UNLOCKING SMALL BUSINESS RETIREMENT SECURITY

HEARING

BEFORE THE

COMMITTEE ON SMALL BUSINESS
UNITED STATES
HOUSE OF REPRESENTATIVES

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UNLOCKING SMALL BUSINESS RETIREMENT SECURITY

WEDNESDAY, MARCH 27, 2019

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SMALL BUSINESS.
Washington, DC.

The committee met, pursuant to call, at 11:31 a.m., in Room 2360, Rayburn House Office Building. Hon. Dwight Evans [vice chairman of the committee] presiding.

Present: Representatives Finkenauer, Kim, Golden, Davids, Evans, Schneider, Espaillat, Delgado, Houlahan, Craig, Chabot, Kelly, Balderson, Hern, Hagedorn, Stauber, Spano and Joyce.

Mr. EVANS. [Presiding] The Committee will come to order.

I want to thank everyone for joining us this morning, and I want to especially thank the witnesses for being here today.

Whether we are working for small or large businesses, a not-for-profit, or a sole proprietor, every American deserves to retire with security and peace of mind. Unfortunately, far too many Americans are facing a crisis: the inability to fully retire with dignity in a life after hard work.

Many of today's workers are nowhere close to having enough saved away to ensure a quality secure retirement. In fact, half of all American families near retirement have $12,000 or less in retirement savings, and one-third have less than $5,000 savings for retirement.

What is more, among non-retirees in their 50s and 60s, 1 in 8 lack any retirement savings and less than half of them think their retirement savings are on track, according to the latest Report on Economic Well-Being of U.S. Households. Even among young workers, saving for retirement remains a struggle or even an afterthought. The high cost of an education has made retirement readiness more difficult and for some, impossible.

Given that there are nearly 30 million small businesses supporting 56 million jobs, it is imperative that small firms have the tools and the resources to set up retirement plans so business owners and their workers have financial security. However, when over half of all small businesses do not have a retirement plan set up, we know that more work needs to be done.

In addition to serving as the Vice Chair of the Committee—and I just said to the Ranking Member, no, I am not Chairwoman Velázquez, but she is the Chair—I serve on the Ways and Means Committee. Last month, we had a hearing on improving retirement security where I had the opportunity to talk about the vitality of this issue with small businesses being able to provide retirement benefits to their employees, and also explore some of the obstacles facing small businesses and providing this benefit.

In my home state of Pennsylvania, we have nearly 1 million small businesses employing 2.5 million workers, accounting for 46.7 percent of the workforce for the entire state. Small firms account for 99.6 percent of my state employers. Needless to say, small businesses are the drivers in our community.

In order for these small businesses to remain competitive and to continue to be the economic innovative drivers they are, they must be able to offer substantial benefits to their employees. One of the barriers for the small firms is the cost of setting up a plan along with the cost of administering and maintaining the plan.

Small firms face the ongoing fiduciary duties, such as reviewing investment, running discrimination tests, all while trying to run a business. Needless to say, the process can become burdensome and costly rather quickly. And if the small employer faces too many challenges, they may ultimately feel the burden of providing a retirement plan unfortunately outweighs the benefits. Understanding these challenges can help us better address the solutions to low participation rates among small entities. One approach may be to offer tax incentives to small business owners who choose to sponsor a plan.

Another way is to increase plan participation to allow small firms to band together to offer retirement plans, which could lead to administration savings and reduce the fiduciary responsibility. And making it easier for employees to automatically enroll in retirement plans could encourage small businesses to save for their retirement.

These and other issues merit further discussion. But what is absolutely clear is we must act soon to help small businesses, their employees and entrepreneurs plan for their future. For this reason, we need to make sure that retirement plans are attractive for small businesses as their retirement saving is an integral part of our Nation's future.

And that is why we are here today. The hearing will examine the options for small employers, the benefits and barriers they face in offering plans and options for expanding coverage. It will allow the opportunity to discuss the current vehicles that many small businesses use to provide retirement benefits in ways which they can improve upon.

With the proper tools, America's small firms can help to create financial security for themselves and their workers.

With that, I thank each of the witnesses for joining us today, and I look forward to their testimony.

I would like to yield to the Ranking Member, Mr. Chabot, for his opening statement.

Mr. CHABOT. Thank you very much, Mr. Chairman. And I know you will do everything in your power to live up to the high standards set by Chairwoman Velázquez. And I am sure you are up to the task.

Planning for the future, preparing for what is ahead, and creating a roadmap for success are cornerstones for virtually every small business in America. These phrases guide day-to-day decision making and help determine long-term strategy. They also mark the fundamental basics of retirement security for both small business owners and small business employees across the nation. Unfortunately, saving for retirement is not only a challenge for most individual Americans, it has also proven to be problematic for many small businesses. As a result, some of the Nation's smallest firms and their employees are sitting on the sidelines when it comes to saving for the future.

According to the U.S. Department of Labor, 66 percent of all businesses provide retirement benefit options to their employees. Unfortunately, that means that nearly one-third of all private sector workers are not given an opportunity to participate. Acknowledging the challenges that many Americans have in saving for the future, President Trump signed an Executive Order last August to help small businesses reduce costs and burdens associated with retirement benefits. A key part of that Executive Order was the expansion of multiple employer plans that provide individual employers the opportunity to band together to offer options to their employees. As we await final guidance on the expansion of this program, I look forward to today's hearing exploring some of the challenges facing small businesses as they navigate the retirement landscape.

Additionally, I am looking forward to hearing from our witnesses about what Congress can and should do in order to jumpstart savings. As a larger and larger segment of our population grows into retirement age and we are living longer, we must make it a priority to provide small businesses with a menu of retirement options for their employees.

And again, I want to thank you, Mr. Chair, and I yield back.

Mr. EVANS. I would like to thank the Ranking Member.

I would like to explain to you the rules. I would like to take a minute to explain. Each witness gets 5 minutes to testify and members get 5 minutes for questioning. There is a lighting system to assist you. The green light comes on when you begin, and the yellow light means there is 1 minute remaining. The red light comes on when you are out of time, and we ask that you stay within the timeframe to the best of your ability.

To a very good friend of mine, I would like to yield to Mr. Espaillat from New York to introduce our first witness.

Mr. ESPAILLAT. Thank you, Mr. Chairman. And I want to take this great opportunity to introduce our first witness, Ms. Martella A. Joseph. Ms. Joseph is a distinguished and successful small business owner from my congressional district in Harlem. Ms. Joseph is a co-founder and partner of Joseph and Turner Consulting Actuaries, LLC. She is an enrolled actuary certified by the Joint Board of the Enrollment of Actuaries. Ms. Joseph has over 25 years of experience in the field of retirement planning consulting. She specializes in defined benefit plans and defined contribution plans and she provides consulting services in the area of planned assigned funding and administration for a variety of businesses, as well as self-employed individuals. In fact, Ms. Joseph, your office is just six blocks away from my Harlem office, and I wanted to take this opportunity to welcome you to the panel.

Mr. EVANS. Thank you. I am going to introduce the rest of the panel.

Our second witness is Mr. Paul Davidson. Mr. Davidson is the director of project management at Paychex, Inc., where he started the retirement service division with nothing more than the belief, that savings for retirement should an employee benefit access to all. Thank you, Mr. Davidson, for overseeing the retirement plan service division at Paychex, administrating more than 77,401 plans with a concentration on small plan market, Paychex simplifies and minimizes the administrative burden for the employer, allowing businesses to offer employees state of the art retirement. Welcome, Mr. Davidson.

Our next witness is Mr. Greg Gorgone. Right? Did I get that correct? Gorgone. I apologize. Mr. Gorgone oversees all accounting, finance, HR, recruiting, contracting functions, and support of Citizant's growth and strategic plans. In his role, he provides strategic counseling, integrated planning, due diligent leadership in support of business acquisition. During his tenure, Mr. Gorgone has overseen major recapitalization, refinancing efforts, and was instrumental in developing the company's financial management. I would like to welcome you, Mr. Gorgone.

I would like to yield to our Ranking Member, Mr. Chabot, to introduce our final witness.

Mr. CHABOT. Thank you, Mr. Chairman.

I would like to introduce Keith Hall. Mr. Hall is the President and Chief Executive Officer of NASE, the National Association for the Self-Employed. With 50,000 members, NASE is one of the nation's leading authorities and resources for the country's self-employed and microbusinesses. With a membership consisting of both service-oriented and information-oriented businesses, NASE offers resources to help the nation's smallest firms navigate the legal, tax, health, and retirement challenges that they face. Prior to serving as NASE's top executive, Mr. Hall was the organization's Chief Operating Officer, Chief Financial Officer, and its National Tax Advisor. And we welcome you here this morning, Mr. Hall. Thank you.

Mr. EVANS. Thank you.

Ms. Turner-Joseph, we would like to recognize you for 5 minutes.

STATEMENTS OF MARTELLA A. TURNER-JOSEPH, FOUNDING PARTNER, JOSEPH & TURNER CONSULTING ACTUARIES, LLC; PAUL F. DAVIDSON, DIRECTOR, PRODUCT MANAGEMENT PAYCHEX, INC.; GREG GORGONE, CFO, CITIZANT, INC; KEITH HALL, PRESIDENT AND CHIEF EXECUTIVE OFFICER, NATIONAL ASSOCIATION FOR THE SELF-EMPLOYED

STATEMENT OF MARTELLA A. TURNER-JOSEPH

Ms. TURNER-JOSEPH. Good morning. I would like to thank Chairwoman Velázquez, and Ranking Member Chabot, for the opportunity to speak with you about how to achieve a secure retirement for small business owners and their employees.

My name is Martella Joseph, and I am an enrolled actuary. My husband, Eugene Joseph and I are co-founders of Joseph and Turner Consulting Actuaries, LLC, located in Central Harlem, New York City. Joseph and Turner Consulting Actuaries, LLC, provides actuarial, consulting, and plan administrative services for retirement plans covering thousands of participants, and we specialize in small business plans. The average size of our plans is roughly anywhere between 10 to 20 plan participants.

I am a member of the American Retirement Association and served on the Board of Directors for 12 years. The American Retirement Association represents more than 25,000 retirement plan professionals nationwide from actuaries like myself to consultants, administrators, financial advisors, attorneys, and accountants. Our members provide consulting and administrative services to millions of American, savers and retirement plan sponsors. Our mission is to help American workers strengthen their retirement security through workplace retirement plans, particularly for small businesses.

For most Americans, particularly those with moderate income, the key to a successful retirement is having access to a workplace retirement plan. These plans particularly benefit the middle class. Studies have shown that 66 percent of active participants in 401(k) and other profit sharing plans have an adjusted gross income of less than $100,000. And of these, more than half have income of $50,000 or less. Most importantly, workers earning between $30,000 and $50,000 are 12 times more likely to save for retirement through payroll deduction in a workplace retirement plan than on their own in an IRA.

Despite the success of the private retirement system, the American Retirement Association recognizes that far too many American workers still lack access to a workplace retirement plan, particularly those working for small businesses. Fortunately, there are easy and impactful ways that Congress can take action to increase the availability of workplace retirement plans. We strongly urge Congress to enact the Retirement Enhancement and Savings Act (RESA) as quickly as possible, along with additional legislation to drive greater access to workplace retirement plans, as well as enhance the overall experience for those currently participating in the system. RESA includes several provisions that when taken together will make a considerable, easier for small businesses to adopt and maintain a workplace retirement plan.

It has been far too long since comprehensive retirement legislation has been enacted. Since the last such legislation, the Pension Protection Act of 2006, the retirement marketplace has continued to innovate by offering new and lower cost retirement-related products, financial wellness tools, and improved decumulation strategies. However, public policies that could promote more innovation in the retirement arena have not kept pace. The passage of RESA would certainly be a step in the right direction.

In addition to RESA, we also support Chairman Richard Neal's legislation to further encourage businesses to offer their employees access to a payroll deduction savings program.

And I see that my time is running out so I will cut this short by saying that Chairman Neal's Automatic Retirement Plan program and his Auto IRA program are two pieces of legislation that will be very, very helpful for small businesses to start retirement plans that act kind of like training wheels on a bike where employers can get used to implementing a workplace retirement saving program with no required contributions.

I will finish by saying, again, thank you for having me here to discuss this topic, and I will be happy to answer any questions.

Mr. EVANS. When I go back to the meeting I will make sure I mention that to Mr. Neal.

Mr. Davidson?

STATEMENT OF PAUL F. DAVIDSON

Mr. DAVIDSON. Congressman Evans, Ranking Member Chabot, and members of our Committee, good morning, and thank you for the opportunity to testify today.

My name is Paul Davidson. I am the direct of product management at Paychex. I have worked in the small business retirement space for over 30 years and believe retirement security is a critical issue facing our country. I applaud the work that Congress and this Committee are doing to try to address the challenges many small business owners and employees face when it comes to saving for retirement.

Paychex is a leading provider of payroll, benefits, human resources, and insurance services. Paychex serves over 650,000 small business payroll clients and pays one out of every 12 American private sector employees. With an average client size below 20, most of our customers are true "mom and pop" businesses.

Paychex now administers more than 80,000 401(k) plans for small businesses. Last year alone we worked with over 14,000 small businesses to start new retirement plans.

While we are very proud of that accomplishment, to this day, over 70 percent of Paychex's small business payroll clients do not offer a retirement plan benefit. As the Committee well, knows, while the retirement crisis impacts all types of American employers and employees, it has a disproportionate impact among small businesses. According to a Paychex small business survey, more than half of small business owners do not have a formal retirement savings program at their business. At the same time, 69 percent of small business owners in our research declared zero to little financial preparedness for their retirement.

Our current policies put heavy responsibility on the small employer if they offer a qualified plan. They can either pay an extra 3 percent of payroll into the plan to get assurance of a safe harbor, or they can leave themselves vulnerable to compliance testing. If they become out of compliance, which is easy to do with a small number of employees, they often face large, unexpected and unbudgeted costs.

We believe there are a variety of policy changes that could be made that would significantly increase the number of small businesses able to offer retirement plans to their employees. Congress has begun taking action, and I believe many of the proposals are steps in the right direction. For example, the Retirement Enhancement and Savings Act (RESA) makes a variety of changes that would be helpful to small businesses, such as an increased tax credit. Senators Portman and Cardin also have been working on bipartisan legislation, and the Ways and Means Chairman, Richard Neal, has been a leader in this space. And, of course, we commend this Committee for making retirement security a priority and for ensuring that small businesses are at a critical part of the conversation and the solution. In addition, much of the good work that is going on in Congress in the space, we believe there are additional steps that could have an even more dramatic impact.

When we discuss retirement plans with our small business customers, the obstacles to our plans really come down to three areas—complacency, complexity, and cost. It is important that we do not segregate American workers by the size of the company they work for. Our existing policies have achieved maximum penetration in the large and midsize market. Now, we need to focus on lowering the burden to the employer so all workers, even those at small companies, can save for dignified retirement.

I believe you could dramatically increase the number of small businesses offering retirement plans if you address each of these head on. Here are a few things I would recommend:

Provide a safe harbor that does not require a match. Why do we make the employer pay to have his employees safe?

Allow small businesses to outsource some of the fiduciary responsibility to professionals. Do not make the small business owners become legal experts.

Make all employees immediately eligible for the plans. Require automatic enrollment in the plan. This would ensure wide participation and alleviate the need for our complex compliance testing today.

