



AMERICAN BENEFITS
COUNCIL

September 15, 2015

Submitted via email

Mr. Larry Good
Executive Secretary
ERISA Advisory Council
Department of Labor

RE: Model Notices and Plan Sponsor Education on Lifetime Plan Participation

Dear Mr. Good:

The American Benefits Council (Council) is pleased to have the opportunity to provide input on the ERISA Advisory Council's (EAC's) 2015 project on Model Notices and Plan Sponsor Education on Lifetime Plan Participation. The Council is a public policy organization representing principally Fortune 500 companies and other organizations that assist employers of all sizes in providing benefits to employees. Collectively, the Council's members either directly sponsor or provide services to retirement and health plans that cover more than 100 million Americans.

The Council reached out to a number of its members on lifetime plan participation and received some valuable input we would like to share with the EAC. Some of that input involved lifetime income products and services but since the focus of the EAC's 2015 topic is on notices that will encourage lifetime plan participation, this letter focuses on that input. It is important to note, however, that experience shows that one notice is very unlikely to impact lifetime plan participation to any significant degree. What does and will further encourage lifetime plan participation is the engagement of the employer with their employees, education and targeted messaging support at key life stages (generally from service providers), use of well-designed automatic features, and

appropriate encouragement from knowledgeable financial professionals to retain retirement savings. Because of the diversity of existing practices in these regards and of workforces, what strategies to use and how they should be implemented should be left to each employer with regulatory guidance encouraging, not inadvertently discouraging, such activity.

Council members already work diligently to ensure that plan participants are well informed about all of their options before making a decision about whether to take and if so what to do with a distribution. One example of doing this in a simple-to-understand way is to provide a short document that is titled something like “Know Your Retirement Savings Options” with a summary of the options up front, followed by more detail on the pros and cons (or advantages and disadvantages) of each option. For example, the summary for a non-Roth distribution could provide these options with a note that a combination of the options can be used:

- (1) Roll retirement savings into an individual retirement account (IRA)
- (2) Keep retirement savings in your former employer’s retirement plan
- (3) Roll retirement savings into your new employer’s retirement plan
- (4) Cash out your retirement savings and close the account

Some of the advantages would be similar for the first three, such as maintains tax-deferred status of savings. Disadvantages of the IRA could include something similar to “investment expenses *may be higher* than those of employer plans” and “no fiduciary is required to prudently monitor the cost and quality of the investment options”. Disadvantages for the cash out could include something like “20% of taxable distribution withheld for pre-payment of federal income taxes” and “State taxes and a 10% early distribution penalty may also apply on taxable account balance”.

The example provided follows FINRA requirements regarding what information must be outlined and discussed with participants at a benefit event. Council members recognize the importance of financial professionals helping participants understand their options and encouraging them to preserve their retirement savings.

Finally, the Council encourages the EAC to recognize that not every employer plan is well suited to maintaining accounts of former employees.

The Council would be happy to work with the EAC to confer further on these issues and assist in developing more advantages and disadvantages for the notice if you like this approach. Thank you again for allowing the Council to provide input for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Jan Jacobson". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Jan Jacobson
Senior Counsel, Retirement Policy
American Benefits Council

cc: Josh Cohen, Issue Chair, Model Notices and Plan Sponsor Education on
Lifetime Plan Participation