

**2015 Advisory Council on Employee Welfare and Pension Benefit Plans  
Model Notices and Plan Sponsor Education on  
Lifetime Plan Participation**

*Issue Chair:* Josh Cohen  
*Issue Vice-Chairs:* Christina Cutlip, Kevin Hanney  
*Drafting Team:* Deborah Smith, Christine Hwang, Rennie Worsfold, Elizabeth Leight

*Description of Issue:*

The 2014 Council studied the topic of “Issues and Considerations around Facilitating Lifetime Plan Participation.” Within that final report, the Council, amongst its many recommendations on the topic, advised the Department of Labor to draft model notices and other materials related to this topic. This year the Council will focus on delivering to the Department proposed notices and disclosures related to these recommendations. The Council will base these proposals on feedback from witnesses and interested parties who wish to submit recommendations, from evidence received during last year’s hearings, and based on its own discussions and analysis.

The 2014 Council found “that there are numerous considerations participants should weigh when deciding what actions to take with their accumulated retirement savings upon termination of employment at job change or retirement. In making these decisions, participants certainly would benefit from objective, timely information.” The Council heard that many plan sponsors would like to provide balanced information to their employees to help them make informed decisions, yet there is uncertainty as to what is permissible for them to communicate. To that end, the Council felt that the Department can assume an important role in communicating clear, concise and objective information in this area. In 2015, the Council intends to provide the Department sample participant model notices/communications for its consideration.

The 2014 Council also received testimony on certain innovative plan design features that can encourage lifetime plan participation. Many of these features are documented in last year’s report. The 2014 Council felt the Department could play an important role in communicating the existence of such features to plan sponsors who are interested in the topic, but may not be aware of such ideas. In 2015, the Council intends to provide to the Department a sample of plan sponsor educational materials for its consideration.

Finally, the 2014 Council heard testimony regarding the benefits of sample forms and the use of technology standards to “simplify the electronic transfer and consolidation of accounts, reduce costs associated with such transfers, and improve the privacy and security of participant data.” Recognizing that much, if not virtually all, of today’s pension information is electronically maintained, the Council intends to devote some of its time to looking at cybersecurity and cybertheft issues and how such issues might inform the

Council's work on notice and disclosure in the context of lifetime participation and/or how such issues might inform an area of study by a future Council.

*Objective and Scope:*

*The Council is examining this topic and intends to draft recommendations to the Secretary of Labor for consideration. Our study will include the following:*

- A. **Model Notices for Participants:** The Council would like to hear recommendations related to the drafting of model notices concerning lifetime participation in ERISA plans. The Council would welcome witnesses and others to submit examples of model notices or other communications, including documents that are currently being delivered to participants. Some of the questions that the Council will explore include:
  - a. What information should be included in such notices?
  - b. At what points in one's career should notices be provided?
  - c. If provided at multiple times in a participant's career, should notices differ in message and content?
  - d. In what format should notices be delivered?
  - e. What mediums of communication should be considered beyond model notices?
  - f. How long should notices be?
  - g. Should notices be personalized for the individual? If so, what elements should be in the notices and what challenges does this pose from a data perspective?
  - h. How should these notices coordinate with other required or supplemental communications that a participant receives?
  
- B. **Educational Materials for Sponsors on Plan Features:** The Council would like to hear recommendations related to outreach materials the Department can provide to plan sponsors on the topic of innovative plan features that may encourage lifetime participation. As with the first topic, the Council would welcome witnesses and others to submit suggested plan sponsor materials. Some of the questions the Council will explore include:
  - a. What format should be used? FAQ? Tip sheet? Case studies? Other?
  - b. What plan features should be highlighted?
  - c. How should the Department balance the desire to communicate innovative ideas without specifically endorsing any specific feature?
  
- C. **Data Security:** The Council requests testimony as it relates to data security issues. How is participant data secured today in the retirement system? What

vulnerabilities should sponsors be concerned about? What questions should sponsors be asking their providers in this area?

Finally, the Council understands that many of these issues could relate to the Department's proposed Conflict of Interest regulations. The Council does not intend to address questions regarding either these new proposed regulations or questions involving DOL Interpretive Bulletin 96-1, and cautions witnesses that testimony will not be accepted in these areas.