These changes would eliminate the need for top-heavy compliance and coverage testing when the business would know the cost at each payroll and would not be surprised by cost driven from a compliance failure. As a result of these changes, small businesses would be able to offer a plan that was simpler, less expensive, and more accessible to employees.

In closing, most small businesses that we meet with want to offer an employee benefit retirement plan. However, once they consider the cost and the regulatory burdens, many choose not to move forward. Making it simpler, easier, and less expensive for small businesses to offer retirement savings programs for employees is sound public policy and the right thing to do for American small businesses and workers, allowing all Americans to save for a dignified retirement.

I thank the Committee for their leadership on small business retirement issues and for the opportunity to participate in the discussion today.

Mr. EVANS. Thank you, Mr. Davidson.

Mr. Gorgone, you have 5 minutes.

STATEMENT OF GREG GORGONE

Mr. GORGONE. Vice Chairman Evans, Ranking Member Chabot, and members of the House Small Business Committee, thank you for the opportunity to speak today.

Small businesses employ approximately 47.5 percent of all private sector employees and face a myriad of challenges when it comes to offering retirement plans. In a study published by the PEW Charitable Trust in January 2017, they found that 71 percent of small business owners surveyed stated that it was too expensive to set up a retirement plan, 63 percent stated they did not have the resources to administer a plan, and 50 percent stated their employees did not want a retirement plan.

While it is certainly true that employees of small businesses that do not offer retirement plans have retirement options available in the form of IRAs, the incentives to IRAs pale in comparison to a 401(k). The current maximum deferral for an IRA is $6,000 a year, compared to $19,000 a year for a 401(k). Furthermore, employees working for small businesses not offering a 401(k) are missing out on employer contributions, which could be as much as 50 percent of the funds set aside for retirement.

Additionally, participation in an IRA requires a level of self-discipline requiring employees to manually put funds into an IRA versus automatic payroll deductions.

Small businesses not offering retirement plans are at a distinct disadvantage competing for talent. Prospective employees are more likely to take jobs with firms that offer retirement plans. The inability to attract a top-notch workforce stunts growth for small business.

In an August 2017 article published by People Keep, the author noted that the number of workers for whom retirement programs is an important benefit is near 70 percent.

My employer, Citizant, was unable to offer any form of retirement plan to its employees for the first 4 years of operation. Only when it was generating roughly $4 million of revenue and had 50 employees could it afford a retirement plan.

Small businesses that offer retirement plans face the challenge of increasing employee participation. The most often cited reason for nonparticipation in retirement plan is financial. Employees cannot absorb the reduced household cash flow. Many are forced to prioritize the need for health care over retirement savings. This is especially true with lower income levels, and due to the complex rules of 401(k)s the nonparticipation of lower income employees negatively impacts the ability for higher income employees to defer the maximum amounts.

Recently, we have noticed a trend amongst the more highly compensated employees in their 20s and 30s. Faced with a large student debt payment, this latter group struggles to make ends meet and cannot service their debt and save for retirement at the same time. They, too, are missing out on employer contributions that might be available.

The IRS, in a 2018 private letter ruling, granted a taxpayer permission to modify its 401(k) to allow it to make contributions on behalf of an employee provided the employee was making student loan payments. Under this ruling, employees can receive retirement contributions just as if they are participating in the 401(k). This benefit should be provided to all employees of all companies, small and large.

Other recommendations mentioned by members of the U.S. Women's Chamber of Commerce in a recent survey to incentivize and assist small businesses to offer retirement benefits include allow multiple small businesses to pool their resources to form and administer shared multi-employer 401(k) plans managed by experienced 401(k) plan providers; create greater tax incentives for small businesses to mitigate the cost of setting up and administering retirement plans; simplify the requirements and administration and legal reporting requirements for plans offered by small businesses; reduce the need for third-party administrators all together; allow self-directed investment management through vehicles like exchange-traded funds and promote investment vehicles that do not contain additional layers of fees which reduce the retirement savings benefits; incentivize employee savings and use of retirement plans by providing an easy, flexible, low-cost, low-fee small business sponsored investment plan.

Thank you for your support of American small businesses. I encourage you to help incentivize small business owners to provide strong, affordable retirement benefits for small business owners and their employees.

Mr. EVANS. Thank you, Mr. Gorgone.

Mr. Hall, you have 5 minutes.

STATEMENT OF KEITH HALL

Mr. HALL. Thank you, Vice Chair Evans, Ranking Member Chabot, members of the Committee. I also say thank you for holding this hearing. You can tell by just looking at me already that this is a topic that I am extremely interested in because I am getting ready for that as well.

I wish this Committee has pushed this subject when I was 25, rather than I am at the age that I am now. So thank you so much for doing this. I think this is very important.

We represent the 30 million self-employed business owners in this country. We estimate that number to be about 50 million by 2025. To put that in perspective, and I know I am kind of speaking to the choir here but to put that number in perspective, the IRS process is about $150 million tax returns a year. So by 2025, one out of every three of those tax returns will have a small business attached to it. So helping those small businesses manage their own businesses help grow the economy is very important. And I think the retirement issue is becoming more critical to them.

Now, I hate going last because I end up just saying I agree with everyone else, so I have a bunch of the same statistics that other people have talked about so I do not want to bore you with all those numbers again. But one additional statistic that I would add is that the AARP—I do not even want to tell you why I know about the AARP—but the AARP, they say that in the next 15 years that about 18 percent, one in five retirees will retire with more debt than savings. And that hurts my heart. I wish there had been someone like us, you know, grabbing the back of my neck when I was 25, telling me to start saving. And I think that is what we are here to do. To be honest, I struggle a little bit with what we can do because I do believe in my heart at some point people just have to do it. You have got to start putting money away for savings. I hate showing a problem without offering some solutions, so I do have three things that I know I want to concentrate on, and I would ask you to concentrate on them as well.

Number one is just awareness. This hearing is a great first step. Getting people to be aware that you are not always going to have the job you have. You need to put some money aside. If you believe the Social Security System is going to be available for you when it is your time, some of the younger people in the room, I worry about that as well. So providing these surveys, the AARP survey, the Pugh Charitable Trust Survey, lots of people are doing surveys. The more information we can put out there I think the better. I think that is a critical first step. So thank you for this part.

The second thing is education. And I think this is where this Committee, where you guys, where people like me who work with associations of small business people can come in to play and that is education. Teaching people what they need to put away. How they need to put it away. I think we can bring some pressure or encouragement, whichever word we want to use, on the Small Business Administration, Small Business Development Centers, local universities to do seminars, webinars, encourage them to add this topic to their important list of things that people need to know about. Now, awareness and education, those kind of all fee good but, you know, what does that mean I do on Thursday morning? That is a little more difficult.

The third thing is kind of what you have heard from some other members here, and that is concentrate on simplifying the options for small business. I think everyone agrees that one of the big hurdles that small businesses face are the cost of implementing a plan. If we can help them with multiple employer plans, reduce the cost, you can imagine a nationwide or a statewide plan that small businesses could join that have joint investment options, joint choices, the fees could be lower. If they could then add their five employees to someone else's five employees, I think there are lots of creative people out there that can put together that concept to make a difference for retirement plan options. I think adding some of the things that Paul had talked about, reducing some of the Safe Harbor requirements, reducing some of those matching requirements so that that small business owner who just has five employees, that they want to help save for retirement but really cannot afford a profit sharing match or a 3 percent match, give them an opportunity to put the plan in place without some of those extra mandates. I think there are lots of options.

So I think awareness, education, and then making it simple always, I think that is where we really need to put all of our efforts.

And thanks again for allowing me to be here. Thanks for raising this issue to the top, and I appreciate what you guys do. So thank you.

Mr. EVANS. Thank you, Mr. Hall.

I know that the Chairwoman, if she was here, she would definitely tell you that she gives you kudos and all of you for what you have said. So I know that she felt very strongly about this hearing and the importance of this hearing.

Mr. Gorgone, last month I met with members of the Pennsylvania Small Business Center. One of the concerns they brought to my attention was that young entrepreneurs are facing great difficulties starting businesses due to student loan debt. As a small business owner, I know you care deeply about your employees and want to make sure they take every step to ensure a quality retirement for them. However, many young workers are faced with the choice of saving for retirement or paying off student debt. Can you, and I heard in your testimony, highlight some of the steps Congress can take? And can you expand on these that will address the challenges of young workers? Mr. Gorgone?

Mr. GORGONE. Thank you, Vice Chairman.

I think the number one thing that I would like to see Congress do to help the person paying off student debts is just to give them the opportunity to participate in a 401(k) without them personally having to put money into it. Allow an employer to match the amount that they pay for their student loan as if it was a 401(k) contribution. Allow the employer to match that amount up to their internal 401(k) plan into a 401(k) for that employee. It gives them something which is better than nothing. Beyond that I think there are other areas that we can research and get back to you on through the Women's Chamber of Commerce. I do not have any other fresh ideas right now.

Mr. EVANS. Well, I want you to hold your thought because I am going to go to you and to Ms. Turner-Joseph. I feel that it is our job to do what we can do to help small businesses be competitive. A large part of remaining competitive is being able to attract talent and the ability to offer substantial benefits is critical. To both of you, in terms of recruiting and retaining employees, do you find that having a retirement plan is something that employees consider when choosing where to work? I will start with you.

Mr. GORGONE. I think the question to that is an absolute yes. We have seen it in the studies where 70 percent of the workforce believe retirement is an important benefit. Fortunately, my company does offer a retirement plan, but we see people making choices between how good is your retirement plan versus how good is somebody else I may be talking to. You offer a 3 percent match. They might offer a 5 percent match. So retirement benefits are a crucial part of the equation when prospective employees are making decisions of where to work.

Mr. EVANS. Ms. Turner-Joseph?

Ms. TURNER-JOSEPH. Thank you, Mr. Chairman.

If I may, I would like to go back to the question that you asked about student loans and those who are having problems paying off student loans as well as saving under the retirement program. I think one thing that could be added, I know there is legislation out there pertaining to having plan participants get a matching contribution on their student loan and I think that is a wonderful move. But what you can do also to motivate employers to want to participate in this program is allow the student loans that are being matched to be considered in the testing for the nondiscrimination rules for the elective deferrals. And also have the matching contributions being tested in the test for matched contributions. That will be a big incentive for employers to want to participate in this program because they are providing benefits for their plan participants and also it is helping the plan, and I think that is a good exchange.

Do I have time to answer? Okay.

As far as whether or not employees look at retirement benefits when they are making decisions about employment, yes, the retirement program is one of the things that employers use to attract the best out there as far as available employees and the employees do look at pension benefits when they are comparing employers as to where to work.

Mr. EVANS. Thank you. My time has expired. I am going to yield to the Ranking Member, Mr. Chabot, who is recognized for 5 minutes.

Mr. CHABOT. Thank you very much, Mr. Chairman.

Mr. Hall, I will begin with you if I can. I briefly mentioned early on President Trump signed an executive order last August that aims to expand retirement benefit options to small businesses, and in your written testimony you mentioned it several times. And since you gave your written testimony I do not think you went into it here. But if you could share with us why you believe that that expansion, the multiple employer plans could actually make a difference if it were implemented.

Mr. HALL. Thank you for the question.

The main reason I believe that it could certainly make a difference is because of the cost of entering into the field of play. I think many small businesses, and I think T. Rowe Price actually in their survey mentioned that less than half of self-employed people currently are saving for retirement. And if a self-employed person has four employees, they are not saving for employment. They are probably not offering a plan for their employees either. And mostly the reason they are not is because it is expensive to have a plan. It is complicated to have a plan. They have to worry about testing. They have to worry about compensation limits, safe harbors, and it just gets expensive. And I think the multiple employer plan has an opportunity to reduce that cost. I am certainly not creative enough to figure out the plan but the thing I believe I would love to see is a plan sponsored by a state, by T. Rowe Price, maybe joint partnerships, some plan. And there is a nice model out there with association group health plans from the past that a small employer who has got five employees can just say I want to be part of this 401(k) plan and sign up. Costs are reduced. They have got lawyers in place. They have got testers in place. They have got actuaries. They have got CPAs. Their employees can just sign a piece of paper and say start withholding 4 percent of my pay, send it to Paychex. They get reduced tax for it and they are starting saving for their retirement. And now the small business owner has adopted a plan, they are saving for themselves, they are helping their employees save, which I think is what we are trying to get accomplished here. And if the MEPs can reduce that cost, then by definition it has already made a tremendous difference.

Mr. CHABOT. Okay. Thank you very much.

Ms. Turner-Joseph, if I could go to you next. What would you say is the number one retirement issue that small businesses come to you with, and what do you tell them when they come to you with that problem?

Ms. TURNER-JOSEPH. The number one issue that employers present to me is the fear of sponsoring a plan and the responsibility that comes with sponsoring a plan. Because of the job that I do, I am able to alleviate that fear for them most of our clients are small and we do a lot of handholding. So, we walk them through what they have to do, what responsibility we are able to take off their shoulders and do it for them. And once we have completed the job, we sit them down and explain to them what is being done. So, education and understanding the process is half the problem. And having someone with them, which I consider myself with them, to walk them through the process and let them realize that I have got their back, so to speak, it makes it a lot easier.

Mr. CHABOT. Thank you very much.

Mr. Gorgone, let me go to you next, if I can.

As was mentioned here by somebody before, Americans tend to oftentimes now—in the past maybe they graduated or whatever, worked for this company and worked with them or maybe two companies their entire life. Nowadays, people tend to move around and work for various companies and entities, and oftentimes, they have got a retirement plan there or they have set up an IRA and then their spouse has an IRA and then maybe when ROTH IRAs came they are thinking about the tax consequences. They have got all these different things. And what would you recommend or what are people doing nowadays when they have all these different things to figure out, you know, well, I am 65 or I am going to be 70, and if I do not start taking certain stuff by then there are penalties. You know, what do you recommend people do, and is there anything we can do to simplify this whole process for them?

Mr. GORGONE. I think one of the things I would recommend that people do is as they change jobs throughout their careers they continue to move their retirement with them. When you have 8, 9, 10 different retirement plans, tough to keep track of what you have got and where it is and how much it is.

Mr. CHABOT. Can they combine them into one entity at this point?

Mr. GORGONE. You can roll them over from one employer to another.

Mr. CHABOT. Even the IRAs and things which they have set up individually or not?

Mr. GORGONE. I would have to defer to a tax expert to answer that question, but I believe an IRA can be rolled over.

Mr. CHABOT. I see some nodding of heads, both in the audience and here. So I am going to——

Mr. GORGONE. So the key to the second part of your question is knowing how much they have available to them and then planning the rest of their lifetime, how much money, how long is that going to last them to start taking out the withdrawals at the appropriate times in their retirement age, but the key is knowing how much you have got and having it in one place goes a long way to getting there.

Mr. CHABOT. As Mr. Hall mentioned before, as I get older these issues I am raising are becoming less theoretical and more personal.

So anyway, I yield back, Mr. Chairman. Thank you.

Mr. EVANS. Thank you, Mr. Chabot.

The next person is the Chairwoman of the Subcommittee on Rural Development, Agriculture, and Trade and Entrepreneurship, Ms. Finkenauer.

Mr. FINKENAUER. Thank you very much, Mr. Chair. And thank you to our Ranking Member and our great guests here today.

This is an incredibly important topic, and I know Mr. Chabot talked about how this is personal for him, and I have got to tell you, as a young woman who got elected to Congress at 29 and now I am 30, I have a lot of friends that I grew up with in Iowa where this is very personal to them as well.

