September 30, 2014

TO THE MEMBERS OF THE UNITED STATES CONGRESS:

This month is the 40th anniversary of landmark benefits legislation, the Employee Retirement Income Security Act of 1974 (ERISA). Over the years, there have been many changes to the law and many, many regulations that have refined and reshaped the statute. However, for the thousands of employers who sponsor retirement plans, there has been a consistent theme - strengthening the retirement security of American workers.

The undersigned organizations, representing plan sponsors, service providers, and plan administrators who deliver retirement benefits to millions of American workers, ask you to join us in celebrating the passage of this law and the success of the private retirement system that has been created around it.

The employer–provided retirement system has been overwhelmingly successful in providing retirement income. In 2011, private-sector employers contributed over $255 billion into their retirement plans and paid out over $470 billion in retirement benefits. We support the current system and encourage Congress to maintain the flexibility that allows employers to provide benefits tailored to their workforce. Depending on the size, industry, and demographics of their workforce, private-sector employers participate in a wide variety of retirement arrangements: traditional pension plans, cash balance plans, pension equity plans, profit-sharing plans, 401(k) and similar plans, money purchase pension plans, 403(b) plans, IRA-based plans, multiemployer plans, and multiple employer plans. This variety demonstrates the need for flexibility to meet the needs of various workforces.

In honor of the 40th anniversary of ERISA, we are providing 40 facts about ERISA and the private employer-provided system as an attachment to this letter.

We are committed to working with Congress and the Executive branch to ensure that ERISA continues to provide a voluntary and flexible employer-provided retirement plan system that benefits American workers.

Sincerely,

American Bankers Association
American Benefits Council
American Council of Life Insurers
American Society of Pension Professionals & Actuaries
Committee on Investment of Employee Benefit Assets
Defined Contribution Institutional Investment Association
Financial Executives International
Financial Services Institute
Financial Services Roundtable

Insured Retirement Institute
Investment Adviser Association
Investment Company Institute
National Association of Insurance and Financial Advisors
National Association of Manufacturers
NTCA–The Rural Broadband Association
Plan Sponsor Council of America
Small Business Council of America
Small Business Legislative Council
Society for Human Resource Management
The ERISA Industry Committee
The ESOP Association
The SPARK Institute
U.S. Chamber of Commerce

Happy 40th Birthday ERISA
40 ERISA Facts

1. President Ford signed ERISA into law on September 2, 1974.
2. Senator Jacob Javits was the leading force behind the passage of ERISA. As a member of the Senate Labor and Human Resources Committee, he introduced the first broad-scale pension reform bill in 1967 and was ERISA's principal author.
3. ERISA stands for the Employee Retirement Income Security Act of 1974.
4. ERISA does not require any employer to establish a pension plan. Rather, it requires that those who establish plans meet certain requirements regarding the administration of the plan and the investment of plan assets.
5. ERISA protects employee benefits, including retirement and pension plans and health care, disability, accident and death benefits.
6. In 1975, average real retirement assets per U.S. household were $27,700 (in 2013 dollars).
7. At the end of June 2014, average real retirement assets per U.S. household stood at $190,600 (in 2013 dollars)—more than six times higher than in 1975.
8. At companies with 100 workers or more, 85% of employees have access to employer-sponsored retirement plans; of those, 81% participate. At larger companies with 500 workers or more, 90% have access to employer-sponsored retirement plans; of those, 88% participate.
9. At companies with more than 10 workers, more than 75% of all workers have access to plans; of those, 80% participate.
10. About eight in 10 near-retiree households have retirement accumulations, i.e., defined contribution plan accounts, IRAs, defined benefit plan accumulations, or a combination.
11. As of June 2014, there is $24 trillion dollars in total retirement assets. Individual retirement account (IRA) assets are the largest component with $7.2 trillion of the total, 401(k) plans have $4.4 trillion in assets, and private-sector defined benefit plans have $3.2 trillion in assets.
12. In 2011, over 680,000 private-sector employer-sponsored retirement plans covered over 100 million American participants.
13. ERISA preempts most state laws that relate to any employee benefit plan covered by the Act. The purpose of preemption is to enable employers to establish uniform administrative frameworks that provide a set of standard procedures to guide the processing of claims and disbursement of benefits. State or local laws affecting benefit plans may not challenge, duplicate or add to the requirements imposed by ERISA. ERISA preemption thus facilitates benefit plan sponsorship among multi-state employers for whom a single benefit administration framework is most efficient.
14. Many retirement plans are qualified plans by which an employer provides retirement income - on a non-discriminatory basis - for employees and their beneficiaries with favorable federal tax treatment.
15. Qualified retirement plan contributions are tax-deferred, not tax-free.
16. Qualified plans allow the employer's portion of the contributions to be tax deductible by the employer. The benefits to plan participants include current tax deferral of contributions. In addition, plan participants are not taxed until they start making withdrawals from their accounts. In order to maintain this tax status, plans must operate

under the provisions set forth by ERISA (in accordance with the Internal Revenue Code) and the regulations thereunder.

