



**NATIONAL INDEPENDENT AUTOMOBILE DEALERS ASSOCIATION**

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December 24, 2018

Submitted electronically via regulations.gov

The Honorable R. Alexander Acosta  
Secretary of Labor  
c/o Office of Regulations and Interpretations  
Employee Benefits Security Administration  
U.S. Department of Labor, Room N-5655  
200 Constitution Avenue NW  
Washington, DC 20210

Attn.: Definition of “Employer” Under Section 3(5) of ERISA-Association Retirement  
Plans and Other Multiple-Employer Plans  
RIN 1210-AB88

Dear Mr. Secretary,

The National Independent Automobile Dealers Association (NIADA) submits the following comments to the Department of Labor (DOL) Notice of Proposed Rulemaking (NPRM) entitled “Definition of “Employer” Under Section 3(5) of ERISA-Association Retirement Plans and Other Multiple-Employer Plans” published in the *Federal Register* on October 23, 2018. The NPRM proposes a change to the definition of “employer” that would broaden the criteria under ERISA section 3(5) for determining when employers may join together to facilitate sponsorship of a workplace retirement plan.

NIADA is the national trade associations representing the used motor vehicle industry comprised of more than 38,000 licensed used car dealers. NIADA's members include independent automobile dealers, unaffiliated with any franchise, that sell used vehicles wholesale, retail, and buy here pay here.

Since 1946, NIADA has represented the voice and interests of used car dealers in Washington, D.C. Coupled with its state association network across the country, NIADA’s grass-roots framework provides a dual layer of advocacy unmatched in the used motor vehicle industry.

For 72 years, NIADA has engineered programs and leveraged technology to fulfill its mission to advance, educate, and promote the independent, used car dealer. NIADA stands tall for its members who

subscribe to a strict Code of Ethics of duty, honor and integrity and who believe in the advancement of small business in support of the free-market system.

NIADA members embody the spirit of American entrepreneurship, and as a result, NIADA is dedicated to ensuring the success of small businesses. Nearly 50 percent of NIADA's dealer members have five or fewer employees. They are, by every criteria of the Small Business Administration, small businesses looking to survive in the best of times and the worst of times. As small businesses on Main Street in towns all across America, NIADA members are uniquely qualified to discuss the impact this type of rule would have on small businesses looking to survive in challenging economic circumstances.

Many NIADA members have stated that one of their top concerns is finding and retaining qualified employees. When considering potential job opportunities, benefits made available from an employer are often at the top of a potential employee's list of consideration. Many of NIADA's members do not currently have the wherewithal to offer retirement plans as a benefit to employees. By being able to participate in an association retirement plan, NIADA's small business dealers will be able to offer more competitive benefits, allowing them to compete with large employers to retain and recruit employees with the best talent.

NIADA supports the essence of the proposed rule and DOL's efforts to allow associations to provide offer workplace retirement plans. We urge the DOL to finalize and allow the implementation of Association Retirement Plans as quickly as possible.

However, NIADA supports the comments submitted by the U.S. Chamber of Commerce ("Chamber") related to the proposed rule and encourages the Department to consider them wholeheartedly. The Chamber's recommendations suggest that the Department:

- Allow Open MEPs
- Formalize the inclusion of Professional Employer Organizations ("PEOs")
- Reduce additional notice or reporting requirements
- Consider expanding to other types of plans in addition to defined contribution plans
- Provide a safe-harbor to protect ARP members from joint-employer liability
- Treat an MEP as one plan for purposes of notice and disclosure requirements
- Modernize Department standards on electronic delivery

NIADA supports the Departments efforts to provide to small businesses with opportunities to offer MEP's more easily. We believe working to address the concerns iterated by the Chamber will only add to the success of small businesses.

Thank you for consideration of these comments. NIADA welcomes the opportunity to engage and assist you as you give further consideration to the proposed rule

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Sincerely,

A handwritten signature in blue ink that reads "Shaun K. Petersen". The signature is written in a cursive, flowing style.

Shaun K. Petersen  
Senior Vice President  
Legal and Government Affairs