The idea and the discussion around retirement right now, especially when talking about young folks and student loan debt is one of, I believe, one of the biggest challenges we are going to have here in the next 20 years. And I am somebody, again, who is sitting there with, you know, about $20,000 of student loans left. I am not alone. In Iowa, a lot of us were first generation college graduates so our parents worked really hard, helped get us to college but could not pay for it all so, again, sitting there with the debt on top of it and I have got friends that, you know, graduated from college and then took a job possibly at a nonprofit where they are making about $35,000 a year. Incredible, amazing, fulfilling work, but again, the wages in my state in particular, are some of the lowest in the country. Our minimum wage is still $7.25. So you look at Iowa in particular and the young folks that I have been talking to, friends, family, and the idea of, okay, well, now we need you to put more into retirement when they are just trying to figure out how they are going to pay their rent, it is a huge issue. And so thank you for the work that you have done on this.

And one of the things that I keep trying to talk to, you know, again, folks in Iowa, but also here about how we deal with some of the challenges that young folks are facing and also in states like Iowa where we are trying to keep folks in my state and also bring them back home is creating opportunities for young people to then start businesses and create jobs in some of our smaller communities. But, again, one of the biggest hurdles is always going to be how are you going to save for retirement on top of it if you do not have an employer match?

So do you have any ideas? I know Ms. Turner and Mr. Gorgone, I know obviously student loan debt, this is something you guys have looked into a great deal, and Mr. Hall and Mr. Davidson as well, but what can we be doing to better help our small businesses and our entrepreneurs make sure that they can start their businesses and then at the same time not have to worry about their future right away? I know one of the things that has been talked about before, possibly a safe harbor for very small businesses to have 401(k)s, to have lower startup costs, or what are your thoughts on that? Ms. Turner? Oh, it is Ms. Turner-Joseph, I apologize. I just saw the top part of your name.

Ms. TURNER-JOSEPH. One of the things that can be done, and I am happy that you brought up not-for-profit because that is a group of employers that do not have a lot of money. They want to set up something for the employees to be able to save for retirement and the way the rules are set right now, it is not an easy task. Chairman Neal's bills create the Auto IRA and the Auto 401(k) plan. Those plans are plans that are structured such that a not-for-profit or other lean employer can sponsor a 401(k) plan. No employer contributions will be needed, and some of the rules will be relaxed so that employees can make elected deferrals under the plan without the employer having to go through all of the testing that other employers have to go through.

I think something like that is excellent, especially for not-for-profits who will not be able to make employer contributions. It gives the employees a chance to save. And it is also excellent for businesses who are a little timid about getting into the retirement plan market. This is something like training wheels for bicycles. We can go slowly and allow the employees to make elected deferrals. And as time passes and the business grows, then the business can make employer contributions.

Mr. FINKENAUER. Mr. Gorgone or Mr. Hall or Mr. Davidson?

Mr. GORGONE. I would just like to add to what Ms. Turner-Joseph said about the auto enroll. There is a little bit of Big Brother connotation with those words. But at Citizant, we were at about 56 percent participation across our workforce last year. We implemented a new 401(k) plan at the beginning of this year. We implemented an auto enroll giving people the opportunity to opt out if they wanted to, and our participation went from 56 to 90 percent. And about 60 percent of our workforce, okay, maybe 40 percent of our workforce makes less than $35,000. So, and those folk were not participating in the plan. So us taking the action to enroll them in the plan and giving them—we have a 3 percent match—giving them the free money that is found with employer match, those people stayed in the plan and have not opted out.

Mr. FINKENAUER. Thank you. And I believe I ran out of time, so I yield back and I am very grateful.

Mr. EVANS. Mr. Hall?

Mr. HALL. I was just going to add——

Mr. FINKENAUER. Thank you.

Mr. HALL.—it still comes back to cost. I think the thing we can help most with the smaller businesses, if any of these ideas we come up with, whether it is reducing safe harbors, what the multiple employer plans would look like from a cost standpoint, that is where we can make a difference for them. Because I think the right advice that someone at my age would give to someone at your age is do not concentrate so much on how much you have to do this year or doing the max this year. Do not worry so much about how much. Just do something. Get this started. Let it be part of your habit for you as the business owner and for your employees. Just get started. Lowest cost level, get started, then grow with it.

Mr. DAVIDSON. If we are going over then I do have a couple points.

Mr. EVANS. I have to thank the lady. Thank you.

Mr. DAVIDSON. Thank you. So I think there are three points. Two around the individual participants, and that is, as was discussed earlier, to help them, to allow the student loan payments to be matched in the 401(k). That helps everybody. But there is another set of the population. As we know, I think the statistic is 40 percent of Americans do not have $400 in savings. So since the 401(k) has been our most successful saving scheme ever in our history, why do we not allow employees to have more access to that? So why do we not have a rule that they can take out 10 percent or 25 percent for immediate needs?

And then the third part of the question is to the employers, how to make it easier for them. I second what Mr. Hall said. It is about relieving them from the responsibility and offering a plan, just make it easier for them to open it up so all the employees can save. And I think those three things could make a dramatic difference.

Mr. FINKENAUER. Thank you all. I really appreciate it. Thank you.

Mr. EVANS. The gentleman from the great state of Minnesota, Mr. Hagedorn.

Mr. HAGEDORN. The great state of Minnesota. You are correct. Thank you, sir. I appreciate the Chairman's indulgence. Ranking Member, staff, everyone. Thanks to the witnesses.

I think our ranking republican member is on to something, and the concept of portable benefits. Why are we always putting the onus on small business and others to create some corporate-type structure or benefits when we have a lot of people mobile in the workforce moving from job to job, not always staying with one company at a time? Obviously, corporations that have a lot of money to put things together, big businesses can offer incentives that sometimes smaller businesses cannot. Hard to compete with that. But perhaps if we had more, the concept of portable benefits where you take your retirement program with you, into your job easily invested by the small business wherever they land, health benefits, everything. I think that is what we need to move to or look to, especially for folks in the small business community. Does anyone have any thoughts to that? Are there regulatory impediments to that? Tax changes that need to be made? I will open it up to Mr. Hall and then we will go down this way.

Mr. HALL. Well, I think it is a unique time for employment. The thing that I get worried about when I think about changing generations, as people have moved around more, the people that we are struggling with now, those that say 18 percent of the retirees in the next 15 years are going to have more income than debt, a lot of those people were the ones that had a job for 30 years or 40 years. If those people did not meet the need then, we need to make sure we are encouraging young people now, even if they are moving from job to job. And the ability to maintain a ROTH IRA, a traditional IRA, roll those into another plan, all those things are available today. So I do not see the impediment to those. What I still want the conversation to be about is getting more people aware of their future and recognizing that they need to start doing something now. And then the support for small business is giving some of them the options without burdening all the cost, as your point is, to not burden small business with the cost for everyone else, but allow them to put a plan in place with minimal cost.

Mr. HAGEDORN. Anyone else?

Mr. GORGONE. I think one of the challenges that we would face is employees moving from a large organization that has really great benefits to a smaller organization that helps start up a small business. The idea of those benefits being portable would create some sort of challenge for the small business to continue to honor a commitment from a benefit that the individual had, unless I am misunderstanding you.

Mr. HAGEDORN. Yeah. I am talking about people having more individual benefits. It could be a company or some sort of plan put together for individuals to basically latch on to and then they take that from job to job. I am not talking about taking benefits from some company and moving them over to another.

Mr. GORGONE. The one thing I would do there is significantly increase the income deferrals of IRAs.

Mr. EVANS. I agree with that.

Mr. GORGONE. Make an IRA equivalent to a 401(k). The employee can do it on their own. There is no employer match, but that is okay if you are going to do a 401(k) with a safe harbor of no match. There is no harm or foul. It is the same plan. But it at least gives the individual the opportunity to save at the same levels of a 401(k).

Mr. DAVIDSON. I agree with your point. I think there is one clarification I make. What we see is people with large balances, they make sure it gets rolled over. They do not forget their $100,000. The ones that have a smaller balance, those are the ones that need help, and unfortunately, our financial system today, there is not a lot of people chasing around to try to get a $10,000 or $15,000 contribution. And that is right when the balance is beginning to grow and it can begin compounding. So I think the easier we can make it for those small balances to move would make a big difference.

Ms. TURNER-JOSEPH. The pieces that are needed to have portability are already in place. Unfortunately, plan participants have to be proactive when they leave an employer to make sure that they take their account balances with them. Now, under the law you cannot just roll any IRA amount into a qualified plan. The easiest IRA amount to roll into a qualified plan is if you use a conduit IRA, which is an IRA that is set up specifically to take in pension assets. Some plans take ordinary IRAs, but most plans do not. So, if you want the opportunity to move that from one plan to the other, then the plan participants have to be educated that when we quit, we move the monies to a conduit IRA. And a conduit IRA, you can comingle 10 different plan assets and it does not matter. And then you can move that back into a qualified plan if you want to have your money travel with you. So, it is there. Plan participants just have to be educated as to how to use it. And unfortunately, sometimes that is lacking.

Mr. HAGEDORN. Very good. I see my time is up. I would agree with you though. Some of these amounts that you can maybe deposit into accounts each year, some of the tax implications, and I do not use this word lightly, need to be liberalized as far as I am concerned.

Mr. EVANS. Right in the Midwest, the great state of Kansas, Ms. Davids.

Ms. DAVIDS. Thank you, Chairman Evans. And thank you to everyone who came here to testify today. I appreciate it.

So the first thing I want to start off—actually, I really appreciate the last conversation that we were just having. I would love to hear a little bit more. Mr. Hall, you had actually mentioned earlier educating folks and then we ended with Ms. Turner-Joseph just talking about that a few minutes ago. Can you talk a little bit about what educating, when you think about it, what it looks like? And I am going to, somehow the two of you have things that are both very pertinent to what I am curious about here. In the graphs that you provided, Ms. Turner-Joseph, on participation and in 401(k) plans, it looks like if you aggregated the under $50,000 and then the under $100,000 plan participants, it looks like there is a pretty decent amount of participation. It is 34 percent and 32 percent, respectively, and then it drops off significantly as folks' income, annual income increases. So I am curious, when we think about what educating folks looks like, Mr. Hall, is it just plan participation? Is it some of what got brought up last time about making sure that people continue to take their plans with them as we see more of a robust kind of mobile economy?

Mr. HALL. Well, I think there are two pieces of education in this conversation. The one that I believe is important is a broader education concept mainly for people who are not involved in retirement savings now. Most of the surveys we have talked about, look at from either side of the discussion, most of them point to about half of the people are not saving for retirement today. And then whether they are saving the right amount, whether they are going to have the right amount, those are all complicated discussions. But when I think of education, I think of social media. I think of this hearing. I think of news outlets, the Small Business Administration, just a matter of focus on retirement as a concept so that the normal small business owner in Iowa or Kansas is aware that they are going to be 65 one day. And I think, I know it was when I was 30, but when you are 30, you do not think you are ever going to be 65. And then you are 65 before you realize it. And I think just the awareness of the plan, the structure, what is going to happen, how things change, so that you then start looking at options. And I will defer, but there is also a second piece of education, and that is for people that are involved in a plan, recognizing that this is available to you, you need to maximize your contribution because the company is going to match it for you. And then when you do leave, it is portable. You can roll it over. So there is education for those that are involved already, and then the bigger role, we need everyone involved in putting money away for their own future.

Ms. DAVIDS. And then the follow up I have to that is what about educating—so I am thinking about both the employees of small businesses and also the small business owners themselves. You mentioned Small Business Development Centers I think when you were doing your testimony. How are you looking at getting the small businesses educated as not just saving for retirement for themselves, but also using that to attract top talent because we know that small businesses are some of the folks who are worried about things, like pay and how they are going to attract top talent to their companies?

Mr. HALL. And I think it is a big problem. Because I think, again, you go through the numbers. About one in three tax returns are going to have a small business attached to them. That still leaves two-thirds of the people that work for someone else. But of that two-thirds, half of those people work for a small business. I mean, it is the same people, right, but all those work for small business. And I believe with technology, as the world is getting smaller, as people are working from home, I think we are going to find that the average size employee number, the average size of a business is going to fall. I think we are going to have companies that can do global operations, global fulfillment, global servicing with five people, none of them who live in the same state. And those are the types of companies that have difficulty in finding a plan because now they have got just a few number of people. The highly compensated testing is difficult because they just have a few. Safe Harbor is difficult. So now it becomes more expensive. So now how do we do that plan and maintain low cost?

Ms. DAVIDS. Thank you. Thank you, Mr. Chair.

Mr. GOLDEN. Thank you very much. I will now recognize myself for 5 minutes. This is my first action as Chair of this hearing.

I wanted to ask Mr. Davidson, I think you touched upon a little bit talking about retirement enhancement saving provision and startup credit, which was designed to help small employers to set up retirement plans for their workers, currently capped at $500. I wanted to ask, how much does $500 pay for, and how common is it for an employer to dismiss it thinking that it is just not worth it to their business or to their employee?

Mr. DAVIDSON. That is a great question. Thank you. And I would hate to ever say that $500 is meaningless. But you are right. I think it is discounted when they are trying to decide whether to start up a plan or not just because the cost and the long-term commitment you are making goes way beyond the $500. So while I certainly encourage any types of tax credits to help employers start a new plan I favor, but I think it has to be met with lowering the obligations that they have ongoing to make it really viable for the small employer.

Mr. GOLDEN. Understood. Thank you.

Just out of curiosity, what level of tax credit would it take for them to think? I mean, what would you have to raise that cap to for someone to instinctually think, well, that sounds like a good deal?

Mr. DAVIDSON. From what we do, our lowest price is $85 a month. And it can go up to, depending on what your functions and features are, $150 a month. So does that put it in perspective the $500 for you? Yeah. So I think if you could raise that it would probably get more people's attention.

Mr. GOLDEN. Thank you.

For anyone on the panel, and if there is time, each one of you could take it or you can just pick and choose amongst yourselves. Simple 401(k) SEP and other types of plans have strict and often complex rules depending on certain factors like the employee count or contribution limit. For example, simple 401(k) is only available to small companies with less than 100 employees. So I wanted to give you all an opportunity to talk about whether or not there are any changes that could be made to these types of plans to modernize and update them for workforces today.

Mr. DAVIDSON. I guess I will start. There are a couple points I would like to make. One, there are different types of retirement plans. SEP, so forth. But I think we talked about recruiting earlier. The 401(k) has a brand, for lack of a better word. And while people may not understand the intricacies of it, everybody knows it is a good thing and they should have it. So when you are doing your recruiting and you have your posting out on Indeed and you say you have a SEP or something, it marks you as a second level firm. I do not think it helps you in that. So I think rightly or wrongly, I think some of the different plans are not viewed as favorably.

And to me, the ideal plan would be keep it as the 401(k) but alleviate the fact that the employer has so much responsibility and cost. Make it easier so the employer wants to offer it to his employee. Make it easier for him to offer it to his employer so everybody gets a chance to save. And that to me would be the ideal situation.

Ms. TURNER-JOSEPH. I agree with Mr. Davidson that 401(k) is a brand. And if you are looking to expand coverage, you probably want to use that brand. Folks know about it, and so keep it there. What I would love to see is some changes that would allow small businesses to sponsor a 401(k) plan without some of the burdens that come with the legislation in terms of keeping the plan in compliance. If we could, for example, I keep going back to it because it is one of the things that in my work, I have met employers who would love to do a 401(k). They just cannot afford to do employer contributions. So, if something would be there, and it is in bills, we just need to get it passed, where an employer can sponsor deferral only 401(k), as a starter I think that would be very helpful.

