

MEMO# 32793

September 30, 2020

ICI Submits Comment Letter Regarding DOL Proposed Registration Requirements for Pooled Plan Providers

[32793]

September 30, 2020 TO: ICI Members

Pension Committee

Pension Operations Advisory Committee SUBJECTS: Pension RE: ICI Submits Comment Letter Regarding DOL Proposed Registration Requirements for Pooled Plan Providers

Today, ICI submitted the attached comment letter to the Department of Labor (DOL) regarding a proposed rule that would establish the requirements for registering with DOL as a “pooled plan provider” (PPP) for “pooled employer plans” (PEPs) under sections 3(43) and 3(44) of ERISA.[\[1\]](#) As you know, Section 101 of the Setting Every Community Up for Retirement Enhancement Act (the SECURE Act),[\[2\]](#) permits PPPs to begin offering PEPs on January 1, 2021, but requires persons to register with the Secretary of Labor before beginning operations as a PPP. The proposed rule would create a new form—EBSA Form PR (Pooled Plan Provider Registration)—as the required filing format for PPP registrations.

Our letter recommends certain changes to simplify the proposed filing requirements and thereby foster a robust, competitive PEP marketplace. More specifically, while we support DOL’s efforts to implement the SECURE Act’s framework for PEPs, we explain that several of the proposed registration requirements will be overly burdensome in application and are unnecessary to achieve protection for participating employers. We urge DOL to simplify the requirements in a way that eliminates information that is superfluous and irrelevant to DOL’s oversight role, or too detailed to be effectively used by prospective employers. Our recommendations are intended to strike the right balance between providing the level of detail needed for oversight and enabling providers to offer cost-effective services.

Our letter makes the following recommendations:

- DOL should expand the time period permitted for filing the initial registration and modify the definition of “beginning operations” to exclude mere public marketing of PPP services.
- DOL should reduce the level of detail required in the initial registration, including eliminating certain detailed information about the primary compliance officer and

narrowing the scope of ongoing civil and administrative proceedings required to be reported.

- DOL should simplify the supplemental filing requirements by:
 - Narrowing the requirements to report initiation of any administrative or enforcement actions and to report any significant change in corporate or business structure of the PPP;
 - Limiting the disclosure to cover “material changes” to the information provided in the initial registration; and
 - Requiring supplemental filings to be made on an annual basis (as needed), rather than on a rolling 30-day basis.

Elena Barone Chism
Associate General Counsel - Retirement Policy

[Attachment](#)

endnotes

[1] For a description of the proposal, see ICI Memorandum No. 32696, dated August 21, 2020. Available here: https://www.ici.org/my_ici/memorandum/memo32696.

[2] For more background on the SECURE Act, see ICI Memorandum No. 32118, dated December 20, 2019. Available here: https://www.ici.org/my_ici/memorandum/memo32118. ICI recently filed a comment letter with DOL responding to a request for information on prohibited transactions involving PEPs. See ICI Memorandum No. 32622, dated July 20, 2020. Available here: https://www.ici.org/my_ici/memorandum/memo32622. In that letter, we urged DOL to provide guidance needed to implement the SECURE Act’s PEP provision and to ensure that no barriers will stand in the way of financial services firms participating in the PEP market.

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