

February 26, 2018

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

Attn: Definition of Employer – Small Business Health Plans RIN 1210-AB85

Dear Sir or Madam:

In 2015, a group of five similar social service agencies formed the Strategic Insurance Trust (the “Trust”). Each of these agencies is a nonprofit, section 501(c)(3) provider of services to individuals with disabilities. The Trust is registered with the United States Department of Labor as a “non-plan MEWA.”

In the next several months, the group intends to transition to plan MEWA status. It was our understanding, based upon DOL Advisory Opinion 2017-02AC, that it would be necessary for the social service agencies to form a new consortium. The consortium, in turn, would establish the plan and the trust.

The Proposed Rule, however, makes no mention of DOL Advisory Opinion 2017-02AC or the concept of a consortium. Rather, the Proposed Rule simply requires that the “group or association has a formal organizational structure with a governing body and has by-laws or other similar indications of formality.” The Trust currently satisfies this criteria.

Does the Proposed Rule require a group or association of employers to form a consortium in accordance with DOL Advisory Opinion 2017-02AC to achieve plan MEWA status? Or, under the Proposed Rule, will it be permissible for a trust created by employers to establish a plan MEWA? Thank you for any guidance you can provide.

Sincerely,



Jim Allbaugh, Chairperson
Strategic Insurance Trust