Mr. HALL. I totally agree. Again, going last, you have to just say I agree. But I think there are plenty of options out there. I think we talk occasionally about increasing limits. I think increasing the IRA limit, I would be in favor of that also. But I do not think increasing the limits is where the real problem is. It is getting people in. Doing the lowest contributions is where we need to start.

Mr. GOLDEN. All right. Thank you very much. I will yield back 5 seconds.

And I will go ahead and recognize the gentleman from New Jersey, Congressman Kim, Chairman of the Subcommittee on Economic Growth, Tax, and Capital Access.

Mr. KIM. Great. Thank you so much for coming. This has been incredibly helpful for me to understand. My district in New Jersey, Burlington County and Ocean County, a lot of retirement communities there, especially along other Jersey Shore. This comes up a lot, and it is also very much a small business district. A lot of small businesses from the Delaware River to the Jersey Shore. So a lot of what you are talking about really resonates with me. And it has been helpful. I mean, I think, when I think through it, you know, Mr. Hall, I thought your comments there just, you know, really simplified just trying to build that habit of getting people to really just start up, even if it is at a lower amount but just build that habit. And I think what you said about awareness, education, and simplifying was really helpful on that front.

And Mr. Davidson, I think I would like to just build off of some of the points you just made, both you and Ms. Turner-Joseph. I would love to hear a little bit more about some of those burdens about the 401(k). You know, Ms. Turner-Joseph, you were talking about the employer contributions but if you can kind of just enlighten me with just some of the other issues that are out there if they were to try to set up.

Ms. TURNER-JOSEPH. Some of the issues that small businesses have in terms of setting up the plan apart from the contribution is the actual cost of maintaining the plan. There are various non-discrimination tests that have to be done with a plan. There are rules that the plan has to meet in terms of filing paperwork. And you know, to do most of that they are not experts themselves, the employers, and so they need help from outside experts which is why they hire people like myself to assist in maintaining the plan and doing all of the recordkeeping, and other work required for properly maintaining a plan. So that cost is something that an employer who is just starting out may want to shy away from.

Mr. KIM. No, that is helpful.

Mr. Davidson?

Mr. DAVIDSON. Yeah. I think of it in two ways. For the small employer there are kind of two choices today. You can either go the Safe Harbor, which is basically 3 percent of your payroll, which can be a big cost just so your employees can save. The other side you go without making a mandatory contribution but you are subjected to annual compliance testing. And when you are a small employer, one employee leaving can throw you out of compliance and all of a sudden you can be hit with a big bill, which is unbudgeted, unexpected. And many small businesses do not want to take that risk. They were planning on that money for a new truck or a new oven or hiring a new employee and all of a sudden they get a surprise bill from us. It is not a welcome happenstance.

So if we can take that requirement away, and I would say the other part is the fiduciary responsibility. If we allow them to outsource the fiduciary responsibility, my experience is most employers want their employees to save. They want their employees to do well. They just, when they weigh the cost, it is the cost of the new truck or sending their daughter to college, and sometimes retirement plans fall second. So if we can alleviate that I think we can see the vast majority of American workers saving.

Mr. KIM. That is helpful.

Mr. Davidson, I want to return to something you said earlier in response to a question. You had cited this statistic that I often use which is that 40 percent of Americans cannot handle a $400 emergency.

Mr. DAVIDSON. Right.

Mr. KIM. And something that you said in response to that was about allowing employee access to the 401(k) without penalty. Can you give me a little bit more detail on how that would help alleviate some of the concerns with people who are living with that fragility in life?

Mr. DAVIDSON. Sure. So in my perfect world, I would like to see it easier for the employer to offer a plan, but he offers it, or she offers it with automatic enrollment. In other words, everybody, first day, we sign them up for 3 percent contribution in. Now, they have an option. We give them 60 days, or 90 days, or however long that they can get out of it, but you try to start them immediately on that and you get them in the habit of doing the savings. And then, the American public has different needs. I think a lot of them will not touch it until retirement, and that is what you want. Some may need it to pay their college loans back, or those who really cannot get to work tomorrow because the car needs new tires. And if we can get all those people saving and we could have some kind of a rule that you could take 25 percent out of your plan every 3 years or something, I think those that are at the lowest incomes would be more likely to let that 3 percent grow knowing it could help them. And it would also alleviate them having to go find the money to get those new tires to get the car to work tomorrow.

Mr. KIM. Yeah. No, I appreciate that. Thank you so much for helping enlighten me. And I look forward to staying in touch and figuring out how we can implement some of these.

I will yield back the balance of my time.

Mr. GOLDEN. With that I would ask if Mr. Kim has an interest in asking an additional round. Because it would be that time. If you had more questions you can go ahead and ask them.

Mr. KIM. Well, I guess just my last question I guess would be, you know, with where we were just going off of with the 401s, you know, I would like to get just sort of the thoughts of the other two participants, Mr. Gorgone and Mr. Hall. You know, if they share some of those same recommendations, if there are any concerns or thoughts? I mean, I am intrigued by what Mr. Davidson said about allowing employees to access the 401(k), but obviously, I will also have some concerns about people going into that too much. You know, so I know there has got to be sort of a balance there. But I am intrigued by just sort of the assessments of the other two.

Mr. HALL. Well, I do agree with it. I think, again, it is an interesting time. I would say before I knew that there were three states right now that are already doing it I would say you cannot make people save. They need to want to save. They need to know the need to save. Now, I am very interested to see how those states work because that might be something to consider because, you know, if my mom were standing here she would tell me she knows what is good for me and would tell me what to do and I would probably do what she said. But at some point it still comes back to education. I think people need to be aware. I think anybody who is a Harry Potter fan, I think Albus Dumbledore said it is unreasonable to expect a young man to know what it is like to be an old man, but it is unforgiveable for an old man to forget what it is like to be a young man. And I think when you are young, I remember not thinking I needed to worry about that topic. So I agree with the concern on over saving. I certainly do not want them to put away 3 percent of their newly earned savings and then not be able to buy bread. That is not fun. But at some level there should be, or I would encourage involvement via automatic enrollment at some level to start building that habit because I think that is critical.

Mr. KIM. No, I appreciate that.

Mr. Gorgone, do you have any thoughts here? Any other wisdom from children's books?

Mr. GORGONE. I think one of the challenges with having people enroll in a 401(k) is in their mind they are putting money away and I can never touch it. It is like I do not have it. And in case of an emergency, well, I need access to those funds. There are features of 401(k)s that allow people to take loans against the 401(k) and pay themselves interest rather than paying somebody else interest. I think the more fundamental problem though is not the fear of not being able to have the funds available, because if that were the only issue, more than 40 percent of the people would have $400 in savings. And they would have other mechanisms by which they have saved that money that made it available to them. I think when we look across the board, the cost of student loans, the cost of health care, the cost of housing, the cost of a lot of things that we need in our day-to-day lives are a lot more expensive today than they were yesterday. And my dad has always said you can only spend a dollar one way, and you have got to be careful how you spend it. So given a choice between health insurance or housing or student loans or retirement and I am 30 years old, guess which one loses.

Mr. KIM. And no, that is right. And look, this is something that is really at the core of what I am trying to do here in Congress. I just spoke at a press conference yesterday talking about how when asked by a journalist how I will measure my success here in Congress, I told them it would about the 40 percent of Americans that cannot handle a $400 emergency and trying to drop the number of Americans that are constantly at that precipice of fragility. I am trying to figure out how we can help them save, how we can help them understand that they do not have to make these important tradeoffs between student debt, health care, retirement, and other aspects. So look, you know, we are not going to be able to solve these all right here, right now in this hearing, but I hope to be able to continue to draw upon your expertise, your experience, as we try to think of what tools we can that we will be able to comprehensively address that issue. So thank you so much again for your time.

I yield back my time.

Mr. GOLDEN. Thank you very much.

Well, I would like to thank all the witnesses for taking time out of your schedules to join us here today to talk about an important issue. Retirement security is one of the most important issues facing Americans today. Retirement benefits not only provide future financial security for business owners and employees, but also allow entrepreneurs the ability to attract and retain talented individuals as their businesses grow. It is clear from this hearing that improvements to the retirement system must be made to meet the needs of business owners, their employees and entrepreneurs. I know by having scheduled and called for this hearing, the Chairwoman thinks this is a real priority, and she and the Ranking Member look forward to working with members on both sides of the aisle in this Committee to address this important issue.

And with that, I would ask unanimous consent that members have 5 legislative days to submit statements and supporting materials for the record.

Without objection, so ordered.

And if there is no further business to come before the Committee, we are adjourned. Thank you.

[Whereupon, at 12:49 p.m., the Committee was adjourned.]

[Questions submitted to Mr. Paul F. Davidson from Hon. Troy Balderson were not submitted in a timely manner.]

APPENDIX

AMERICAN
RETIREMENT
ASSOCIATION
Working for America's Retirement

Statement of Martella Turner-Joseph, MSPA
On behalf of the
American Retirement Association

House Small Business Committee Hearing on
Unlocking Small Business Retirement Security
March 27, 2019

Thank you, Chairman Velázquez, Ranking Member Chabot, and the other members of the House Small Business Committee for the opportunity to speak with you about how to achieve a secure retirement for small business owners and their employees. My name is Martella Joseph and I am an enrolled actuary. My husband Eugene Joseph and I are co-founders and partners of Joseph & Turner Consulting Actuaries, LLC located in Central Harlem, New York City. Joseph & Turner Consulting Actuaries, LLC provides actuarial, consulting, and plan administrative services for retirement plans covering thousands of participants.

I am also a member of the American Retirement Association and served on the Board of Directors of the organization for 12 years. The American Retirement Association (ARA) is an organization of more than 25,000 members nationwide who provide consulting and administrative services to millions of American workers, savers and the sponsors of retirement plans. The ARA is the coordinating entity for its five underlying affiliate organizations, the American Society of Pension Professionals and Actuaries (ASPPA), the ASPPA College of Pension Actuaries (ACOPA), the National Association of Plan Advisors (NAPA), the National Tax-deferred Savings Association (NTSA) and the Plan Sponsor Council of America (PSCA). The ARA has two key missions: to educate and inform retirement benefits professionals like myself and to advocate for policies that give every working American the ability to have a comfortable retirement.

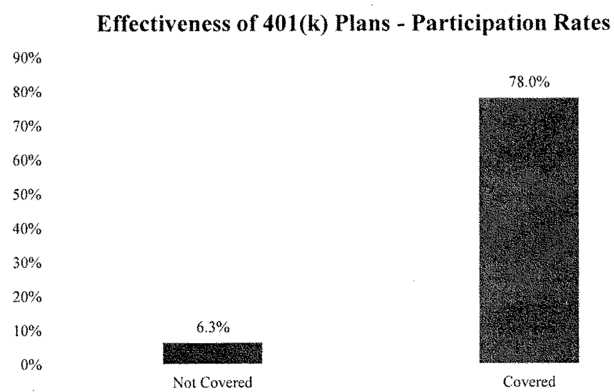
Today, I want to convey the following points:

- Despite the retirement industry's best efforts, too many Americans lack access to a workplace retirement plan.
- Increasing the availability of workplace savings plans will increase the financial and retirement security of American families.
- Congress needs to address this coverage gap by enacting the first comprehensive retirement legislation in over a decade and by incentivizing small businesses to offer their employees access to a payroll deduction savings program.

Why Workplace Retirement Plans are Essential

For most Americans – especially those with more moderate income – the key to a secure retirement is having access to a workplace-based retirement savings plan. Moderate income earners almost exclusively save at work through plans like the 401(k) – the most widely known section of the tax code. Workers earning between $30,000 and $50,000 per year are *twelve times* more likely to save for their families' retirement at work than to set up an IRA and save on their own (see figure one).

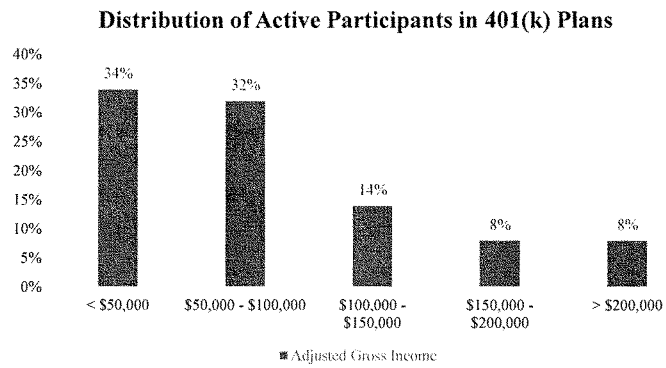
Figure One



Source: Vanguard, *How America Saves 2018* (DC plan participation);
EBRI estimate based on 2015 IRS SOL tabulation (IRA-only participation)

Middle-class workers are the primary beneficiaries of 401(k) plans. Sixty-six percent of active participants in 401(k) and other profit sharing plans have an adjusted gross income of less than $100,000 per year. Thirty-four percent of participants in these plans have income less than $50,000 per year (see figure two).

Figure Two



Source: Internal Revenue Service. Statistics of Income.
Individual Income Tax and IRA Studies - 2015

Simply stated, saving at work, works. That is why it is critical that businesses – particularly small businesses – are encouraged to maintain workplace retirement plans.

The Retirement Savings Tax Incentives Underpin the Workplace Based System

The current tax incentives for workplace-based retirement savings plans are efficient and effective in encouraging Americans across the income spectrum to build a secure retirement. As someone who talks to small business owners about these plans every day, I can tell you that these tax incentives are a critical component in a small business owner's decision to set up and maintain a workplace retirement plan. The contribution limits to workplace retirement plans are higher than for IRAs. However, in exchange for these higher contribution limits, these plans are subject to coverage and nondiscrimination rules that require employer contributions on behalf of employees to maximize the contributions for the owner. For a small business owner, the ability to use tax savings on his or her contributions to generate all or part of the cash flow needed to pay these required contributions for other employees is an important factor in the decision to establish and maintain a workplace retirement plan.

How do retirement savings tax incentives differ from other incentives?

Unlike many tax incentives, the tax incentives for retirement savings are not permanent deductions or exclusions from income. As long as the savings remain in the plan, the taxes are only *deferred* until later years when distributions are made from the plan. The distributions are then subject to tax at *ordinary income* tax rates, even though lower capital gains and dividends rates may have applied if the investments had been made outside of the plan.

What are the current tax incentives?

Employer (a.k.a. plan sponsor) contributions to a qualified retirement plan are tax deductible to the employer and are not subject to FICA taxes. Taxes on any investment earnings on the contributions are deferred and then taxed at ordinary income rates upon distribution. When an employee (a.k.a. plan participant) receives a distribution from the plan, those amounts are also subject to ordinary income tax rates. For lower-income workers, a Savers Credit is available to qualifying individuals with adjusted gross income (AGI) of less than $38,500, and married couples with AGI of less than $64,000. The tax credit ranges from 10% to 50% of the first $2,000 the individual contributes to an employer-sponsored defined contribution plan or IRA.

