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October 1, 2020

Office of Exemption Determinations  
Employee Benefits Security Administration  
200 Constitution Avenue, NW  
Washington, DC 20210

**Re: Proposed Registration Requirements for Pooled Plan Providers RIN 1210-AB94**

To Whom it May Concern:

On behalf of our members, the Insured Retirement Institute (“IRI”)<sup>1</sup> appreciates the opportunity to provide these comments to the Department of Labor (the “Department”) in response its proposed rule on Proposed Registration Requirements for Pooled Plan Providers (the “Proposed Rule”).<sup>2</sup> The Proposed Rule sets forth the requirements for registering with the Department as a “pooled plan provider” (a “PPP”) for “pooled employer plans” (“PEPs”) under sections 3(43) and 3(44) of the Employee Retirement Income Security Act of 1974. The Setting Every Community Up for Retirement Enhancement Act of 2019 (the “SECURE Act”) provides that newly permitted PPPs can begin offering PEPs on January 1, 2021. Further such persons are required to register with the Secretary of Labor before beginning operations, and the proposed rule establish a new form—EBSA Form PR (the “Pooled Plan Provider Registration”), as the required filing format for PPP registrations. We generally support the Proposed Rule and believe the Department should move forward expeditiously to finalize the rules for PPP registrations so that providers can begin making PEPs available to the marketplace. We have concerns regarding just two elements of [spacing needs to be corrected here] the Proposed Rule that warrants the Department’s attention and consideration, which we discuss in greater detail below.

IRI long supported and actively advocated for enactment and implementation of the SECURE Act. Its provisions address a deepening crisis where too few Americans are saving sufficiently to ensure an adequate income for their retirement years. Among other things, the SECURE Act provides more opportunities and choices for

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<sup>1</sup>IRI is the leading association for the entire supply chain of insured retirement strategies, including life insurers, asset managers, and distributors such as broker-dealers, banks and marketing organizations. IRI members account for more than 95 percent of annuity assets in the U.S., the top 10 distributors of annuities ranked by assets under management and are represented by financial professionals serving millions of Americans. IRI champions retirement security for all through leadership in advocacy, awareness, research, and the advancement of digital solutions within a collaborative industry community

<sup>2</sup> 85 FR 54288 (Sept. 1, 2020).

Americans to save for their retirement years. It expands access to workplace retirement plans and guaranteed lifetime income products to help attempt to ensure retirees do not outlive their retirement savings.

IRI and our members are active and engaged as the SECURE Act is now law. Significant changes must be made to existing policies and procedures, as well as administrative, operational, and technological systems, in order to comply with the new rules established by the SECURE Act. Our members are already hard at work with good faith efforts to develop and execute the necessary changes, and they are committed to achieving full compliance.

Our concerns regarding the Proposed Rule are related to the information required to be disclosed on Form PR. Specifically, we are concerned that disclosure of information about a PPP's proprietary products in a public filing, as called for by Question 3 on Form PR, could expose PPPs to a heightened degree of regulatory scrutiny and litigation risk. We respectfully urge the Department to issue more robust guidance on the duties owed by a PPP, the disclosures required to be provided to PEP participants, and the extent to which prohibited transaction rules and related exemptions may apply differently in the context of PEPs.

Further, we are concerned that the requirement in Question 4 on Form PR to report a variety of types of actions related to any employee benefit plan seems to apply to any employee of a PPP. Many of our members are very large, with hundreds or even thousands of employees, and would therefore find it very difficult to comply with this requirement. We therefore respectfully request that the Department take a more limited approach to this element of Form PR, focusing only on those PPP employees and those types of past actions that would be reasonably viewed as relevant to participants and prospective participants in a PEP

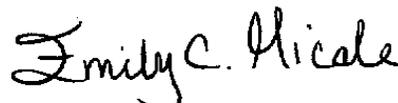
With those specific comments highlighted, and with IRI's general support for the Proposed Rule for PPP Registration and its associated requirements set forth above, IRI and our members stand ready to work with the Department to provide research, information and additional comments to work together towards SECURE Act implementation and its advancement of the retirement industry and American workers.

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Thank you again for the opportunity to provide these comments. If you have questions about our views on the questions posed in the Proposed Rule, or if we can be of any further assistance in connection with this important regulatory effort, please feel free to contact the undersigned at [jberkowitz@irionline.org](mailto:jberkowitz@irionline.org) or [emicale@irionline.org](mailto:emicale@irionline.org).

Sincerely,

  
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