

CHAMBER OF COMMERCE  
OF THE  
UNITED STATES OF AMERICA

**RANDEL K. JOHNSON**  
SENIOR VICE PRESIDENT  
LABOR, IMMIGRATION, &  
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August 30, 2016

Office of Regulations and Interpretations  
Employee Benefits Security Administration  
U.S. Department of Labor  
200 Constitution Ave., NW, Room N-5655  
Washington, DC 20210

Re: Comment Period for Form 5500: Annual Reporting and Disclosure – RIN  
1210-AB63

To Whom It May Concern:

The U.S. Chamber of Commerce (the “Chamber”) is the world's largest business federation, representing the interests of more than three million businesses and organizations of every size, sector, and region, with substantial membership in all 50 states. The Chamber appreciates the opportunity to comment on the Proposed Revision of Annual Information Return/Reports issued by the Department of Labor, the Department of Treasury, and the Pension Benefit Guaranty Corporation (collectively, the “Agencies”) and published in the Federal Register on July 21, 2016. However, we request your assistance in making the opportunity to comment meaningful by granting an extension of the comment period to 180 days, in place of the current 75-day period. At the very least an extension of 150 days is warranted given the length and complexity of the proposal and prior precedent.

In general, the Agencies have a precedent of granting 90-day comment periods.<sup>1</sup> In circumstances of particularly complex rules, comment periods have

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<sup>1</sup> [Nondiscrimination Relief for Closed Defined Benefit Pension Plans and Additional Changes to the Retirement Plan Nondiscrimination Requirements](#) - Issued by the Department of Treasury and Internal Revenue Service on January 29, 2016 with a 90 day comment period; [Savings Arrangements Established by States for Non-Governmental Employees](#) – Issued by the Department of Labor on September 30, 2014 with a 90 day comment period; [Standards for Brokerage Windows in Participant Directed Individual Account Plans](#) – Issued by the Department of Labor on August 21, 2014 with a

been significantly extended. For example, the DOL provided a 150-day comment period for the proposal to change the Definition of the Term Fiduciary issued last year.<sup>2</sup> Furthermore, other agencies within this Administration have provided extensive comment periods to ensure proper analysis of the proposed rules.<sup>3</sup>

Much like the Fiduciary rule, the proposed changes to the Form 5500 are meant to update the current status and involve several hundred pages of changes. Therefore, the Form 5500 proposal will similarly require not just a review of the proposal - which in itself will require significant time - but also an analysis of how the proposal will impact current systems and information gathering. This similarity alone should justify extending the comment period to at least 150 days. However, in addition to similarities with the Fiduciary Rule, there are differences that justify an additional extension of the comment period to 180 days.

The Form 5500 proposal will change reporting requirements not just for retirement plans but also for health care plans. As you are aware, the majority of employers that offer retirement plans also offer health care plans. Therefore, our membership will have to review and analyze two different systems to determine the impact of the proposal. As such we believe an extension of the comment period to 180 days is not only justified but necessary.

If the Agencies decide to extend the comment period, we request that it be announced as early as possible. Our members are currently engaged in an accelerated review of the proposal to ensure that the biggest issues are raised. But, with an extended comment period, more time can be taken to properly analyze all issues. The earlier an extension is announced, the more time will be

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90-day comment period; [Amendment Relating to Reasonable Contract or Arrangement Under Section 408\(b\)\(2\)](#) - Issued by the Department of Labor on March 12, 2014 with a 90-day comment period.

<sup>2</sup> The Department of Labor issued the [Definition of the Term “Fiduciary”; Conflict of Interest Rule—Retirement Investment Advice](#); Proposed Rule on April 20, 2015 with a 75 day comment period. After multiple requests for extension, the DOL [extended](#) the comment period to 90 days. In addition, the DOL [continued to accept comments](#) for two weeks after the hearing transcripts were released for a total comment period of 150 days.

<sup>3</sup> Food & Drug Administration, “*Current Good Manufacturing Practice and Hazard Analysis and Risk-Based Preventive Controls for Human Food*,” proposed January 16, 2013, comments due by May 16, 2013 (120 days), extended until September 16, 2013 (total of eight months, or 243 days); Department of Justice, “*Nondiscrimination on the Basis of Disability in State and Local Government Services; Accessibility of Next Generation 9-1-1*,” advance notice of proposed rulemaking dated July 26, 2010, comments due January 24, 2011 (180 days); Securities and Exchange Commission, “*Roadmap for the Potential Use of Financial Statements Prepared in Accordance with International Financial Reporting Standards by U.S. issuers*,” proposed November 21, 2008, comments due by February 19, 2009 (90 days), extended until April 20, 2009 (total of 150 days) .

available for this detailed review. We believe that all parties benefit from a thorough review and analysis of proposed rules; therefore extending the comment period and announcing such extension as early as possible is best for all parties.

We appreciate your consideration of this request and look forward to further dialogue on this issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Randel K. Johnson". The signature is fluid and cursive, with a large initial "R" and "K".

Randel K. Johnson