2019 Advisory Council on Employee Welfare and Pension Benefit Plans
Beyond Plan Audit Compliance: Improving the Financial Statement Audit Process

Written Testimony
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The American Retirement Association (ARA) thanks the Employee Retirement Income Security Act (ERISA) Advisory Council (the Council) and the staff of the Employee Benefits Security Administration (EBSA) of the Department of Labor (DOL) for the opportunity to provide comments regarding possible improvements to the employee benefit plan audit process.

ARA is an organization of more than 25,000 members and five premier retirement industry associations. ARA members are a diverse group of retirement plan professionals of all disciplines, including business owners, actuaries, consultants, administrators, insurance professionals, financial advisors, accountants, attorneys, and human resource managers. ARA is the coordinating entity for its five underlying affiliate organizations, the American Society of Pension Professionals and Actuaries ("ASPPA"), the National Association of Plan Advisors ("NAPA"), the National Tax-deferred Savings Association ("NTSA"), the ASPPA College of Pension Actuaries ("ACOPA"), and the Plan Sponsor Council of America ("PSCA"). While ARA members come from all corners of the country, representing every part of the industry, they are united in a common belief in, and commitment to, the private pension system.

Background

ERISA Section 103(a)(3) requires an annual auditing report to be completed by an independent qualified public accountant stating whether the plan's financial statements are presented in conformity with generally accepted accounting principles. Unfortunately, reviews of these audits conducted by DOL have consistently found a material number of errors: in 1997, 19% of audits were reported deficient, 33% of audits in 2004, and 39% in 2014.[1]

[1] https://www.dol.gov/sites/default/files/ebsa/about-ebsa/our-activities/resource-center/publications/assessing-the-quality-of-employee-benefit-plan-audits-report.pdf Page 8

In 2010, in a report entitled, "Employee Benefit Plan Auditing and Financial Reporting Models," this Council cited four reasons for those failures: 1) auditor's inadequate technical training and knowledge, 2) auditor's inadequate familiarity with employee benefit plans, 3) lack of quality control in the audit process, and 4) failure by the auditor to understand the requirements for limited scope audits.[2] The Council recommended improving the quality of plan auditing, and the American Institute of Certified Public Accountants' (AICPA) Auditing Standards Board addressed these issues in the Statement on Auditing Standard, *Forming and Opinion and Reporting on Financial Statements of Employee Benefit Plans Subject to ERISA* (EBP SAS),[3] which will be published in final form this summer.

The new EBP SAS will address the form and content of the auditor's report. Notably, it includes new requirements for engagement acceptance, audit risk assessment and response, communication of relatable findings to those charged with governance, evaluation of prohibited transactions, and considerations relating to the Form 5500. Limited scope audits are also impacted, with the EBP SAS clarifying what is expected from auditors when the limited scope limitation is imposed, including assessing whether requirements have been met to permit a limited scope audit.

Comments

ARA believes that AICPA's changes on the auditor's side are sufficient to address the issues with audits. Plan sponsors continue to be proficient at selecting auditors, preparing for audits, communicating with auditors, and adopting changes based on the results of the audit. While we are appreciative of DOL's goal of enhancing the value of the annual financial statement audit process, we are hesitant to endorse additional, unnecessary efforts in this arena that could unduly burden plan sponsors.

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[2] https://www.dol.gov/agencies/ebsa/about-ebsa/about-us/erisa-advisory-council/2010-employee-benefit-plan-auditing-and-financial-reporting-models

[3] https://www.aicpa.org/content/dam/aicpa/research/exposuredrafts/accountingandauditing/downloadabledocuments/sas-13x-ballot-draft.pdf

Allow the Industry to Adjust to the New Standards

AICPA has successfully promulgated new standards for plan audits. Rather than rush to impose additional procedures, oversight or regulations on plan sponsors, we should allow time for the audit community to implement and adjust to EBP SAS. The EBP SAS goes into effect for audits of financial statements for periods beginning on or after December 15, 2020. With an additional vote on amendments expected to occur later this year and initial implementation over a year away, it is simply too early to impose additional changes on the audit process. Plan sponsors will need to ensure the new process is working smoothly and that newly required tasks are being timely completed. Plan Sponsors cannot and should not be burdened with additional tasks at this critical juncture.

