

2009 ERISA Advisory Council

APPROACHES FOR RETIREMENT SECURITY IN THE UNITED STATES

Issue Chair Stephen McCaffrey
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The Council is to evaluate the adequacy and structure of the current U.S. voluntary retirement plans to assess whether structural aspects of these plans contribute to retirement security. Recent economic conditions, combined with the use of defined contribution plans as primary retirement plans and an aging US workforce, have exposed issues with the current retirement system. This voluntary retirement system is being challenged as not meeting the needs of US workers. Many of its stakeholders (employers, employees, ERISA fiduciaries, Congress, labor organizations, consumer groups, the media, etc.) assert that the system is failing to meet the retirement security necessary for US workers.

The Council will study (i) the structure of currently available employment-based retirement programs in the US and internationally, (ii) the benefits and risks presented to employees and employers in the current system, (iii) issues relative to employee literacy, employee communication and disclosure, plan sponsor and fiduciary risk, the expense of such benefits, contributions and funding requirements; as well as issues involving participant directed plans (iv) potential changes to the current system that could optimize benefits and mitigate risk, (v) the manner in which the DOL can best facilitate system improvements and (vi) whether ERISA and/or the Internal Revenue Code may need to be amended to allow for the necessary structural changes to U.S. voluntary retirement system.

The Council will take testimony to determine how the Secretary might recommend these necessary regulatory changes or, recommend enactment of new legislation that would permit either (i) hybrids of the existing plan types or (ii) new types of plans, to facilitate plan designs that will appeal to both employers and employees; thus promoting a more adequate and secure private retirement income system for all workers.

Objective and Scope:

The Council is examining this topic and intends to draft recommendations for the Secretary of the Department of Labor to consider. Our study will focus on:

- Whether current defined contribution and defined benefit vehicles support employee and employer needs, and
- How alternative approaches to design and/or funding of voluntary retirement programs could address potential shortfalls and gaps in the system

Our study will determine

1. The Department of Labor's role in facilitating and improving employee retirement security.
2. Whether, and what additional guidance would help plan sponsors focus on improving employee retirement security.
3. The Department of Labor's role in facilitating broader / greater or alternative forms of retirement benefit coverage of employees in a manner that does not create undue risk for employers.

QUESTIONS FOR POTENTIAL WITNESSES

1. Does the current voluntary US retirement system need to be redesigned or completely restructured?
 - What role should the DOL take in such redesign?
2. Can DC plans be redesigned to generate better retirement security outcomes?
 - Does the variety and quantity of choices offered participants contribute or detract from retirement security?
 - How does participant education/investment advice help?
3. Can DB plans be redesigned to be more attractive to employers, and ultimately result in broader coverage, as well better retirement security for participants?
4. Would the adoption of plan designs in use outside of the US contribute or detract from retirement security in the US?
5. Has the consolidation of the financial services industry impacted participant retirement security?
6. Should plan providers be able to market retail products to plan participants because of their relationships?
 - What is the role of the fiduciary in this marketing effort?
 - Should the DOL take a position on such marketing practices?
7. Should DC plans be amended to permit sponsors to invest funds contributed by participants to better ensure financial security and can such sponsors receive fiduciary protection?

8. Can the Government provide some form of guaranty or insurance for DC plans to protect retirement security?