Limits are placed on both contributions to defined contribution plans and benefits payable from defined benefit plans (pension plans):

- Certain defined contribution plans permit employees to elect to have a certain dollar amount or percentage of compensation withheld from pay and deposited to the plan. These "elective deferrals" are excludable from income for income tax purposes, but FICA is paid on the amounts by both the employer and the employee. For 2019, the maximum annual elective deferral to a 401(k) or similar plan is $19,000. Employees age 50 or over can also make an annual "catch-up contribution" of up to $6,000. Annual elective deferrals to a SIMPLE plan are limited to $13,000, plus a $3,000 per year catch-up contribution for those age 50 or over.

- If the employer also contributes to a defined contribution plan (such as a 401(k) plan) the maximum annual contribution per employee is $56,000. A plan participant that is age 50 or over, and who makes the full $6,000 catch-up contribution to the plan, would have a total annual limit of $62,000.

- The maximum annual benefit payable to an individual from a defined benefit plan cannot exceed the lesser of the average of three year's pay or $225,000. If retirement is before age 62, the dollar limit is reduced. Employers can deduct the amount required to fund promised benefits.

- Annual IRA contributions are limited to $6,000, plus "catch-up" contributions of $1,000 for those age 50 and over.

Compensation more than $280,000 cannot be considered in calculating contributions or in applying nondiscrimination rules under either defined benefit or defined contribution plans. For example, if a business owner makes $400,000, and the plan provides a dollar for dollar match on the first 3% of pay the participant elects to contribute to the plan, the match for the owner is 3% of $280,000, not 3% of $400,000.

What are the Current Nondiscrimination Rules?

Higher contribution limits for qualified retirement plans – both defined contribution and defined benefit plans – come with coverage and non-discrimination requirements. For example, a small business owner with several employees cannot simply open a defined contribution plan and contribute $56,000 solely to his or her account. Other employees who have attained age 21 and completed one year of service with at least 1000 hours of work must be taken into consideration, and the employer must be able to demonstrate that benefits provided under the plan do not discriminate in favor of "Highly Compensated Employees" ("HCEs"), which would include the owner.

Generally, contributions or benefits that are proportionate to an individual's compensation are considered fair. Age can also be considered when determining the amount of contributions that can be made on a participant's behalf. A larger contribution (as a percentage of pay) can be made for older employees because the contribution will have less time to earn investment income before the worker reaches retirement age (usually age 65). Safe harbors are also available. For example, if all employees covered by a 401(k) plan are provided with a contribution of 3% of pay that is fully vested, the HCE can make the maximum elective deferral, regardless of how much other employees choose to contribute on their own behalf.

These nondiscrimination rules, coupled with the compensations limits that can be considered under these arrangements, are designed to ensure that qualified employer-sponsored retirement plans do not discriminate in favor of HCEs. *Non-discrimination rules do not apply to other forms of tax-favored retirement savings.* For example:

- IRAs share the incentive of tax deferral. However, if a small business owner makes a personal contribution to an IRA, there is no corresponding obligation to contribute to other employees' IRAs. However, under the current rules, the contribution limit for IRAs is set low enough (and the limit for employer-sponsored plans high enough) to make a qualified retirement plan attractive to a business owner who can afford that type of plan.
- Annuities purchased outside of a qualified plan share the benefit of "inside buildup" - the deferral of income tax on investment earnings until distributed from the arrangement – but have no limit on contributions or benefits, and no non-discrimination requirements.

This means the attraction of a workplace retirement savings plan for a small business owner is heavily dependent on the interaction of non-discrimination rules and the tax incentives for saving through a workplace retirement savings plan.

Expanding Workplace Retirement Plan Coverage

It has been 13 years since Congress enacted comprehensive retirement legislation, the Pension Protection Act of 2006. Since then, the retirement marketplace has continued to innovate through new retirement-related products, financial wellness tools, and decumulation strategies, but public policy enhancements that could assist the innovations in the retirement arena have not kept pace.

I recognize that, despite the retirement industry's best efforts, far too many Americans lack access to a retirement plan at work. Increasing the availability of workplace savings plans will increase the financial and retirement security of American families. There are actions that Congress can and should take to address this lack of access. An excellent first step would be to make it easier and more meaningful for a small business to adopt a workplace retirement savings plan.

I support proposals that will both enhance the incentives for and simplify the administration of workplace-based retirement savings plans. Many of these proposals were included in the bipartisan and bicameral legislation called the Retirement Enhancement and Savings Act or RESA. RESA includes several provisions that, when taken together, will make it easier for small businesses to adopt and maintain a workplace-based retirement savings plan.

RESA increases the incentives for small business owners to offer a qualified retirement plan by significantly increasing the tax credit available to small employers who offer a plan. Further, it adds a new credit to encourage plan designs that automatically enroll workers into plans with the ability to opt-out, a practice proven to be successful to increase plan participation. RESA allows business owners the proper time to decide whether to adopt a qualified retirement plan by extending the deadline up until the due date of their tax return since it is only then when those decision makers know their true financial situation. RESA gives plan sponsors increased flexibility to choose an administratively streamlined 401(k) safe harbor plan with generous employer contributions for rank and file workers. All these provisions are sorely needed because small businesses face real challenges when deciding to provide a retirement benefit. These new policies will help these businesses make that critical decision with more certainty, clarity, and confidence.

While RESA would improve retirement plan coverage, I also recognize that this could still not be enough to get some businesses to act and that a further nudge is needed. I believe that any requirement placed on employers to offer employees access to a payroll deduction savings program should be designed to minimize the burden on the employer while achieving the desired policy outcome of increasing the availability of workplace savings opportunities.

I applaud Congressman Richard Neal, now Chairman of the House Ways & Means Committee, for his continued effort for more than a decade now to make the availability of workplace savings as widespread as possible. Chairman Neal's Automatic IRA and Automatic Retirement Plan bills will close the retirement plan coverage gap to the greatest extent possible while imposing the minimum possible burden on employers. This approach leverages existing private sector solutions in the marketplace instead of replacing the entire system with a government-run program. These approaches deserve serious consideration and widespread support.

Student Loans and Retirement Savings

A separate legislative proposal would encourage participation in workplace retirement plans, particularly among the millennial generation. The proposal aims to solve a vexing issue for millennial workers – how to save for retirement while decreasing student loan debt. The proposal – included in Senator Wyden's Retirement Parity for Student Loans Act and Senators Portman and Cardin's Retirement Security and Savings Act from the last Congress – would allow employees to receive employer matching contributions into their 401(k) plan account based on the student loan payment amount. Student loan repayments would be treated as if the individual were contributing to their 401(k) plan, which would enable the individual to not miss out on the "free money" on the table that represents the employer matching contribution.

I support a much-needed improvement to this legislative proposal that would allow this innovative plan design to be more attractive to small businesses. The proposal needs to clarify that student loan payments that are matched would be treated as elective deferrals for purposes of the nondiscrimination test called the "Actual Deferral Percentage" or "ADP" test. The ADP test is critical to ensure a retirement plan is not favoring highly compensated employees. Otherwise, the test would be significantly harder to pass, especially for small businesses, since the individuals with student loans would most likely be non-highly compensated employees (NHCEs) who would not have the resources to make elective deferrals.

Summary

Access to a retirement plan at work plays a critical role in ensuring moderate income earners achieve a secure retirement. The workplace-based retirement system has done extremely well for employees who are offered a plan at work. Our primary challenge is to expand access to this successful system and help more small businesses to offer a plan. Congress must promptly enact a long overdue comprehensive retirement bill with the proposals discussed above included to address this challenge.

House Committee on Small Business
"Unlocking Small Business Retirement Security"
Testimony of Paul F. Davidson
Paychex, Inc.
March 27, 2019

Chairwoman Velázquez, Ranking Member Chabot, and members of the Committee, good morning and thank you for the opportunity to testify today. My name is Paul Davidson and I am the Director of Product Management at Paychex, Inc. I have worked in the small business retirement space for over 30 years and believe retirement security is a critical issue facing our country. I applaud the work that Congress and this committee are doing to try to address the challenges many small business owners and employees face when it comes to saving for retirement.

Paychex, Inc. (NASDAQ: PAYX) is a leading provider of human capital management solutions for payroll, benefits, human resources, and insurance services. Paychex began as a small business itself. It was founded in 1971 with just $3,000 and a good idea – to make payroll outsourcing easy and affordable for small businesses. By combining technology with dedicated, personal service, Paychex empowers small- and medium-sized business owners to focus on the growth and management of their business.

Paychex serves over 650,000 small business payroll clients across more than 100 locations in the U.S. and Europe, and pays one out of every 12 American private sector employees. With an average client size below 20 employees, most of our customers are true mom and pop small businesses.

When I started at Paychex in 1994, very few small businesses were offering a retirement plan for their employees. With the belief that saving for retirement should be an employee benefit accessible to all, and not just those that work for large companies, we set out to build a 401(k) product that would be affordable and easy for small businesses to adopt. With a concentration on the micro market, we sought to simplify and minimize the administrative burden for the employer, allowing businesses to offer employees state-of-the-art retirement benefits.

Paychex now administers more than 80,000 401(k) plans for small businesses, making us one of the largest record keepers in the U.S. based on number of plans serviced. Last year alone, we worked with over 14,700 small businesses to start new retirement plans.

While we are very proud of that accomplishment, to this day, over 70 percent of Paychex's small business payroll clients still do not offer a retirement plan benefit. As this committee well knows, while the retirement crisis impacts all types of American employers and employees, it has a disproportionate impact among small businesses. According to a Paychex Small Business Survey, more than half (53 percent) of small business owners don't have a formal retirement savings program at their business. At the same time, 69 percent of small business owners in our research declared zero to little financial preparedness for their retirement.[1]

[1] Paychex Small Business Survey found here.

Among the general population, 28 percent of non-retired adults have no retirement savings and 35 percent private sector workers age 22 and older don't work for an employer that offers a formal retirement savings program.[2]

Our current policies put heavy responsibility on the small employer if they offer a qualified plan. They can either pay an extra 3% of payroll into the plan to get the assurances of safe harbor or they can leave themselves vulnerable to the ADP/ACP and top heavy testing. If they become out of compliance, which is easy with a small number of employees, they often face large unexpected and unbudgeted costs.

We believe there are a variety of policy changes that can be made that would significantly increase the number of small businesses able to offer retirement plans to their employees. Congress has begun taking action, and I believe many of the proposals are steps in the right direction.

For example, the *Retirement Enhancement and Savings Act (RESA)* that initially came out of the Senate Finance Committee makes a number of changes that would be helpful to small businesses. Provisions include an increased tax credit for small employer plan startup costs, incentives for small employers to have automatic enrollment, and favorable changes to Safe Harbor Plans. I know the House is also working on similar legislation and we believe the bill would be a good first step.

Senators Rob Portman (R-OH) and Ben Cardin (D-MD) also have been working on bipartisan legislation, the *Retirement & Security Savings Act*, which would be beneficial to small businesses and their employees. In addition to expanded tax credits and provisions around automatic enrollment, their bill provides eligibility for part-time workers, a saver's credit, and the ability for employees to receive a 401(k) match for paying their student loan.

We appreciate the strong leadership of House Ways & Means Committee Chairman Richard Neal (D-MA) on retirement issues. We support his longtime dedication to improving our retirement system and getting more Americans covered.

And, of course, we commend this committee for making retirement security a priority and for ensuring that small businesses are a critical part of the conversation and solution.

In addition to much of the good work that is going on across Congress in this space, we believe there are additional steps that could have an even more dramatic impact. When we discuss retirement plans with our small business customers, the obstacles to offering a plan really come down to three areas: complacency, complexity, and costs.

It's important that we don't segregate American workers by the size of the company they work for. Our existing policies have achieved maximum penetration in the large and midsized market. Now we need to focus on lowering the burden on the employer so all workers, even those at small companies, can save for a dignified retirement.

Small business owners are extremely busy, and offering a retirement plan is not always at the top of their priority list. We believe the tax credits discussed above can help move the needle on that issue.

[2] Pew research found here.

But for many small businesses, offering a retirement plan is also just too complex. It comes with a fiduciary responsibility, liability, and reporting requirements.

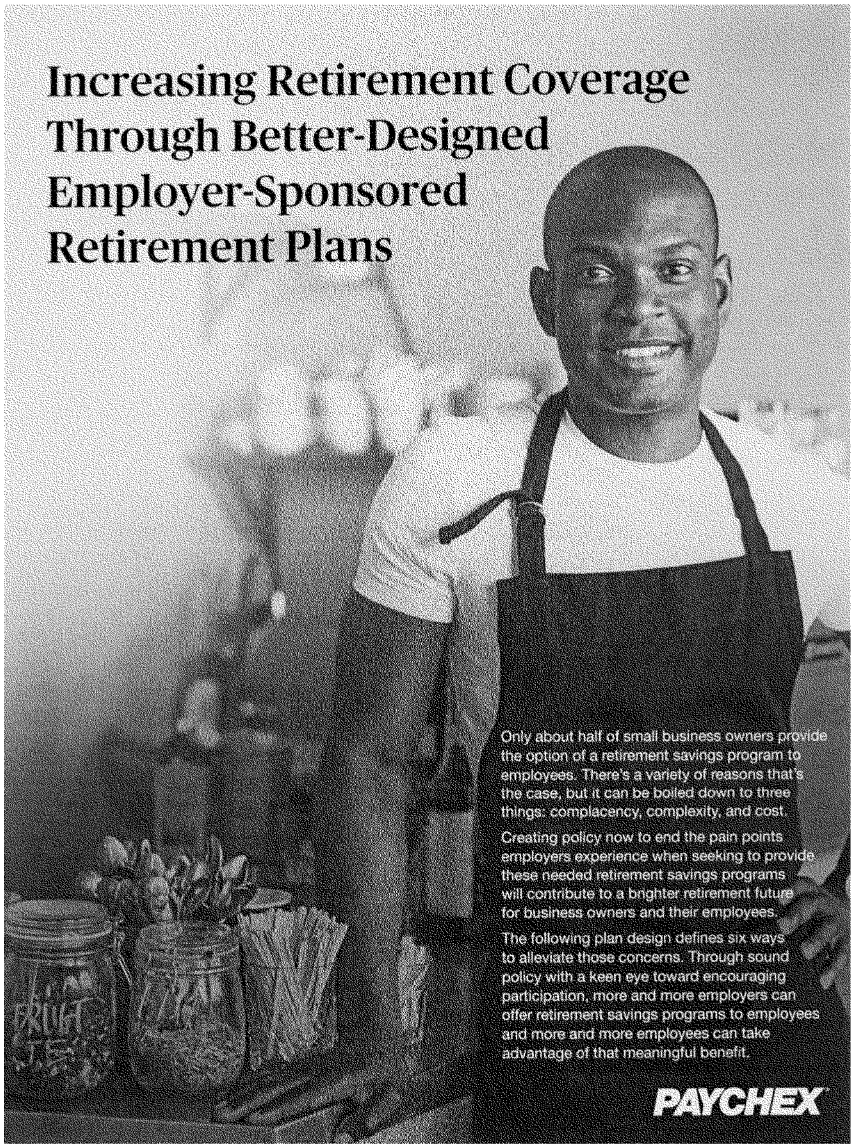
Finally, costs are a significant reason why small businesses don't offer a plan, whether it is the 3% match for a safe harbor plan or getting hit with an unexpected bill at the end of the year after compliance testing.