Additional Regulations Are Not Needed

In this year's Issue Statement, EBSA asked the Council to "seek out ways through which the audits of employee benefit plans…could enhance the safety of the plan's assets, the effectiveness of the plan in satisfying its purpose, the efficiency of the plan's operations, and the plan's compliance with ERISA, the Internal Revenue Code, and other applicable laws." In response to this, we turn again to this Council's 2010 report. In that report, the Council wrote that audit problems do not arise from a "lack of adequate codification of practices." Likewise, in a report issued in 2015, the DOL issued recommendations for audit improvements that did not include additional regulations, and instead focused on additional education of auditors. The 2015 report determined that lack of understanding of current regulations or lack of utilization of technical material already available was one reason for the deficiencies.

ARA believes the same can be said again. The audit process today does not suffer from a lack of DOL, or for that matter, AICPA, guidance. Significant numbers of plan sponsors are well versed in the audit process. Across the country, plan sponsors successfully complete the audit process each year and the vast majority of audits are properly completed.

We disagree with the idea that plan sponsors are not "sufficiently availing themselves of the audit process," as written in this year's Issue Statement. Plan Sponsors act in the best interest of their plans, and that includes discussions with auditors before, during, and after the audit process and adopting changes based on the results of the audit. Plan Sponsors are already consumed by the complexities of numerous requirements imposed upon them by ERISA and the Internal Revenue Code, and should not be subject to unnecessary additional procedures.

Existing Resources are Satisfactory

Moreover, satisfactory resources already exist to help plan sponsors with any questions that arise surrounding the audit process. Indeed, EBSA published a brochure entitled, "Selecting an Auditor for your Employee Benefit Plan" in 2018.[4] AICPA, the standard-bearer in the accounting profession, maintains an Employee Benefit Plan Audit Quality Center.[5] This Center provides information and resources to both member-auditors and plan sponsors. Our affiliate organization, PSCA, maintains a number of resources to help with plan administration.[6] A number of other industry organizations also maintain resources.

We have no doubt that EBSA is well intentioned in seeking to make available additional resources to plan sponsors to enhance the value of the annual financial statement audit process, but such efforts should not be duplicative of extensive, existing private sector efforts.

Administrative Burdens Harm Plan Take-Up

We believe any additional requirements placed upon plan sponsors would further discourage employers from offering plans. In an informal 2015 poll hosted by our affiliate organization NAPA, respondents listed burdensome plan sponsors as the number one obstacle to small employers sponsoring retirement plans.[7] Indeed, plan sponsors tell us time and again that administrative complexities are a hindrance.

Expanding availability of workplace savings is the key to improving the retirement system for all Americans. If changes, such as additional requirements on plan sponsors, are made that discourage employers from sponsoring plans, we have hurt, not helped, our universal goal. We should be considering measures to make it easier for employers, particularly small

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[4] https://www.dol.gov/sites/default/files/ebsa/about-ebsa/our-activities/resource-center/publications/selecting-an-auditor-for-your-employee-benefit-plan.pdf

[5] https://www.aicpa.org/content/dam/aicpa/interestareas/employeebenefitplanauditquality/resources/toolsandaids/downloadabledocuments/ebpaqc-resources-and-tools.pdf

[6] https://www.psca.org/tags/Plan%20Administration

[7] https://www.napa-net.org/news-info/daily-news/biggest-small-plan-barrier-burdensome-administration

businesses, to offer a workplace savings plan to their employees, not additional administrative requirements.

Conclusion

We urge EBSA to retain the audit process in its current form without imposing additional obligations, tasks or procedures on plan sponsors. The current system works well from the plan administrator perspective and we are not aware of any issues that need to be addressed by DOL.