetary policy.

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5 Before the most recent increases to PBGC premiums in the Bipartisan Act of 2015, premiums were also increased in the Bipartisan Budget Act of 2013 (P.L. 113-67) and in the Moving Ahead for Progress (MAP-21) highway law (P.L. 112-141).

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NOTICE REQUIREMENTS

Issue: Employee benefit plan fiduciaries are required to provide a wide variety of notices or disclosures to plan participants. Although there is a reason, even a good reason, for every notice or disclosure requirement, the Chamber's members believe that excessive notice requirements are counterproductive in that they overwhelm participants with information, which many of them ignore because they find it difficult to distinguish the routine, e.g., summary annual reports, from the important.

Current Status: Currently, there is no legislation or regulations proposed to comprehensively address notice requirements.

Steps Requested: A congressional review of all retirement plan notices under ERISA and the tax code to determine where overlap and duplication occurs. Specific recommendations include:

- Eliminating the notice for the 3 percent non-elective safe harbor. While it may have intended to serve a policy purpose at one time, it appears to serve no purpose today;
- Including the 401(k) safe harbor match information in the Summary Plan Description rather than remaining as a stand-alone notice; and
- Replacing quarterly investment statements with annual notices for participants who have Internet access to their investment account information.

Many more notices can be consolidated or eliminated. A thorough congressional review could identify many ways of relieving unnecessary administrative burdens of little or no marginal utility while ensuring that participants receive information that is meaningful and relevant.

Basic Rationale: Currently, plan sponsors and participants are overwhelmed by the disclosure requirements. Excessive notice requirements also drive up plan administrative costs without providing any material benefit. Consolidating and streamlining certain notice requirements would make retirement plan administration less burdensome for all businesses (small businesses in particular) that may not have a human resources department to focus on notice requirements. Furthermore, the notice requirements do not occur in a vacuum. Most employers that offer a retirement plan also offer other benefit plans such as a health care plan; therefore, employers are also subject to those notice requirements. Additionally, employers are required to provide many other notices outside of the ERISA context.

ELECTRONIC DELIVERY

Issue: In addition to consolidation and elimination, it is important for regulators to recognize the benefit of electronic delivery. We believe that it is critical that the DOL, Department of the Treasury, and PBGC create a single, uniform electronic disclosure standard. In addition, the Chamber recommends—for those plan sponsors that so choose—that electronic delivery be the default delivery option for benefit notices.

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Current Status: Legislation has been introduced to harmonize the electronic disclosure standard (SAFE Retirement Act and the RETIRE Act). However, the legislation does not allow for a default option for employers.

Steps Requested: Create a uniform standard that allows electronic delivery to be the default delivery option. The Chamber recommends that the DOL's safe harbor for the use of electronic delivery of required disclosures be changed to mirror Treasury regulations provided that information may be given electronically without consumer consent and the "electronic medium used to provide an applicable notice must be a medium that the recipient has the effective ability to access." Beyond this initial step, we recommend that the DOL change its standard for electronic delivery to encourage the use of electronic delivery and to allow—for those plan sponsors that so choose—that electronic delivery be the default delivery option for benefit notices.

Basic Rationale: The world has changed drastically in the past several decades. Much of the information we receive and distribute is done electronically. In today's world, far more people depend on the electronic delivery or information than on the mail system or on personal delivery. Electronic disclosure is faster, cheaper, and better than any other form of delivery. Among the reasons why it is better, is that: senders can track delivery; the information can be easily stored by the recipient; the information can be searchable; and hypertext links can be included to guide recipients to other useful information.

We encourage the DOL to update its policies not only because of changes in custom and practice but also because we believe it is in the best interests of plan participants. Plan sponsors are faced with two increasingly conflicting goals—providing information required under ERISA and providing this information in a clear and streamlined manner. In addition to required notices, plan sponsors want to provide information that is pertinent to the individual plan and provides greater transparency. However, this is difficult with the amount of required disclosures that currently exist. Allowing plan sponsors to provide notices electronically would help alleviate some of this burden. Moreover, it would allow plan sponsors to provide even greater information to participants who are interested by including links to more detailed information.

REQUIRED MINIMUM DISTRIBUTION RULE

Issue: The required minimum distribution (RMD) rules generally require that retirement plan participants receive annual distributions from their 401(k) or IRA accounts beginning at age 70½. Participants can delay distributions if they are still working. However, if the account owner is a 5 percent owner of the business sponsoring the retirement plan, she must begin receiving distributions at age 70½, regardless of whether she is working or retired.

Current Status: Legislation has been passed out of the Senate Finance Committee and included in a discussion draft by Senator Wyden.