17. Qualified plans can either be defined benefit or defined contribution plans.
18. A defined benefit plan is the traditional pension where an employer bears the financial risk with a promise to pay a set amount of monthly retirement benefits based upon such things as salary history and length of employment.
19. A defined contribution plan is a retirement plan that provides for an individual account for each participant and for benefits based solely upon the amount contributed to the participant's account, and any income, expenses, gains and losses and any forfeitures of accounts of other participants which may be allocated to such participant's account. An employer may or may not contribute to the plan, and the participants typically direct the investments in their accounts. Examples of defined contribution plans include 401(k)s, 403(b)s, profit-sharing plans, simplified employee pension plans and employee stock ownership plans, among others.
20. ERISA created the traditional individual retirement account (IRA) to serve two roles, as a contributory tax-deferred savings vehicle and to preserve rollovers from employer-sponsored retirement plans as workers changed jobs or retired.
21. ERISA is codified in both the tax code and labor law.
22. Within Congress, there are several committees of jurisdiction: Senate Finance Committee; Senate Health, Education, Labor, and Pension Committee; House Ways and Means Committee; and House Education and the Workforce Committee.
23. The regulatory administration of ERISA is divided among the U.S. Department of Labor, the Internal Revenue Service of the Department of the Treasury (IRS), and the Pension Benefit Guaranty Corporation (PBGC).
24. Each of these agencies has an advisory council which provides pre-regulatory reports to each respective agency.
25. Within the Department of Labor, the Employee Benefits Security Administration (EBSA) administers ERISA. Prior to February 2003, EBSA was formerly known as the Pension and Welfare Benefits Administration (PWBA). Prior to January 1986, the agency was known as the Pension and Welfare Benefits Program (PWBP).
26. The PBGC was established under ERISA to provide coverage in the event that a terminated defined benefit pension plan does not have sufficient assets to provide the benefits earned by participants.
27. The PBGC finances its operation from insurance premiums of insured pension plan, from investment income, and from recoveries in bankruptcies. The PBGC receives no funds from general tax revenues.
28. The PBGC issued its first pension check for $140.75 on February 28, 1975, to a participant in the International City Bank of New Orleans Employees Retirement Plan.
29. Section 401(k) of the Internal Revenue Code (allowing for cash or deferred arrangements commonly referred to as 401(k) plans) was established under The Revenue Act of 1978. The provision went into effect on Jan. 1, 1980. Regulations were issued on November 10, 1981.
30. Congress passed the Multiemployer Pension Plan Amendments Act of 1980 to bring multiemployer plans under the ERISA umbrella.
31. The Retirement Equity Act of 1984 authorized spousal rights to benefits.

32. The Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) enacted many changes to 401(k) plans such as increasing contribution limits, allowing catch-up contributions, faster vesting requirements of matching contributions, and rollover rules.
33. Sweeping changes were made to the ERISA statute in the Pension Protection Act of 2006 (PPA). The PPA changed the funding rules for single employer and multiemployer pension plans, clarified the hybrid plan rules, and expanded the use of automatic enrollment in 401(k)-type plans.
34. At the end of 2014, the multiemployer funding rules under the PPA will expire. Consequently, there has been a significant push on behalf of many interested parties for comprehensive multiemployer pension reform.
35. Recently, Congress has passed several bills addressing funding reform: Highway and Transportation Funding Act of 2014; Moving Ahead for Progress in the 21st Century Act; Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010; and the Worker, Retiree, and Employer Recovery Act of 2008.
36. One of the most important requirements of ERISA is the imposition of fiduciary duties upon certain sponsors and administrators of covered plans. A fiduciary duty is a very high standard of care imposed by law where the fiduciary has a duty to place the interests of another ahead of the fiduciary's own interest. In other words, a plan administrator must manage covered plans solely in the best interest of participants and beneficiaries.
37. There are different tax advantages between a traditional 401(k) plan (or IRA) and a Roth 401(k) plan (or Roth IRA). A traditional 401(k) plan (or IRA) allows a person to make contributions to the plan on a pre-tax basis. This money will not be taxed until it is withdrawn. At that time, it will be taxed using then-current income tax rates. In a Roth 401(k) plan (or Roth IRA) a person will pay income taxes on the contributions. However, future retirement withdrawals will be tax free.
38. For lower income workers, an additional retirement savings tax credit (the Saver's Credit) can further reduce their tax bill.
39. Restrictions and penalties apply for early withdrawal of retirement savings (for example, before retirement or disability). These restrictions exist as a trade-off for the valuable tax incentives and are designed to help ensure savings remain and grow until workers reach retirement.
40. Retirement savings arrangements play an important role in the capital markets. This pool of capital helps to finance productivity-enhancing investments and business expansion.

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