I believe you could dramatically increase the number of small businesses offering retirement plans if you address each of these head on. An ideal plan for many small businesses would include providing a safe harbor that did not require a match, while also allowing small businesses to outsource some of the fiduciary responsibility to professionals. Making all employees immediately eligible and requiring automatic enrollment for the plan is another step that could eliminate the need for top-heavy, ADP/ACP, and coverage testing. Then the business would know their costs at each payroll and would not be surprised by a cost driven from compliance failure. As a result of these changes, small businesses would be able to offer a plan that was simpler, less expensive, and more accessible to employees.

In closing, most small businesses that we meet with want to offer an employee retirement plan. However, once they consider the cost and regulatory burdens, many choose to not move forward. Making it simpler, easier, and less expensive for small businesses to offer retirement savings programs for employees is sound public policy and the right thing to do for American small businesses and workers, allowing all Americans to save for a dignified retirement.

I thank the Committee for their leadership on small business retirement issues and for the opportunity to participate in this discussion today.

ATTACHMENT


Increasing Retirement Coverage Through Better-Designed Employer-Sponsored Retirement Plans
Only about half of small business owners provide the option of a retirement savings program to employees. There's a variety of reasons that's the case, but it can be boiled down to three things: complacency, complexity, and cost.
Creating policy now to end the pain points employers experience when seeking to provide these needed retirement savings programs will contribute to a brighter retirement future for business owners and their employees.
The following plan design defines six ways to alleviate those concerns. Through sound policy with a keen eye toward encouraging participation, more and more employers can offer retirement savings programs to employees and more and more employees can take advantage of that meaningful benefit.
PAYCHEX

The 3 C's of the Small Business Retirement Crisis

The retirement crisis impacts all types of American employers and employees. Big and small, new and established, across all 50 states. Data from the Federal Reserve Board shows that 28 percent of non-retired adults have no retirement savings. And current conditions don't bode well for turning these numbers around. According to research from the Pew Charitable Trusts, 35 percent of private-sector workers age 22 and older don't work for an employer that offers a defined contribution plan or a traditional defined benefit plan. Among small businesses, the percentage offering these programs is even lower, as owners face unique challenges, fears, and uncertainties when they consider retirement plan options for both themselves and their workers.

In fact, more than half (53 percent) of small business owners don't have a formal retirement savings program at their business, according to a recent Paychex Small Business survey. At the same time, 69 percent of small business owners in our research declared zero to little financial preparedness for their retirement. When asked whether they'll be financially prepared to stop working sometime between the ages of 61 and 65, 21 percent of respondents said they were "not at all confident." This problem doesn't remain isolated to the individual. It impacts families and communities, puts added strain on public benefit programs, and contributes to late life debt of would-be retirees.

53% **of small business owners don't have a formal retirement savings program**

69% **of small business owners declare zero to little confidence in their retirement readiness**

28% **of non-retired adults have no retirement savings**

35% **of private-sector workers age 22 and older don't work for an employer that offers a formal retirement savings program**

The reasons many small business owners are reluctant to offer retirement programs can be grouped into three categories.

Complacency.

Business owners bank on the idea that they'll be able to fund their personal retirement by selling their business. But in many cases business owners believe their company is worth more than it is—putting them in a precarious position by delaying saving for their own retirement and leaving their employees without a formal means to invest in their retirement.

Complexity.

Most small business owners are focused on running a profitable and successful business and often don't understand the responsibilities or liabilities associated with offering a plan.

Costs.

In our survey, 59 percent of small business owners stated they didn't think they could afford to offer a retirement plan. The out-of-pocket and in-plan expenses associated with providing a plan are considered simply too burdensome.

The reality, though, is that growing a business and offering retirement benefits can go hand in hand. Our research found that 72 percent of small business owners who offer retirement benefits say that it's beneficial to their business. Not to mention the expansive and growing support for federal action by companies, both large and small, advocacy organizations, and the Trump administration—as evidenced by the late-August 2018 Executive Order.

Tackle Complacency, Complexity, and Cost

The problems faced by business owners that limit their willingness to provide retirement savings programs for employees don't need to be addressed by a new sweeping entitlement program or unwanted growth of the national debt. Put simply, the following strategies and detailed policy recommendations work to fix the systemic problems impeding long-term financial planning for so many American workers.

- To address complacency, policy should offer additional incentives such as tax credits for employers to start a retirement program.
- To address complexity, policy should relieve the companies' fiduciary responsibilities or allow both investment and administrative fiduciary coverage to be transferred to service providers.
- To address costs, policy should redefine the parameters of Safe Harbor plans to remove required contributions. Plan design needs to allow for streamlined administration and processing, so costs will be known ahead of time and budgeted for. Equity is achieved not by end-of-the-year testing but by auto-enrolling with contribution limits.

Ideal Plan Design

Ideal policy contains six elements to help small business owners provide retirement savings programs for employees, specifically by eliminating what stands in the way: complacency, complexity, and cost. When designing multiple employer plans or other retirement savings plans, the essential features that should be addressed are:

1. Eligibility
2. Auto Features
3. Employer Contributions
4. Fiduciary Protection
5. Compliance Testing/Reporting
6. Safe Harbors

1. Eligibility

Employee Contributions: Eligibility and Notification	Employer Contributions	Withdrawals
• All employees should be immediately eligible to participate in the program. This would ensure that all employees have the opportunity to participate and eliminate the need for minimum coverage testing. To standardize, we encourage no exclusions and all employees be eligible to participate immediately upon hire. Providing a retirement savings program for employees can only work when employees are eligible for the program and informed of its existence. • The employer should notify each new hire, at time of hire, and all employees should receive annual notices of the retirement savings program offered, an explanation of why it's central to a future of financial stability, and encouragement to join. Creating a culture of employees feeling supported by their employer to contribute can positively impact enrollment. • There should be a maximum contribution amount, for example, the greater of 10 percent of wages or $25,000 annually.	• Employers can impose a one-year waiting period on employer contributions such as employer match or profit sharing. But this one-year waiting period should not impact the employees' contribution. The earlier participation is encouraged and happens, the more likely employees will maintain the habit of contributing in the future.	• Employees fear that their money will be "tied up" with high penalties should they need it in an emergency scenario, termination, or family crisis. We recommend that employees be able to take out a certain amount without penalty to meet their needs. For example, employees could withdraw 25 percent up to $100,000 of their vested money on an annual basis with no penalties, but any pre-tax contributions and earnings would be taxed at time of distribution. By allowing withdrawal with the only payment being the taxes owed on contributions that were made with pre-tax dollars, employees will be more likely to save money in a program. By removing the 10 percent early withdrawal penalty, employees will be better positioned and more comfortable to contribute to their savings plan. • Employees should be eligible to take loans of up to 50 percent of their vested balance.

2. Auto Features

Auto-enrollment	Auto-escalation	Auto-rebalance	Auto-distribution
• All employees should be automatically enrolled in the retirement savings program. While enrollment is automatic, to encourage participation, employees can opt out at any time. If the employee opts out within the first 90 days, 100 percent of contributions can be withdrawn without penalty. • Employers can select an auto-enrollment rate of from three to five percent of employees' incomes.	• One of the more important pieces of advice a financial advisor will give to someone setting up a retirement program is to increase contributions as he or she earns more money. On employees' anniversary date, contributions should be increased by one percent annually, up to a maximum of 10 percent. Employees can opt out of this auto-escalation at any time.	• Employees investments should be auto-rebalanced at least twice a year.	• If an employee is terminated and no contributions are made for 18 months, the account balance should be automatically rolled over to an IRA.

3. Employer Contributions

Employer Match	Profit Sharing	Vesting
• Employers can offer a match up to a maximum of 100 percent.	• Profit sharing allocation can be allocated pro rata based on payroll wages. • Maximum profit sharing allocation of 20 percent of payroll wages.	• Employer match should vest immediately. There should no longer be a delay in when the employers' money becomes the employees' money in matching programs. • Profit sharing contribution should vest over three years or less.

4. Fiduciary Protection

Investment Fiduciary	Administrative Fiduciary
• The plan should offer a 3(38) or 3(21) investment fiduciary to ensure the plan has an investment policy statement. • The investment fiduciary should provide a fiduciary report to each employer on a quarterly basis and on demand to all employees.	• The plan administrator can elect to outsource the fiduciary responsibilities to either an independent third party or the hired recordkeeper/TPA to act as the fiduciary regarding plan administration.

5. Compliance Testing/Reporting

Remove Testing Requirements	Government Reporting
• ADP/ACP testing • Top-heavy testing • Coverage testing	• Annual reporting to the Department of Labor/Internal Revenue Service should be provided by the plan, reducing the need for a 5500 tax form. • The plan should provide to the government beginning account balance, contributions, withdrawals, and ending account balance.

6. Safe Harbors

Safe Harbor Requirements	Safe Harbor Benefits
• Auto-enrollment, -escalation, and -rebalance features should be offered in the plan. • Eligibility and vesting rules should be met and maintained. • Employee payroll-deducted contributions and loan repayments should be invested within five business days. • Participant account balances and rules of plan should be made available at all times.	• No required employer contribution. • No compliance testing.

Takeaway

Without proper saving and planning, many Americans face an uncertain and challenging retirement reality. Making it simpler, easier, and less expensive for employers to offer retirement savings programs for employees is sound public policy and the right thing to do for American small businesses and workers.

U.S. Women's Chamber of Commerce

U.S. Women's Chamber of Commerce
uswcc.org

Testimony of
Greg Gorgone
Chief Financial Officer
Citizant, Inc.
(citizant.com)
Chantilly, VA

Before the
House Small Business Committee
"Unlocking Small Business Retirement Security"

11:30 A.M. on Wednesday, March 27, 2019
Room 2360 of the Rayburn House Office Building

U.S. Women's Chamber of Commerce

Chairman Velázquez, Ranking Member Chabot, and Members of the House Small Business Committee, thank you for the opportunity to speak today.

Small businesses – who employ more than 59 million citizens, 47.5% of all private sector employees[1] – face a myriad of challenges when it comes to offering retirement plans to their workforce. Chief among these challenges are the expense related to employer contributions, limited administrative resources, and lack of employee interest. The smaller the business, the more these challenges impact the decision to offer a retirement plan.

In a study published by The PEW Charitable Trust in January 2017[2], they noted that: 71% of small business owners surveyed stated is was too expensive to set up a retirement plan, 63% of the respondents stated their organization did not have the resources to administer a retirement plan, and 50% stated their employees were not interested in participating in a retirement plan.

While it is certainly true that employees of small businesses not offering formal retirement plans still have retirement options available to them in the form of IRA's, the income deferral incentives related to IRA plans pale in comparison to traditional 401(k) plans. In 2019, the maximum income deferral for an IRA is $6,000, whereas the maximum income deferral under a 401(k) plan is $19,000[3]. Furthermore, employees working for small businesses that do not offer 401(k) plans are missing out

[1] Frequently Asked Questions About Small Business, U.S. Small Business Administration Office of Advocacy, August 2018 - https://www.sba.gov/sites/default/files/advocacy/Frequently-Asked-Questions-Small-Business-2018.pdf
[2] Small Business Views on Retirement Savings Plans, The PEW Charitable Trusts, January 2017 - https://www.pewtrusts.org/~/media/assets/2017/01/small-business-survey-retirement-savings_f.pdf
[3] IR-2018-211 - 401(k) contribution limit increases to $19,000 for 2019; IRA limit increases to $6,000, IRS, 11/1/2018 - https://www.irs.gov/newsroom/401k-contribution-limit-increases-to-19000-for-2019-ira-limit-increases-to-6000

on the employer contribution (match) to those plans, which in some cases could be 50% of the funds set aside for retirement. Additionally, participation in an IRA requires a level of self-discipline not found with employer sponsored retirement plans (whether Simple IRA's or 401(k)) in that the employee must make the conscious effort to 'manually' put funds into an IRA versus the automatic payroll deduction feature of an employer sponsored retirement plan).

Small businesses that do not (or cannot) offer a retirement plan to its employees are at a distinct disadvantage when it comes to Talent Acquisition. Prospective employees are much more likely to take positions with firms that offer retirement plans than those that do not. Consequently, the inability to attract a top-notch workforce stunts the growth opportunities for these small businesses. In an August 2017 article published by PeopleKeep, the author noted that 'due to the cost and complexity of traditional group benefits, many small businesses choose to forgo these offerings and instead raise employees' wages. While wage increases can be vital in increasing employee satisfaction – and thereby recruiting and retention rates – they cannot make up for the value businesses lose by not offering formal benefits'[4]. With respect to retirement benefits, the article stated that 'retirement benefits, such as a 401(k) or defined benefits plan, are growing increasingly important in recruiting employees. The number of workers for whom retirement programs is an important benefit is near 70 percent.'[5]

[4] Which Benefits Have the Best Effect on Employee Retention and Recruiting?, PeopleKeep, 8/8/2017 - https://www.peoplekeep.com/blog/which-benefits-have-the-best-effect-on-employee-retention-and-recruiting
[5] Ibid.

Employees of small businesses that do not offer a retirement plan are at greater risk of relying on government-sponsored programs in their golden age, as they may not have adequately provided for their own retirement.

My employer, Citizant, Inc, was founded in 1999 and for the first three years of operation it was unable to offer any form of retirement plan for its employees due to the administrative burden of establishing and managing a plan. In 2003, when the company had roughly $4M in revenue and 50 employees, it was finally able to offer a 401(k) plan with a matching contribution.

For small businesses that have established retirement plans, the number one challenge is increasing employee participation in the plan. The most often cited reason at my company for employees not participating in the Company sponsored 401(k) plan is financial, that is they cannot absorb the reduction in household cash flow. Many of these employees are forced to prioritize the need for health insurance over retirement savings. This is especially true at the lower income levels (and due to the complex rules of 401(k) plans, the non-participation of lower income employees negatively impacts the amounts higher income employees are allowed to contribute to the plan). However, recently we have noticed a trend amongst more highly compensated employees in their 20's and 30's. Faced with large student loan debt repayments, this latter group of employees struggle to make ends meet each month and cannot service their debt and save for retirement at the same time. And since employer contributions to a 401(k) are tied to the amounts deferred by the employee, they miss out on any contributions the employer might be willing to make.

U.S. Women's Chamber of Commerce

In a Private Letter Ruling (Number 201833012) issued in August 2018[6], the Internal Revenue Services granted a Taxpayer permission to modify its 401(k) plan to allow the Taxpayer to make 'an employer nonelective contribution on behalf of an employee conditioned on that employee making student loan prepayments. Under this ruling, employees can receive contributions to the retirement account, just as if they were making voluntary salary deferrals under their company's 401(k) plan. This is a benefit that should be provided to all employees, of all companies, small and large.

Other recommendations mentioned by business members of the U.S. Women's Chamber of Commerce in a recent survey to incentivize and assist small businesses to offer retirement benefits include:

- Allow multiple small businesses to more easily and affordably pool their resources to form and administrate shared multi-employer 401(k) plans which could be managed by experienced 401(k) plan providers.
- Create greater tax credits for employer matching and incentives for small businesses to mitigate the costs of setting up and administering retirement plans including increased tax credits for fees paid by employers for third-party administrators.
- Simplify the requirements along with the administrative and legal reporting burdens for plans offered by small businesses.
- Reduce the need for third-party administrators altogether.

[6] PLR-131066-17, IRS, 5/22/18 - https://www.irs.gov/pub/irs-wd/201833012.pdf

U.S. Women's Chamber of Commerce

- Allow self-directed investment management through vehicles like Exchange-Traded Funds and generally promote investment vehicles that do not contain additional layers of fees which reduce the retirement savings benefit.
- Incentivize employee savings and use of retirement plans by providing an easy, flexible, low cost, low fee small business sponsored investment plan.