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Steps Requested: Eliminate the required minimum distribution rules or, alternatively, enact modifications to the required minimum distribution rules to reflect today's workforce.
The RMD rules are outdates and should be eliminated. If they are not eliminated, the following changes should be made:

- Move the starting age to 75 to match longevity increases; and
- Treat 5 percent owners as all other account holders and permit them to continue working and not begin required distributions.

Basic rationale: The Chamber recommends for the RMD rules to be eliminated altogether because the rules are complicated and their application provides limited value. The RMD rules and the age requirement have not kept pace with today's labor market, which has evolved significantly as people live longer, enjoy healthier lives, and, hence, remain in the workplace longer. Life expectancy in 1962, the year the RMD rule was established, for someone who reached age 65 was 13.3 years for males and 17.7 years for females. As of 2012, the life expectancy at age 65 is 18.9 years for males and 20.9 years for females. Because Americans are living and working longer, it is imperative to reconsider the original purpose of the RMD rules in order to ensure the retirement security of workers.

III. RECOMMENDATIONS FOR THE LONG-TERM

This section highlights key issues for policymakers to consider in the long-term. Whereas Section I and II outline proposals that Congress can enact in early 2017, Section III highlights areas that Congress should consider as it debates ways to strengthen our entire retirement structure and the employer-based retirement benefits system. The Chamber stands ready to be an active and constructive participant as policymakers consider our retirement system comprehensively.

TAX REFORM

Issue: Tax reform now seems to have more of chance of happening; therefore, reserving current tax incentives for retirement saving is critical. As Congress considers comprehensive tax reform, the Chamber urges careful consideration of the impact of changes to tax incentives for retirement plans.

Current Status: Although tax reform has not progressed, there have been proposals issued. In June of 2016, the House Republicans issued a comprehensive tax proposal entitled, *A Better Way*. The blueprint states that it will continue the current tax incentives for savings—something the Chamber thoroughly encourages. It also indicates that there should be consideration of consolidating retirement savings vehicles for simplification.

In 2015, the Senate Finance Committee issued *The Savings & Investment Bipartisan Tax Working Group Report,* which included a number of recommendations for retirement plans including open multiple employer plans and increasing start up credits for small business plans among other things.

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Steps Requested: Maintain existing tax incentives for retirement savings. Maintaining tax incentives is critical to the success of the private employer-provided system. In addition, we urge that any attempts to consolidate the types of retirement vehicles be undertaken cautiously. The private retirement system has evolved to address a various workforce demographics and eliminating options could have unintended negative consequences.

Basic Rationale: Today, about 123 million households have a combined $24.8 trillion earmarked for retirement within defined benefit plans, defined contribution plans, IRAs, and annuities. Employer-sponsored retirement plans have introduced tens of millions of American workers to retirement saving. Recent research finds that the single best predictor of retirement readiness is participation in a work-based savings plan, and employees save more when an employer plan is available than they would save on their own. Eliminating or diminishing the current tax treatment of employer-provided retirement plans would jeopardize the retirement security of these workers, affect the role of retirement assets in the capital markets, and create challenges in maintaining the quality of life for future generations of retirees. The ramifications of eliminating tax incentives for retirement plans are far too great to dismiss lightly. It is critical to future retirees to ensure that we not only keep the private retirement system, but also enhance and strengthen the system to ensure further retirement security for millions of Americans. Qualified plans provide significant benefits to employers and employees by encouraging retirement saving through favorable tax treatment. They allow employers to obtain a tax deduction for plan contributions and allow employees to delay paying taxes on this benefit until funds are distributed. A number of proposals have been put forth as alternatives to the current tax treatment for retirement plans. However, substantial evidence shows that changing the tax treatment or lowering contribution levels will reduce retirement savings and result in fewer employers offering retirement plans to their employees.

MULTIEMPLOYER PENSION REFORM

Issue: Addressing impending bankruptcies of multiemployer plans is critical. However, it is also important to ensure that all other multiemployer plans have a chance to be successful. Consequently, Congress should move ahead with additional reforms to avert future plan failures. There is a combined management and labor effort to move forward with composite plan designs. These designs would help maintain current benefits in multiemployer plans without incurring additional liabilities and ensuring participants are entitled to past earned benefits. Also, these designs could be helpful in retaining and attracting new employers and providing greater retirement coverage.

In addition, withdrawal liability must be addressed. Many Chamber members have gotten estimates of withdrawal liability that exceed the net worth of the company. Clearly, this outcome was never contemplated when withdrawal liability was implemented and should be rectified. As such, the Chamber believes that additional reforms are needed to address these employer concerns.

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Current Status: Chairman Kline of the House Committee on Education and The Workforce has introduced a discussion draft on composite plans. Thus far there has not been any legislation offered to address withdrawal liability.

