



**Statement for the Record**  
**U.S. Senate Health, Education, Labor and Pensions Committee**  
**Subcommittee on Primary Health and Retirement Security**  
**“Retirement Plan Options for Small Businesses” Roundtable**

**October 28, 2015**

The American Council of Life Insurers (ACLI) is pleased to submit this statement for the record regarding retirement plan options for small businesses. We thank Subcommittee Chairman Michael Enzi and Ranking Member Bernard Sanders for holding this important roundtable.

The ACLI is a Washington, D.C.- based trade association with more than 300 legal reserve life insurer and fraternal benefit society member companies operating in the United States. Its members represent more than 90 percent of the assets and premiums of the U.S. life insurance and annuity industry. In addition to life insurance, annuities, long-term care, and disability income insurance, ACLI member companies offer insurance contracts and investment products and services to employment-based retirement plans (including defined benefit pension plans, 401(k), SIMPLE, SEP, 403(b), and 457(b) plans) and to individuals (through individual retirement accounts (IRAs) and annuities). Our members also are employer sponsors of retirement plans for their employees. As service and product providers, as well as employer sponsors, life insurers believe that savings for retirement, managing assets throughout retirement, and utilizing financial protection products are all critical to Americans’ retirement income and financial security.

As leading providers in the small plan formation marketplace,<sup>1</sup> ACLI members agree that a critical challenge in enhancing Americans’ retirement security is expanding retirement plan coverage among small businesses that do not currently offer a stand-alone plan. Only 50 percent of workers employed in small businesses have access to retirement plans. Growing stress on government programs adds to the need for greater incentives for these small businesses to start and maintain retirement plans.

**ACLI Supports Solutions to Expand Access to Workplace Savings**

ACLI supports a number of other policies to voluntarily expand access to workplace savings. For example, ACLI supports reforms to and expansion of the private multiple employer plan (“MEP”) system to further encourage and facilitate participation by employers that are not prepared to sponsor their own retirement plan. <sup>2</sup> MEPs can be an important tool in reducing the costs and administrative burdens to small employers. Under a MEP, many businesses can join together to achieve economies of scale and advantages with respect to plan administration, and advisory services, making plans much more affordable and effectively managed.

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<sup>1</sup> As part of an employer-provided plan, life insurers provided products and services to over one-third plan participants..Small-employers (99 or fewer employees) overwhelmingly rely on life insurers for products and services. Three-fifths of these employees rely on life insurer products and services in their employment-based retirement plan.

<sup>2</sup> See S. 266, the Retirement Security Act of 2015, co-sponsored by Sens. Collins (R-MA) and Nelson (D-FL) and H.R. 5875, the SAVE Act of 2014, co-sponsored by Reps. Kind (D-WI) and Reichert (R-WA).

In addition to reforming and expanding MEPS, ACLI supports:

- **Starter 401(k)s:** Small employers should be encouraged to offer workplace savings opportunities with simple administrative rules and no required employer contributions.<sup>3</sup>
- **Auto-IRA:** Employers without a retirement savings plan should be encouraged to automatically enroll employees into a payroll deduct IRA. “Auto-IRA” sponsors should receive the same level of protection and state wage law preemption offered to employers sponsoring “auto-401(k)s.”<sup>4</sup>
- **Start-up credit:** Small employers that provide payroll deduction IRAs should be eligible for a start-up credit to offset the employer’s initial plan formation and administration expenses.<sup>5</sup>
- **SIMPLE IRA and 401(k)s:** SIMPLE plans should be made more appealing to small businesses. Permitting a higher level of employer contribution and improving rollover rules could make the plans more valuable to employees.<sup>6</sup>

The Administration took an important step this year in support of this effort with the myRA plan. Small businesses without retirement plans may offer employees an opportunity to participate in the new “my Retirement Account,” a Roth IRA backed by Treasury bonds. Offered by the US Treasury, myRA provides the option to save for retirement with as little as \$5 a month.<sup>7</sup>

### **The Department of Labor’s Fiduciary Proposal Would Severely Hamper Efforts to Expand Coverage**

Unfortunately, the Administration is poised to take a major step backward with the Department of Labor’s (DOL) fiduciary proposal. The proposal negatively impacts small plan formation by effectively banning sales activities that encourage small business owners (with 100 employees or fewer) to start, maintain, or improve their employee benefit plans. While the DOL accepts that not all sales activities should result in fiduciary status, it has limited the application of the proposal’s “sales exception” to large plans. It also denies fiduciaries access to the proposed best interest contract exemption when selling products and services to individual account plans. The proposal places limits on education activities designed to assist savers with asset allocation and retirement planning. It treats educational materials as “recommendations” if they include references to specific investment products, investment alternatives, or distribution options – including annuities available under a plan or IRA. ACLI wants to partner with the Administration and Congress to advance common-sense fixes for a more balanced fiduciary regulation.

### **Expansion of State-Run Retirement Programs Would Lead to Significant Costs and Liabilities for States**

Recently, some states have proposed government-run retirement programs to accommodate those without access to a workplace plan. These proposals largely ignore the wide array of products and services currently available from financial services providers and would impose significant costs and liabilities on states, employers, and taxpayers.

Currently, many states are already struggling to meet the obligations of state employee pension plans and other large government programs. New government-run plans for private sector employers would add to this burden. A state-run retirement plan would:

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<sup>3</sup> See S. 1270, the SAFE Retirement Act of 2013, sponsored by Sen. Hatch (R-UT).

<sup>4</sup> See H.R. 5875, the SAVE Act of 2014, co-sponsored by Reps. Kind (D-WI) and Reichert (R-WA)

<sup>5</sup> See S. 1270, the SAFE Retirement Act of 2013, sponsored by Sen. Hatch (R-UT), H.R. 2117, the Retirement Plan Simplification and Enhancement Act of 2013m sponsored by Rep. Neal (D-MA), and H.R. 5875, the SAVE Act of 2014, co-sponsored by Reps. Kind (D-WI) and Reichert (R-WA).

<sup>6</sup> See H.R. 5875, the SAVE Act of 2014, co-sponsored by Reps. Kind (D-WI) and Reichert (R-WA).

<sup>7</sup> <https://myra.gov>

- **Cause uncertainty for small businesses.** Under proposed legislation to create new government-run retirement programs, employers could face significant operational costs and be subject to fiduciary responsibilities. Some legislation mandates employers to participate in state plans while other legislation mandates employer contributions to state plans.
- **Be costly to set up and implement and would create an ongoing expense and liability for the state and taxpayers.** A study authored by the Maryland Supplemental Retirement Plans (MSRP) concluded that a state-sponsored voluntary accounts program would require significant long-term state expenses. Furthermore, a 2009 Washington State report estimated that a state-sponsored basic IRA plan would have start-up costs of \$1.8 million and annual on-going state costs of almost \$1.4 million.
- **Be subject to the Employee Retirement Income Security Act (ERISA).** All retirement plans for private sector workers must adhere to the complex requirements set by federal law—including ERISA and IRS rules. Workers benefit from these important protections, while employers and plan sponsors have strict compliance and fiduciary responsibilities. Therefore, once a plan is established, a state and any participating employer would incur ongoing operational, oversight, compliance, and insurance costs associated with these rules.

With an existing competitive market among private providers of portable retirement solutions, state-run retirement plans are unnecessary. States should not use funding, regardless of the source, to compete with private providers of 401(k) plans, 403(b) plans, 457(b) plans, IRAs, and other retirement options.

ACLI stands ready to assist this subcommittee, and Congress, as it further explores retirement plan options for small businesses.