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STATEMENT OF DAVID L. WRAY

BEFORE THE ERISA ADVISORY COUNCIL WORKING GROUP ON EMPLOYEE BENEFIT PLAN AUDITING AND FINANCIAL REPORTING MODELS

AUGUST 31, 2010

Mr. Chairman and Members of the Council: Thank you for this opportunity to speak about the role of the limited scope audit in the plan audit requirement. My name is David Wray. I am president of the Profit Sharing/401k Council of America (PSCA). I am here presenting the views of PSCA, a 60-year old non-profit association representing companies that sponsor profit sharing and 401(k) plans. PSCA speaks for about 1200 companies who employ approximately 5 million plan participants throughout the United States. PSCA's members range in size from very small firms to conglomerates with hundreds of thousands of employees. All regard their profit sharing or 401(k) plans as vital factors in their business success.

The provisions of the law that require that qualified plans be subject to examination and report of an independent qualified public accountant provide that this examination need not address any statements or information regarding plan assets held by a bank, similar institution or insurance carrier, which is regulated and supervised and subject to periodic examination by a State or Federal agency, provided that the insurance carrier or other organization, bank, trust company, or similar institution, shall certify to the accuracy and completeness of the information described by a written declaration which is signed by a person authorized to represent the institution.

In other words, the provision for a limited scope audit allows a plan to have an audit where the auditor may rely on an appropriate certification to limit the scope of testing on investment information. The limited scope exception does not apply to any other audit areas, only to investments.

The limited scope audit exemption exists because it is appropriate to rely on a certification by a regulated entity which itself is the subject of a full scope audit. Also, when a plan audit is limited in scope there is significant cost savings. Not only is the cost of the audit reduced, but the time and expense incurred by plan sponsors and providers in supporting the audit are reduced as well. This is an important consideration since about one-third of companies have the plan audit fee paid out of plan assets according to PSCA's 53rd Annual Survey of Profit Sharing and 401(k) Plans reflecting 2009 plan year experience. I would point out that public policy recognizes the importance of cost benefit analysis in regulation. For example, companies with less than 100 participants are excused from the plan audit requirement altogether because of an audit's cost.

In response to your questions, PSCA fully supports the limited scope audit exemption and firmly believes that it should not be repealed. We are not aware of a single incident in which a limited scope audit, per se, resulted in harm to a plan participant. We believe that the Department of Labor, in its July 29 testimony before the Council, expressed the same finding. We also believe that repeal would greatly increase the cost of plan audits. This would either reduce the company resources available for other plan support or, if the audit costs are paid by the plan, the plan's net return.

Most of the arguments in favor of repealing the limited scope audit involve the valuation of "hard-to-value" or alternative investments. These investments are minimally regulated and their value is usually not readily ascertainable. However, neither a limited or full scope audit is designed to determine the fair value of these investments. In the full scope audit, the auditor tests the valuation methodologies for determining asset values, not the actual value of the investment. In a limited scope audit, valuation methods are audited by government agencies regulating the bank, similar institution, or insurance company.

The Department of Labor, according to the report of the 2008 ERISA Advisory Council working group on hard to values assets, believes that a limited scope audit "cannot be relied upon for assurance that alternative investments have been properly valued." PSCA agrees with this statement, and notes that it applies equally to a full-scope audit. In the 2008 "Boston Letter" the DOL's Boston Regional Director found that "A process which merely uses the general partner's established value for all the funds without additional analysis may not insure that the alternative investments are valued at fair market value." PSCA does not take issue with this finding. Generally, plans that hold these assets understand their responsibility and take measures to accurately value alternative investments.

The 2008 working group recommended that "The DOL should issue guidance which addresses the complex nature and distinct characteristics of hard to value assets. This guidance should define hard to value assets and describe the ERISA obligations when selecting, valuing, accounting for, monitoring and disclosing/reporting these assets. The Department should coordinate its issuance of the guidance on hard to value assets utilizing resources such as recent accounting pronouncements by the SEC on fair value rules, the GAO report, the AICPA, the Department of the Treasury Blueprint for a Modernized Financial Regulatory Structure from 2008 ("The Paulson Report"), and the 2006 ERISA Advisory Council's Report on Prudent Investment Process."

PSCA does not believe that valuing hard to value assets is an audit issue. If there is concern about valuing hard to value assets the Department of Labor should act upon the Council's earlier recommendation. Any guidance should consider the Dodd-Frank Wall Street Reform and Consumer Protection Act which alters the oversight and reporting requirements for many alternative investments.

In conclusion, PSCA believes that the limited scope audit exemption has worked as anticipated. Without harming a single participant, it has lowered the financial and logistical cost of administering a qualified plan. It should be retained.

Thank you again for this opportunity to share PSCA's perspective. I would be happy to answer any questions you have.