Thank you for your support of American small businesses. I encourage you to help and incentivize small business owners to provide strong, affordable retirement benefits for small business owners and their employees.

National Association
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nase

Statement of Mr. Keith Hall
President & Chief Executive Officer
National Association for the Self-Employed

"Unlocking Small Business Retirement Security"

U.S. House of Representatives
Small Business Committee
Full Committee

March 27, 2019

Chairman Velazquez, Ranking Member Chabot, and members of the House Small Business Committee, thank you for the opportunity to be here today as an invited guest of the committee to discuss the incredibly important topic of retirement security. As president and chief executive officer of the National Association for the Self-Employed (NASE), our nation's leading advocate and resources for America's 27 million self-employed and micro-businesses, I'm here representing our members located in every state throughout the country. For over 30 years, NASE has offered our small business-members a broad range of benefits to help these entrepreneurs achieve success and to drive the continued growth of this vital segment of the American economy. We continue to support, encourage and help motivate millions of Americans who have chosen the self-employment and micro-business ownership path.

As we delve into the topic of retirement security, I think we can all agree that the lack of retirement savings is a looming crisis for American families, including those family-owned small businesses. In fact, last year, the Trump Administration through executive order, challenged the Departments of Labor and Treasury to identify ways in which retirement savings could be streamlined and expanded, specifically for small businesses. We are supportive of these efforts and will continue to lend our voice as to how our country can best develop and implement policies promoting retirement savings.

However, I do want to caution that the path to retirement security is fraught with landmines. Research shows one of the biggest challenges to retirement savings is debt. Recent data from the AARP found that "*the average household has only $3,000 saved for retirement. In fact, 18% of retirees in the next 15 years will retire with more debt than savings.*" This is a staggering statistic – and is the foundation for our conversation today as to how we can best help provide the tools and resources for the 27 million self-employed and micro-business owners to elevate retirement security as a business issue.

As with any challenge or looming crisis, we have an opportunity to work collaboratively to put forth and champion policies and programs that are flexible, comprehensive, and most importantly, innovative to meet the changing dynamics of how Americans are working in the 21st century.

To start, there are options for the self-employed and micro-business community, to either directly offer retirement savings plans or facilitate information to their employees as to the available programs. Those programs include: Traditional and Roth IRA, solo 401(k), simplified pension plan (SEP) IRA, Simple IRA, and a defined benefit plan. So, while there are options, we also know that there remain two main impediments for self-employed and micro-business owners to access those options: education and time. These challenges were confirmed by recent Pew Charitable Trust survey data finding that out of the 1,600 small and medium size business owners surveyed, 71 percent stated that setting up a retirement account was too costly, and 63 percent said they didn't have the resources to set up a plan.

To be frank, the structure in which the majority of Americans save for retirement is completely skewed towards a traditional work arrangement in the form of employee-sponsored defined contribution plans, primarily 401(k) plans. While those type of arrangements cover 60 percent of the population, according to recent Pew Charitable Trust data, 40 percent of full-time employees do not have access to a retirement plan.[1] The reason this is an important fact to highlight is because the data shows that when employees have access to save for retirement via their paycheck, they are *"15 times more likely to save for retirement."* But yet, as we move towards a more dynamic, fluid work arrangements, many Americans, including the self-employed, don't or won't receive a paycheck. Instead, many of our members see their "pay" fluctuate based on their business activities. Even in some cases, our members have to make hard choices from month-to-month as to what they can pay themselves in order to ensure their business remain solvent and in

[1] The Pew Charitable Trusts, Who's In, Who's Out: A Look at Access to Employer-Based Retirement Plans and Participation in the States (January 2016), 1, http://www.pewtrusts.org/~/media/assets/2016/01/retirement_savings_report_jan16.pdf. See also U.S. Government Accountability Office, Retirement Security: Federal Action Could Help State Efforts to Expand Private Sector Coverage (September 2015), 15, http://www.gao.gov/assets/680/672419.pdf; U.S. Bureau of Labor Statistics, "National Compensation Survey: Employee Benefits in the United States, March 2015" (September 2015), http://www.bls.gov/ncs/ebs/benefits/2015. In 2015, the private sector employee take-up rates, which measure participation for those who have access to a plan, for defined benefit and defined contribution plans were 84 and 71 percent, respectively.

the extreme case in which they have employees or utilize consultants, they pay them first before paying themselves. I fear that retirement savings programs that require a paycheck, pay system or mandatory, consistent contribution to an account, will never work for the self-employed.

So, what can we do to provide new, innovative opportunities for retirement savings for our changing workforce?

First, I am intrigued as to how some states have intervened and developed new programs that facilitate savings. While those programs conflict with the statement I just made about mandatory contributions and requiring a paycheck, I do believe that these programs provide a ground swell of education and awareness on the importance of retirement savings.

Second, Congress should work collaboratively with the Administration and applicable agencies to provide the legislative and regulatory environment for multi-employer pension plans as outlined in the August 2018 executive order. I know there are several legislative proposals pending, but working quickly to codify MEPs would provide yet another tool that small business owners could utilize in ensuring security in retirement.

Third, we at the NASE have a mantra we like to adhere by: simplify, simplify, simplify. What can we do to simplify the types of retirement accounts that are most flexible and utilized by the self-employed? Simplification was a key tenet of the Trump Administration's executive order last summer and we couldn't agree more. Small business owners are literally buried with paperwork and so all efforts to simplify this process are strongly supported by the NASE.

And fourth, how do we better communicate to new business owners the importance of planning for retirement? In that sense, how can we better partner with the Small Business Administration, business development centers, credit unions, and other lending institutions as to the importance of stressing to businesses the need to include retirement savings as a part of any business plan.

These are just a few overall, topline thoughts as we dig into the issue, but please note that the NASE stands willing and able to collaborate and support any efforts to make things easier and more efficient for the 27 million self-employed Americans to have the confidence that they will be able to enjoy a secure retirement.

I thank the Committee for its time today and welcome the opportunity to answer any questions.

Hearing Questions
Congressman Troy Balderson

Question for full panel

1) When I speak to small business owners in my district, they always say their top challenge is hiring and retaining qualified workers. We've heard that problem echoed again and again in this committee room from many small business owners when they come to testify.

   This question is for everyone on the panel, because I want to hear each witness's unique perspective on this topic. Is it safe to say that a small business's inability to offer its employees a retirement plan is hurting that small business when it must compete with large corporations for qualified workers?

   Follow-up: As Ranking Member of the Innovation and Workforce Development Subcommittee, this is a problem that really worries me. I think the President's Executive Order to set up MEPs is a good first step, but what more can we do to encourage more workers to take jobs with small businesses?

Martella Turner-Joseph answer

Prospective workers do examine the retirement benefits of various employers when weighing the decision about where to work. So if large corporations have better benefits, including a robust retirement plan, compared to a smaller employer, the large employer would have a competitive edge in attracting talent.

As you know, there is current bipartisan legislation pending in Congress that would considerably juice up the small employer pension plan startup credit to reduce the burden on the small employer to offer a retirement benefit to attract and retain top talent. I strongly support these tax credit increases.

In addition, the American Retirement Association supports restructuring these tax credits so that they are delivered through the payroll tax system. Many small businesses do not have any income tax liability – especially in the early years of the business – so delivering the incentive to adopt a retirement plan in the form of a quarterly payroll tax credit would be more timely and effective.

Hearing Questions
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   This question is for everyone on the panel, because I want to hear each witness's unique perspective on this topic. Is it safe to say that a small business's inability to offer its employees a retirement plan is hurting that small business when it must compete with large corporations for qualified workers? Absolutely yes. And it's not just large businesses, but other smaller business that can offer a 401(k). The key question is what type of workforce does the small business want/need. If the business model is to hire lots of young, relatively inexperienced resources with a lot of turnover, retirement planning will never be an issue. However, if the business model is to attract experience resources that will stay and help grow, then those resources will choose firms that can help them plan for retirement everytime.

   Follow-up: As Ranking Member of the Innovation and Workforce Development Subcommittee, this is a problem that really worries me. I think the President's Executive

Order to set up MEPs is a good first step, but what more can we do to encourage more workers to take jobs with small businesses?

Frankly, I do not think encouraging worker to take job with small business should be the role of government. These are personal decisions are based on opportunities presented, not all of which are financial. Personal growth, opportunities to do more with less, ability to be a 'big fish in a little pond', wanting to be something other than a number. None of these motivators are financial and none can be incented by government. They are personal drivers.

Hearing Questions
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NASE Response from President & CEO, Keith Hall:

Retirement security is a looming crisis for American families, including family owned small businesses. A combination of mounting debt and break-even bottom lines has created an environment where saving for retirement too often takes a backseat in operating budgets of many Americans, including the small business community. To help make retirement savings a priority, we continue to support ways that both streamline and expand retirement savings opportunities for Americans at every income level and employment structure."

The Trump Administration's 2018 executive order opened multiple employer plans (MEPs) to small businesses and "expand(ed) access to workplace retirement savings plans for American workers." The executive order would no longer require small businesses to have formal business ties and instead would allow small, independent employers to join together through MEPs to offer workers access to 401k retirement savings plans. While last year's executive order was a good start, there is no one, right way to save in America. We support all paths that make it easier for Americans, including small business owners, to save for retirement. The major challenge for retirement savings is simply encouraging Americans to start saving. Every effort making starting a retirement savings account simpler, incentivized and accessible, regardless of employment structure, is a positive step in the right direction.

There are now many options and vehicles available to Americans who operate in various employment structures and income levels allowing them to save. With a changing workforce, the key to retirement savings is offering different options, more flexibility and innovative plans for millions of Americans – including the small business community. We must continue to make it easier to save by removing barriers and reducing operating costs and requirements while incentivizing opportunities to save for retirement."

Financial Security...for Life.

Statement for the Record

Submitted to the

U.S. House Small Business Committee

"Unlocking Small Business Retirement Security"

March 27, 2019

On Behalf of

Susan K. Neely
President and CEO
The American Council of Life Insurers

The American Council of Life Insurers (ACLI) is pleased to submit this statement for the record on "Unlocking Small Business Retirement Security." The ACLI thanks Chairwoman Nydia M. Velázquez (D-NY) and Ranking Member Steve Chabot (R-OH) for holding this important hearing. This statement will highlight the successes of the current retirement system, specific challenges that small businesses face and public policy proposals that would enhance and build upon the successes of the retirement system.

THE AMERICAN COUNCIL OF LIFE INSURERS

The American Council of Life Insurers (ACLI) advocates on behalf of 280 member companies dedicated to providing products and services that promote consumers' financial and retirement security. Financial security is our core business, and retirement security for all Americans is a critical mission. We protect more than 90 million American families with financial products that reduce risk and increase financial security, including life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, dental and vision and other supplemental benefits. As society and work changes, we are committed to solutions that protect all Americans, regardless of where and how they work, their stage in life, or the economic status of their household. Americans are living longer, and financial security into retirement is a big challenge facing our country. We help people retire with security, with more products, availability, accessibility, and affordability for all.

ACLI members represent 95 percent of industry assets in the United States. Accordingly, 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). ACLI members are also employer sponsors of retirement plans for their employees. As service and product providers, as well as employer plan sponsors, life insurers believe that adequately and consistently saving for retirement, effectively managing assets throughout retirement and utilizing appropriate financial protection products are all critical to Americans' retirement and financial security.

In 2017, American families received $364 billion in payments from annuities, $126 billion in payments from life insurance, $19 billion in disability income insurance benefits and $11 billion in long-term care insurance benefits. Our nation is grappling with some big challenges, and the insurance industry is a vitally important part of how Americans are able to plan, save and guarantee themselves a secure retirement. Small-employers (99 or fewer employees) overwhelmingly rely on life insurers for products and services. Three-fifths of their employees rely on life insurer products and services in their employment-based retirement plan.

THE RETIREMENT SYSTEM IN AMERICA

The retirement system for private-sector workers in America works in concert with contributions made to Social Security and is enhanced by employment-based retirement plans, IRAs, individual annuities, and other investments. These private-sector efforts play a vital role in retirement security for millions of Americans. Current tax incentives (for pensions and retirement savings) encourage employers to provide and maintain employment-based plans and have encouraged and enabled millions of American families to accumulate savings, thereby improving their retirement security. According to the Bureau of Labor Statistics, more than 80 percent of full-time civilian workers have access to a retirement plan through their employer, and of these workers, 80 percent participate in a workplace plan. Yet, more can be done to ensure that everyone who can afford to save for retirement is saving for retirement.

While the current combination of Social Security and employment-based and private retirement arrangements has successfully demonstrated the ability of workers to attain retirement security, several legislative enhancements, including those with a focus on financial literacy, can build upon this success. ACLI supports the committee's commitment to improving retirement savings for all Americans.

CHALLENGES FACING RETIREMENT SAVERS

While employer-provided retirement plans provide a critical retirement security safety net to workers, impediments still exist that prevent more widespread employee access and participation. For some savers, understanding the value of saving for retirement and the underlying concepts can prove to be daunting. Some of the mystery derives from the shift over time from defined benefit plans to defined contribution (DC) retirement plans. These plans, while providing choice and flexibility for participants, also require acumen to grasp various savings and investment options, a strong understanding of personal goals for the future and the foresight to know how much savings are needed in retirement.

Numerous segments of the population seem to have greater barriers to savings. While 81 percent of full-time workers have access to a retirement plan in the workplace, only 40 percent of part-time workers enjoy access to an employer sponsored plan. , in particular people who work for small employers and gig economy workers.[1] According to Betterment's study, *Gig Economy and the Future of Retirement*, nearly 40 percent of respondents feel unprepared to save enough to maintain their lifestyle during retirement.[2]

While access is high for workers at larger employers, roughly 47 percent of all workers employed by businesses with fewer than 50 workers have access to a DC workplace retirement plan.[3] Many small businesses do not offer a retirement savings plan, but not for a lack of access to a marketplace of product offerings. The uncertainty of revenue is the leading reason given by small businesses for not offering a plan, while cost, regulatory and administrative burdens and lack of employee demand are other impediments. According to the Bureau of Labor Statistic's March 2018 report, in the private sector, access numbers are lowest for workers at small businesses with less than 100 workers, and for those with average wages in the bottom quartile *($12.75/per hour - private industry)*. This "access gap" has been consistent for some time despite the tax incentives offered to employers and the life insurance industry's commitment to expand retirement savings.

POTENTIAL SOLUTIONS TO ADDRESS CHALLENGES IN SAVING FOR RETIREMENT

Effective public policy proposals, in addition to action by plan sponsors and providers, can address the challenges discussed above and help Americans save for a secure retirement. Public policy should seek to increase access to essential financial protections, retirement savings and guaranteed retirement income products. While numerous pieces of legislation introduced in the 115th and the 116th Congresses have sought to accomplish these objectives, perhaps the most well-known has been the Retirement Enhancement and Savings Act (RESA) (H.R. 1007/S.972)[4]. RESA demonstrated

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[1] Bureau of Labor Statistics, Employee Benefit Survey, https://www.bls.gov/ncs/ebs/benefits/2018/ownership/civilian/table02a.htm

[2] Betterment, Gig Economy and the Future of Retirement, https://www.betterment.com/wp-content/uploads/2018/05/The-Gig-Economy-Freelancing-and-Retirement-Betterment-Survey-2018_edited.pdf

[3] Bureau of Labor Statistics, National Compensation Survey, https://www.bls.gov/ncs/

[4] H.R. 1007, introduced in the 116th Congress by Representatives Ron Kind (D- WI) and Mike Kelly (R-PA); S. 972, introduced in the 116th Congress by Senators Chuck Grassley (R-IA) and Ron Wyden (D-OR).

that sound retirement policy that is supported in a bipartisan, bicameral way is possible and resulted in the bipartisan House product, the Setting Every Community Up for Retirement (SECURE) Act, recently reported out of the House Ways and Means Committee. As the 116th Congress considers a path forward for the SECURE Act, it is imperative that they enact the SECURE Act as soon as possible.

