



March 5, 2018

*Submitted electronically*

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 - RIN 1210-AB85

Dear Ladies and Gentlemen:

Introduction. The Georgia Bankers Association Insurance Trust is a multiple employer welfare arrangement (“MEWA”) that has provided health benefits to employees of Georgia banks and related organizations since 1965. The Insurance Trust has also been approved as a tax-exempt Voluntary Employees’ Beneficiary Association (“VEBA”) under Internal Revenue Code Section 501(c)(9).

The Insurance Trust is governed by a board of directors selected from participating employers. There are no commercial or outside representatives on the board. The Insurance Trust covers approximately 12,000 employees and dependents, and our participating employers range in size from fewer than 50 to several hundred employees.

Health benefits are fully insured through a minimum premium arrangement with Blue Cross Blue Shield of Georgia. Due to the financial size and stability of the Insurance Trust, the Plan operates internally as a self-funded plan, and has operated at an average medical loss ratio in excess of 90%. At the same time, the minimum premium arrangement provides full insurance protection to participants and beneficiaries in the unlikely event that the Insurance Trust were to default on its obligations.

The Insurance Trust establishes a number of plan options to accommodate a range of plan designs with varying cost sharing levels. All options provide minimum essential coverage and meet minimum value requirements. Premiums are established on the basis of community rating to determine premium levels for all plan options. These rates vary with age but are otherwise identical from one employer to another, with one exception that is described in more detail below.

Proposed AHP Regulations. Given the long and stable history of the Insurance Trust, we appreciate the opportunity to express our concerns about the proposed AHP regulations. While we applaud the initiative to open insurance markets to small businesses, we believe that it would be counterproductive to do so in a way that destabilizes the historically successful programs offered by true association plans. The emphasis on member service and the reciprocal loyalty between the Insurance Trust and our participating employers is a real factor in the success of our program, a factor which may be missing in an AHP with a profit motive rather than a member satisfaction motive. In particular, we note the following:

50 Hurt Plaza, Suite 1050  
Atlanta Georgia 30303  
elindsay@gabankers.com

Conflicting AHP and VEBA Requirements: The VEBA rules currently impose significant operational and plan design requirements that are designed to avoid discrimination and impermissible selectivity in accepting members. To add conflicting rules directly through the AHP regulations and/or indirectly through requirements to meet State insurance laws will severely impede the ability of a MEWA to maintain its current benefit structure and absorb the additional administrative and compliance costs. At a minimum, programs that currently meet MEWA and VEBA standards should be permitted to elect to maintain their current status in lieu of adopting the AHP standards in order to potentially expand their membership base.

Stability of the Member Base. As noted above, the Insurance Trust applies community rating across the entire membership. This reflects our underlying philosophy that we are a membership organization and our members should share in both the risks and the benefits of the program. This approach also ensures a degree of stability for all participating employers, as the risk pool is so much larger than it would be for any individual employer. To further protect the Insurance Trust's stability, we rate on the basis of experience in only one situation. This may occur upon application of a new member to join the Plan. If recent claims experience indicates, we may impose a surcharge for up to two years following their entry into the Plan. Following that period, the group reverts to community rating without regard to their continuing claims experience. The purpose of this is not to discourage entry into the Plan, but to discourage a member from seeking shelter in the Insurance Trust for a year or two and then leaving when their experience improves. (This is a common practice in the marketplace.) The proposed rules on prohibiting risk-based rating must incorporate some protection against this exposure.

Interplay of State Insurance Laws and Federal Regulations. Although we are based in Georgia and fully insured under a Georgia issuer and therefore not directly impacted by the potential for requiring AHPs to comply with both State insurance laws and federal regulations, we believe that imposing such a regulatory structure would be unworkable. The compliance costs of meeting all such potentially conflicting requirements would be unsustainable and counterproductive.

Conclusion. In conclusion, we support the expansion of health insurance availability for small businesses and individuals. However, we urge caution in approving regulations that may have the opposite effect. For current MEWAs and VEBAs, we respectfully request that the Department provide an exemption unless the current MEWA elects to be treated as an AHP.

Respectfully submitted,

*Edie Lindsay*, J.D., MPH  
Counsel  
GBA Insurance Trust, Inc.

50 Hurt Plaza, Suite 1050  
Atlanta Georgia 30303  
elindsay@gabankers.com