



## AMERICAN BENEFITS COUNCIL

January 22, 2018

The Honorable Mitch McConnell  
Republican Leader  
U.S. Senate  
Washington, DC 20510

The Honorable Orrin Hatch  
Chairman, Finance Committee  
U.S. Senate  
Washington, DC 20510

The Honorable Charles Schumer  
Democratic Leader  
U.S. Senate  
Washington, DC 20510

The Honorable Ron Wyden  
Ranking Democratic Member,  
Finance Committee  
U.S. Senate  
Washington, DC 20510

Dear Senators McConnell, Hatch, Schumer and Wyden,

On behalf of the American Benefits Council (the Council), I am writing today to express strong support for the passage of legislation permitting open multiple employer plans (“open MEPs”).

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 sponsor directly or provide services to retirement and health plans that cover more than 100 million Americans.

The gig economy has been growing rapidly. According to a study by the Federal Reserve Bank of Minneapolis,<sup>1</sup> a “growing body of evidence finds that the prevalence of these alternative work arrangements has increased since 2005.” The study cites several

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<sup>1</sup> Bracha and Burke, “Who Counts as Employed? Informal Work, Employment Status, and Labor Market Slack,” Federal Reserve Bank of Minneapolis, June 2017.

other studies, such as one by the same authors (with another author) *finding a 37.5 percent increase in gig work in just two years (from 2013 to 2015) from 40 percent to 55 percent*. Numbers on the size of the gig economy vary based on the various definitions of a gig worker, but there is clear agreement on the dramatic recent increase in the prevalence of gig workers.

This dramatic increase in the gig economy contrasts very starkly with the very low rate of coverage of gig workers under retirement plans. The U.S. Government Accountability Office (“GAO”) issued a report<sup>2</sup> that concluded that gig workers “are about two-thirds less likely than standard workers to have a work-provided retirement plan.” GAO also found that gig workers are disproportionately low-income and Hispanic. Another study cites a growing presence of women in the gig economy.<sup>3</sup>

As the gig economy has grown, and gig workers continue to be largely uncovered by retirement plans, the time has come for all of us to act. Today, businesses cannot cover gig workers under their retirement plans because gig workers are not employees. But a new answer is right in front of us – open MEPs, which would be allowed under many bipartisan proposals currently pending in Congress.

Once legislation is passed permitting open MEPs, businesses can voluntarily cover their gig economy workers under an open MEP. Technically, every gig worker is an independent business (a sole proprietorship), which can set up its own retirement plan. The problem is that, as noted, few gig workers set up their own plans. Open MEP legislation would permit a business using gig worker to set up an open MEP for gig workers; the gig worker’s sole proprietorship could very simply elect to join the open MEP.

It is also very simple for the gig workers to make elective 401(k) contributions to the open MEP. The gig worker could elect on forms provided by the open MEP to make 401(k) contributions to the open MEP, just as any sole proprietor can make 401(k) contributions to his or her own plan. The business using the gig workers could make those contributions to the open MEP on behalf of the gig worker, out of the compensation otherwise due to the gig worker. Those contributions would be taxable to the gig worker as compensation and then the same amount would be deductible as a 401(k) contribution made to the open MEP. We believe the process could be simplified, with minimal administrative burden and at the same time contribute enormously to the long-term financial security of the gig workers and their families.

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<sup>2</sup> “Contingent Workforce: Size, Characteristics, Earnings, and Benefits,” April 20, 2015.

<sup>3</sup> Katz and Krueger, “The Rise and Nature of Alternative Work Arrangements in the United States, 1995-2015,” September 13, 2016.

If a business using gig workers wanted to, the business could make matching contributions to the open MEP on behalf of the gig workers. The contribution would be based on the amount contributed by the gig worker, and would be made directly to the open MEP on behalf of the gig worker. This contribution would also be taxable to the gig worker as compensation and correspondingly deductible by the gig worker, just like any matching contribution made by a sole proprietorship on behalf of the sole proprietor. Again, simple for all involved.

We strongly believe that this usage of open MEPs to cover the gig economy is part of our future as we work to enhance retirement security for the new economy. This use would be available to workers who perform work for any size employer. And this is not just theoretical. At least one company has published a paper detailing how to implement this new approach. We are confident that others are also ready to bring coverage to the gig economy through open MEPs.

We are excited about the policy breakthroughs made possible by open MEPs. We urge you to make this a reality as soon as possible by enacting open MEP legislation in connection with the spending bill in February.

Sincerely,



Lynn D. Dudley

Senior Vice President,  
Global Retirement  
and Compensation Policy  
American Benefits Council

cc: Representative Paul Ryan, Speaker of the U.S. House of Representatives  
Representative Nancy Pelosi, Democratic Leader, U.S. House of Representatives  
Representative Kevin Brady, Chairman, U.S. House of Representatives  
Committee on Ways and Means  
Representative Richard Neal, Ranking Democratic Member, U.S. House of  
Representatives Committee on Ways and Means