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Definition of "Employer" under Employee Retirement Income Security Act-Association Retirement Plans and Other Multiple-Employer Plans

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General Comment

The Proposed Rule is a good first step in expanding the availability of "Open MEPs" to employers across the USA. The Proposed Rule should be enacted.

While it is laudable that the Proposed Rule clarifies and possibly expands the availability for otherwise unrelated employers to participate in a multiple employer plan arrangement sponsored by a Professional Employer Organization or Association, the liability as Plan Sponsor to either of these types of entities will continue to serve as a deterrent from their fully embracing the benefits and offering the advantages of these types of programs to employers under the Proposed Rule.

Separately, the Department of Labor's Advisory Opinion 2012-04a had a chilling effect on what was the start of some dramatic growth in this retirement plan marketplace involving opportunities for the utilization of multiple employer plans to solve part of America's retirement plan coverage problems. It was unfortunate that the DOL took the position they did with the Advisory Opinion but given certain issues at the time involving one particular bad actor, it is understandable that they didn't want to potentially expand a program that was having negative publicity in the media.

It would be beneficial if the DOL revisited their position on the Advisory Opinion while we await legislative action in Congress involving Open MEPs and final approval of this Proposed

Rule.

Legislation before Congress (comprised of the features of the Retirement Enhancement and Savings Act of 2018) will address these issues and open the door for broader retirement plan coverage and the lessening of fiduciary responsibility and liability for employers. We look forward to Congress passing this legislation in 2018.

Thank you to President Trump, the U.S. Department of Labor, and Assistant Secretary Rutledge for their efforts and support of this worthy and much needed initiative to broaden retirement plan coverage for America's workers.

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