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Council urges adoption of a new regulatory framework enabling employers to use technology

Regulatory agencies should be held to a “least burdensome compliance” standard

WASHINGTON, DC - “Congress and regulatory agencies must adopt a new paradigm for regulating retirement plans to avoid rules that impede Americans’ retirement income security,” American Benefits Council President James A. Klein said today. His comments were provided in conjunction with a hearing by the House Education and the Workforce Subcommittee on Health, Education, Labor and Pensions regarding retirement plan regulatory burdens.

“Eliminating barriers to the use of technology – including electronic disclosures and communications for retirement and health benefit plans – is central to our vision of the future,” Klein said. “Employers should not be compelled to adopt new requirements unless regulators first demonstrate that there isn’t a simpler way to meet the desired policy objective.”

The Council’s public policy strategic plan, [A 2020 Vision: Flexibility and the Future of Employee Benefits](#), outlines critical goals along with specific recommendations for helping individuals achieve personal financial security. Among the goals is the ability to harness technology as it evolves. Among the specific recommendations:

- **“Least burdensome compliance” standard.** Congress should require that before federal agencies impose any new benefit plan rule, they must verify that it is not possible to achieve the rule’s policy objective in a manner that is less burdensome on the regulated parties.

- **“Presumption of good faith” standard.** The regulatory process cannot match the pace of evolving technology. Consequently, even relatively permissive policies are destined to be obsolete before they can be effectively used by employers. Congress should require federal agencies to apply a presumption of good faith that allows employers to leverage evolving technology immediately rather than waiting for the regulatory process to permit its use. Moreover, there should be consistent rules for plan sponsors and participants to take full advantage of technology in accessing and receiving benefits information.
- **Coordinated rulemaking.** Because employer-sponsored benefit plans are complex enterprises that fall under the jurisdiction of several regulatory agencies, employers must frequently accommodate differing (and sometimes contradictory) obligations. In such instances, these agencies should coordinate rulemaking to promote and simplify compliance.

“We also urge Congress to enact legislation that improves access to multiple employer plans and protects multistate employer plan sponsors from myriad rules and regulations at the state and local level by preserving the uniform federal framework prescribed by ERISA,” Klein said. [The Council has provided specific recommendations to the U.S. Department of Labor](#) for improving the fiduciary rules in a way that would ensure continued engagement by employees in their retirement plans without undue litigation exposure.

For more information, or to arrange an interview with Klein, contact Jason Hammersla, Council senior director of communications, at jhammersla@abcstaff.org or by phone at 202-289-6700 (office) or (202) 422-4652 (cell).

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The American Benefits Council is the national trade association for companies concerned about federal legislation and regulations affecting all aspects of the employee benefits system. The Council’s members represent the entire spectrum of the private employee benefits community and either sponsor directly or administer retirement and health plans covering more than 100 million Americans.