

January 18, 2016

Office of Regulations and Interpretations
Employee Benefits Security Administration
U.S. Department of Labor
200 Constitution Ave, N.W.
Washington, D.C. 20210

RE: RIN 1210-AB71, Savings Arrangements Established by States for Non-Governmental Employees

Dear Secretary Perez:

As a leading representative of the nation's 28 million small business owners, Small Business Majority is writing to comment on the U.S. Department of Labor's proposed rule establishing a new safe harbor from the Employee Retirement Income Security Act (ERISA) for state-sponsored programs involving automatic payroll deductions. The proposal will set forth circumstances in which a state could establish an automatic payroll deduction savings program without giving rise to an employee pension benefit plan under ERISA. Clarifying these regulations will give more states the confidence to implement retirement savings programs, which can help more small business owners and their employees save for the future.

The U.S. currently suffers from a retirement savings gap of more than \$6 trillion, and more than 38 million households do not have any retirement savings at all. This lack of savings for retirement disproportionately affects those who are employed by small businesses. Eighty percent of workers employed by businesses with fewer than 25 employees do not have any sort of pension or retirement plan at all. This is important because small businesses employ about half of all private sector workers. Unless small business owners and their employees start doing more to prepare for the future, many Americans will not have enough money for their golden years.

Small Business Majority's opinion polling in two states found small business owners struggle to offer retirement savings programs due to a number of barriers, but they want to offer this benefit to their employees because it helps them attract and retain talent. What's more, the majority of small employers are concerned their employees will not have enough saved for retirement. That's why small businesses support state efforts to establish state-administered retirement savings programs, like the Secure Choice Savings Program in Illinois, which can provide a convenient and affordable option for small businesses and their employees to save for the future.

Business owners know offering benefits like retirement savings create a happier and more productive staff, which in turn leads to increased productivity. Many small business owners think of their employees as family, so it's not surprising they support programs that enable them to foster a happier workforce while protecting their workers and their bottom line.

Additionally, policies like these help level the playing field between small businesses that want to offer retirement benefits but can't, and their larger counterparts that can. This helps small businesses compete for the best employees, and gives employers peace of mind that they are doing what's best for their workers.

While the proposed rules would help more states establish retirement savings programs that can benefit small employers and their workers, we are concerned that the proposed safe harbor would only apply to employers that are mandated by state law to participate in the payroll deduction program. This could prevent many small businesses and their employees from opting into the

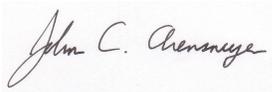
program and utilizing the auto-enrollment option. What's more, if a state establishes a retirement savings program and does not include an employer mandate in the law, businesses would not qualify for the safe harbor.

In Illinois, businesses with fewer than 25 employees are exempt from the state law's mandate to automatically enroll employees into the state's retirement savings program; however, they may opt in to the program. Under the proposed rule, these businesses would not qualify for the safe harbor exemption from ERISA and would not qualify for auto-enrollment. As the vast majority of small employers have fewer than 25 employees, many businesses will be discouraged from opting into the program and employees will lose the opportunity to take advantage of this retirement saving option.

What's more, the way the safe harbor is currently structured presents administrative challenges for small businesses. Employment numbers fluctuate throughout the year. It's very likely that a small employer will switch from being covered by the mandate to not being covered and during that time inadvertently auto-enroll an employee. This also means small employers can fluctuate between being covered by the safe harbor or being liable to ERISA. This could cause unnecessary confusion and increased administrative burdens for many small businesses and could cause some employers to stop contributing to the program.

Small employers need retirement savings options for their employees that make sense for their business and their bottom line. State-administered retirement savings programs, like those currently being established in California and Illinois, can help many small business employees better save for their futures. The proposed rule can clarify existing regulations and help states implement retirement savings programs, but it must be done in a way that takes into account the needs of small businesses.

Sincerely,

A handwritten signature in cursive script that reads "John C. Arensmeyer". The signature is written in dark ink on a light-colored background.

John Arensmeyer
Founder & CEO