Steps Requested: The Chamber encourages Congress and the administration to promote further reforms for multiemployer plans. In particular, we would urge Congress to move forward with composite plan design and to address withdrawal liability.

Background: The enactment of MPRA was welcomed by the Chamber and its employer members that contribute to multiemployer plans. Nonetheless, while MPRA is a strong first step in multiemployer pension reform, the Chamber believes that further attention to the problem is necessary. Specifically, Congress needs to address the withdrawal liability issue.

In February 2013, the Retirement Security Review Commission of the National Coordinating Committee for Multiemployer Plans issued a report titled *Solutions Not Bailouts*. Several members of the Chamber participated in the commission and contributed to the findings of the report. Several parts of the report were included in MPRA, including much-needed technical corrections and the benefit suspensions program. However, a vital piece of the commission's report, the new plan design option, was omitted from the legislation that passed and very little was done to address withdrawal liability. The Chamber understands that MPRA was a first step. As such, we urge Congress to continue the progress it has made and continue to reform the multiemployer pension system.

Furthermore, withdrawal liability is a great burden that could force employers to stay in multiemployer plans even when it is not economically feasible. Because of the nature of multiemployer plans, when one employer goes bankrupt, the remaining employers in the plan become responsible for paying the vested accrued benefits of all the workers. This is often referred to as "the last man standing." As the number of employer participants dwindles, employers remaining in the plan see their liabilities increase exponentially—forcing them to pay for benefits for retirees that never worked for them (often referred to as the "orphan participant problem"). Consequently, an employer can be forced into bankruptcy by the higher contributions it must make to fund the plan or by the withdrawal liability incurred if it drops out of the plan. The Chamber feels that a comprehensive solution must be sought to allow for a more robust multiemployer plan system and to maintain equity between contributing employers.

SOCIAL SECURITY

Issue: The Social Security pension program faces depletion by 2034, which would trigger a 21% across-the-board benefit cut if Congress doesn't act. Since 2010, Social Security, designed as a pay-as-you-go program, has been paying out more in benefit dollars than it collects in taxes. Its annual balances have remained positive due to interest payments it earns on trust-fund assets. By 2020, however, it will pay out more than it collects, even after accounting for interest payments.

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Current Status: The Chamber has recently endorsed H.R. 5747, the Saving Our Social Security Act of 2016—a bill designed to address the Social Security funding problem.

Next Steps: It is critical that the Social Security issue be addressed as early as possible to avoid more drastic measures later. The Chamber is open to a full discussion and analysis of all options to ensure that any reforms enacted address the long-term viability of the system.

Background: The root of the financial instability lies in the design of the system. It is essentially an "unfunded" income transfer scheme, where a predetermined package of benefits is paid to beneficiaries financed by taxing the current income of working individuals. This approach is in contrast to a "funded" approach where a working individual's taxes are invested and the proceeds of the investment are used to provide for the benefit payouts.

In Social Security's early years, the income transfer method worked because the ratio of workers to retired beneficiaries was high (16 to 1) and individuals, on average, did not live much beyond the age at which they could claim benefits. Thus, tax revenue generally exceeded benefit payments. Technically, this excess was placed in a "trust fund" that could be tapped to fund benefit payments in the event that Social Security revenue was insufficient. In reality, the excess was borrowed by the government and spent on other programs, and a special type of government bond (essentially, an IOU) was placed in the trust fund.

Over the years, as life expectancy lengthened and fertility rates dropped, the ratio of workers to retirees fell to its current level of just under three-to-one. Over the next few decades, it is projected to drop to less than 2-to-1. Moreover, the speed of this shift is being exacerbated by the retirement of the baby-boom generation. As this occurs, receipts will become insufficient to cover benefit payments. It is important to note that the problem would occur even without the baby-boom, albeit somewhat more slowly. And, the problem will exist even after the baby-boom passes.

In addition to the shift in the number of workers to retirees, the system's financial problems were exacerbated by the fact that the benefits are tied to wage growth and revenue is more closely tied to inflation. Because wages have generally grown faster than inflation, promised Social Security benefits have tended to rise in real terms, or become more generous over time.

The pay-as-you-go structure cannot be sustained without significant infusion of revenue, reduced outlays, or both. Without such adjustment, the system will run out of funds and the government will be forced to cut benefits or divert resources from the general Treasury to make good on the system's promised benefits. This diversion of funds will, in turn, lead to increased general taxation, reductions in other government spending, or an increase in the deficit and debt levels. Indeed, these negative impacts will be felt long before the system is completely bankrupt. The Social Security system must be fundamentally reformed, and the sooner this is accomplished, the lower the cost will be.

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