Furthermore, ACLI supports policy proposals that seek to increase retirement savings, specifically among small businesses. These include (many are included in the SECURE Act):

1. **Increased Access and Participation Through Small Plan Coverage**

A sizable majority of full-time workers have access to a retirement plan in the workplace. Still, more could be done to expand access and coverage. Proposed legislation in the 116th Congress seeks to remedy this access challenge by facilitating retirement plan creation among small employers.[5] The expansion of private-sector sponsored multiple employer plans, also known as "open MEPs" or "pooled employer plans," can encourage and facilitate adoption by employers that are not prepared to sponsor their own stand-alone retirement plan. Open MEPs can be an important tool in reducing the costs and administrative burdens to small employers. Under an open MEP, many businesses can join together to achieve economies of scale and advantages with respect to plan administration and investment services, making plans much more affordable and effectively managed. This would encourage more businesses to offer their employees retirement plans. Additionally, eliminating the "one bad apple" rule, which punishes all participating employers if any one of the participating employers violates a qualification requirement, is vital.

While the Department of Labor (DOL) has a current rulemaking proposal relating to "Associate Retirement Plans," DOL's proposal falls far short of a real and viable way to expand small employer retirement plan coverage. DOL has a unique opportunity to allow for the creation of open MEPs in its current rulemaking project by removing the imposition of its "commonality" which is unsupported by law. DOL's continued and incorrect interpretation of the law serves as an impediment to expanding coverage for employees of small employers.

Undoubtedly, the Open-MEPs model will make a considerable impact upon retirement plan coverage, but perhaps the biggest effect could be achieved through an employer requirement approach. Based on the BLS data, ACLI estimates that the possible impact of an employer retirement plan requirement proposal, similar to House Ways and Means Chairman Richard Neal's Automatic Retirement Act of 2017,[6] could increase access to an employer-sponsored DC retirement plan by an additional 30 million workers, a 38 percent increase in access among private sector workers. Assuming comparable take-up rates for those currently with access, the additional increase in access would lead to 22 million additional workers participating in a DC retirement plan, a 39 percent increase over current participation figures. For this reason, ACLI supports this approach, as a profound concept that could potentially change the landscape of retirement savings and improve the financial wellbeing of millions of Americans.

Other proposals to improve small business plan access include:

- Increased Start Up Credit: Under current law, small employers (up to 100 employees) that adopt a new retirement plan are entitled to an annual tax credit for three years equal to 50

[5] H.R. 1907, introduced in the 116th Congress by Representatives Buchanan (R-FL) and Kind (D-WI); S. 321, introduced in the 116th Congress by Senators Collins (R-ME) and Hassan (D-NH).
[6] H.R. 4523, introduced in the 115th Congress by Representative Richard Neal (D-MA).

percent of the costs of starting up the plan, up to a cap on the annual credit of $500. Pending legislation seeks to increase the credit and provide an additional credit for employers who automatically enroll employees in their plan.[7]

- Auto-IRA: Employers without a retirement savings plan should be encouraged to automatically enroll employees into a payroll deduction IRA. Employers that elect to sponsor an "Auto-IRA" should receive the same level of protection and state wage law pre-emption provided to employers sponsoring "Auto-401(k)s."[8]

- SIMPLE IRA Improvement: SIMPLE IRAs should be made more appealing to small businesses. Permitting a higher level of employer contributions and improving rollover rules could make the plans more valuable to employees. [9]

- Automatic Escalation Cap Removal: Under the current nondiscrimination safe harbor for automatic enrollment and automatic escalation, a retirement plan may not automatically enroll or escalate employees beyond a contribution rate that exceeds 10 percent of pay. The 10 percent limit has been widely criticized as unnecessarily restrictive and an impediment to encouraging plan participants to save more for retirement. Legislative efforts should focus on removal of this arbitrary cap.[10]

2. Facilitating Plan Participant Access to Lifetime Income Options

Many workers do not currently have access to an annuity option within their employer-provided plan. An annuity is a financial product only offered by life insurance companies which is guaranteed to pay a monthly amount for a certain period or for life. Annuities are the only financial product in the marketplace that guarantee income for life. To offer annuities in a 401(k) plan, employers are required to make a determination as to whether "an annuity provider is financially able to make all future payments under an annuity contract." This standard has been difficult to meet in part because it is hard for an employer to know how to draw this conclusion.

ACLI supports proposals which improve upon the current annuity provider selection safe harbor rule.[11] When considering an insurer's financial capability, employers should be able to rely upon the work of state insurance commissioners with specific representations from the insurer regarding the plan's status in relation to state insurance regulation and enforcement. Plan sponsors should not have to second-guess the determinations of state insurance departments concerning the ability of a licensed provider to satisfy its long-term financial obligations. By improving the current safe harbor provision, the legislation will mitigate employer concerns regarding selecting an annuity provider and encourage them to add an annuity option to their retirement plan offerings.

In addition to an improved annuity safe harbor regulation, participants would benefit from lifetime income portability protections. ACLI supports legislation and regulation that focuses on expanding

[7] H.R. 4637, introduced in the 115th Congress by Representatives Kind (D-WI) and Reichert (R-WA); H.R. 3902, introduced in the 115th Congress by Representatives Bishop (R-UT) and Neal (D-MA); S. 1383, introduced in the 115th Congress by Senators Collins (R-ME) and Nelson (D-FL).
[8] H.R. 4637, the SAVE Act of 2017, introduced in the 115th Congress by Reps. Kind (D-WI) and Reichert (R-WA); S. 322, in the 116th Congress introduced by Senators Collins (R-ME) and Warner (D-VA).
[9] Id.
[10] H.R. 4637, introduced in the 115th Congress by Representatives Kind (D-WI) and Reichert (R-WA), H.R. 5282, Representatives Kelly (R-PA) and Kind (D-WI); S. 972, introduced in the 116th Congress by Senators Grassley (R-IA) and Wyden (D-OR).
[11] H.R. 1439, introduced in the 116th Congress by Representatives Blunt Rochester (D-DE) and Walberg (R-MI); S. 972, introduced in the 116th Congress by Senators Grassley (R-IA) and Wyden (D-OR).

the portability rules to maintain participants' access to lifetime income benefits. Participants could confidently diversify their portfolio into an annuity vehicle, a key tenant to financial planning. When the termination of a plan's annuity contract would lead to the loss of access on the part of plan participants to the contract's guaranteed lifetime benefits, the rules should permit the distribution to be made via a qualified plan distributed annuity contract or a direct rollover to an IRA or other eligible retirement plan. Participants need the means to maintain access to these important benefits. Legislation has been introduced that would enhance the portability of guaranteed lifetime income products. [12]

3. Additional Plan Innovations

Employers and plan providers, understanding the value of education in the workplace, have been working for decades to design and implement effective financial literacy programs that incentivize employees to save for retirement. Employers recognize that financial strain on their employees can decrease productivity and increase stress. To combat this challenge, more employers are offering financial wellness programs that include investment and savings advice. The *Benefits and Beyond: Employer Perspectives on Financial Wellness*, a report from Prudential Financial Inc., found that the percentage of employers offering financial wellness programs rose from 20 percent in 2015 to 83 percent in 2017.[13] Additionally, employers offering one-on-one retirement plan investment advice rose by 14 percentage points to 55 percent from 2014 to 2017.[14]

Potentially, one of the most effective financial literacy legislative proposals being considered by the Congress and supported by the ACLI, would seek to improve retirement savings and leverage by informing participants of their account balances through a lifetime income disclosure illustration.[15] This policy proposals would help individuals think of their retirement plan savings as not only a lump sum balance, but also as a source of guaranteed lifetime income. Coupled with their Social Security income statement, a lifetime income disclosure illustration on their benefit statement would let workers see how much monthly income they could potentially receive in retirement, enabling workers the opportunity to increase their savings, adjust their 401(k) investments or reconsider their retirement date, if necessary, to assure the quality of life they expect in retirement. Currently, federal workers have the benefit of such an illustration in the federal Thrift Savings Plan annual statement.

Employers have instituted other valuable mechanisms as well that aim to increase plan utilization and balances. Tools such as automatic enrollment, automatic escalation and employer matches have become invaluable to participants. 73 percent of employers now automatically enroll new participants, compared with 68 percent in 2014 and 52 percent in 2009. Additionally, 60 percent provide an auto-escalation feature, up from 54 percent in 2014.[16]

Creative policy approaches that would assist employees in saving for retirement are also under consideration. One approach would enable employers to contribute a "match" to an employee's

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[12] H.R. 3910, introduced in the 115th Congress by Representatives Neal (D-MA) and Bishop (R-UT); S. 2526, Introduced in the 115th Congress by Senators Hatch (R-UT) and Wyden (D-OR)

[13] Prudential Financial Inc., *Benefits and Beyond: Employer Perspectives on Financial Wellness* https://www.prudential.com/media/managed/rp/32467.html

[14] The Society for Human Resource Management. *2018 Employee Benefit Report*. https://www.shrm.org/hr-today/trends-and-forecasting/research-and-surveys/Documents/2018%20Employee%20Benefits%20Report.pdf

[15] H.R. 2055, introduced in the 115th Congress by Representatives Messer (R-IN), Pocan (D-WI), Reichert (R-WA), Polis (D-CO), Kind (D-WI), Wilson (R-SC), and Norcross (D-NJ); S. 868, introduced in the 115th Congress by Senators Isakson (R-GA) and Murphy (D-CT)

[16] Willis Towers Watson, *2017 Defined Contribution Plan Survey*, https://globenewswire.com/news-release/2018/02/26/1387421/0/en/U-S-employers-enhancing-defined-contribution-retirement-plans-to-help-improve-workers-financial-security.html

401(k) account in the amount that the employee is contributing to their student loans.[17] This would apply to 403(b) and SIMPLE plans as well.

Additionally, as technology improves, so do the methods and practices for delivery of information. Policy efforts should focus on facilitating the most effective, efficient delivery practices for providing employees with information about their retirement benefits by making it easier for employers to communicate with employees electronically. Legislative proposals that support electronic delivery methods ensure retirement savers will have greater access to needed information and online tools to assist them as they save and plan to retire and allow employers to set electronic delivery as their default communication method.[18] By establishing important consumer protections, such as an employee's right to opt-out of electronic delivery at any time and receive paper statements at no direct cost and a required annual paper notice that summarizes the various communications delivered over the year along with information about how to change the delivery method, participants are ensured they will receive plan material by a method of their choosing.

CONCLUSION

Every day, 10,000 Americans reach age 65. Encouraging small businesses to implement, maintain, and improve their retirement plans so that they can provide American workers with greater access to employment-based retirement plans and options, is imperative to closing gaps in access and coverage, and ultimately, to ensuring that all Americans are better prepared for retirement. Given the challenges small businesses face, there is no better time for lawmakers and the retirement industry to engage and develop solutions to ensure that millions of Americans can retire with dignity. Nearly all of the public policy proposals discussed in this statement are incorporated in the SECURE Act and RESA. These bills utilize innovative products and retirement solutions and stand to improve the current retirement system. Congress should not delay in taking action to pass these important bills. ACLI and our members stand ready to assist the Congress in this important endeavor.

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[17] S. 3771, introduced by Senators Ron Wyden (D-OR) and Ben Cardin (D-MD); S. 3781, introduced by Senators Rob Portman (R-OH) and Ben Cardin (D-MD)

[18] H.R. 4610, introduced in the 115th Congress by Representatives Polis (D-CO), Roe (R-TN), Kind (D-WI) and Kelly (R-PA)

U.S. House of Representatives

Committee on Small Business

Hearing entitled:

"Unlocking Small Business Retirement Security"

Statement for the Record

of

Wayne Chopus

President and CEO, Insured Retirement Institute

March 27, 2019

IRI

Insured Retirement Institute

Chairwoman Velázquez, Ranking Member Chabot, and Members of the Committee on Small Business, my name is Wayne Chopus. As the President and CEO of the Insured Retirement Institute (IRI), I am pleased to provide you with our perspective on the importance of this Congress securing the passage of bipartisan, common-sense policies to help America's small business owners to help employees save for retirement and achieve their retirement goals. I commend you for holding this hearing, and I welcome the opportunity to provide this statement for the record to the Committee.

Summary of Testimony

Consistent with our consumer-focused mission, my testimony will address two key points:

1. As the American private-sector retirement system places more responsibility on the individual for ensuring retirement security, Americans are facing a looming retirement income crisis.
2. Legislation, like the public policy measures contained in IRI's 2019 Federal Retirement Security Blueprint, offer several policy proposals which can help small business owners expand the opportunities for their employees to save through a workplace retirement plan.

About IRI

As you may know, for nearly three decades, the Insured Retirement Institute has vigorously promoted consumer confidence in the value and viability of insured retirement strategies, bringing together the interests of the industry, financial advisors and consumers under one umbrella. Our mission is to: promote better understanding of the insured retirement value proposition; modernize standards and practices to improve value delivery; and to advocate before public policymakers on critical issues affecting insured retirement strategies and the consumers that rely on their guarantees.

IRI is the only national trade association that represents the entire supply chain for the insured retirement strategies industry. Our member companies include major life insurance companies like, Prudential, AXA, MassMutual, Nationwide, and Jackson National, broker-dealers like Morgan Stanley, Raymond James and Edward Jones, and asset management companies like T. Rowe Price and Blackrock. Our member companies represent more than 95 percent of annuity assets and include the top 10 distributors ranked by assets under management. We offer education, research, and advocacy resources to more than 150,000 financial advisors affiliated with our member companies.

Our members are represented by hundreds of thousands of registered financial advisors across the country, and therefore, we bring a perspective from Main Street America to the Congress today. After my many conversations with these financial advisors, I have developed a deep level of appreciation for the long—standing relationships they have with their clients and friends—ten, twenty, or even forty years. Our financial advisors consider that relationship to be a sacred trust and as such, they are intensely committed to helping their clients reach their retirement income objectives, which involves a series of the most significant financial decisions a person ever makes over a very long lifetime.

America's Looming Retirement Income Crisis

Americans today are at risk of outliving their assets due to a confluence of several factors – chiefly the shift from defined benefit to defined contribution plans and increased longevity. These challenges put significant retirement savings and income burdens on the shoulders of individual consumers, particularly middle-income Americans, as well as strain both the public and private retirement systems.

As sixty-six million Baby Boomers move into retirement at the rate of 10,000 a day until 2030, they will face immediate and unprecedented income challenges which did not exist for previous generations. According to IRI's *Boomer Expectations for Retirement 2018* annual report, 55 percent of Boomers do not expect to receive a pension from a private employer. In 1985, over 114,000 private-sector defined benefit plans were in place.[1] By 2018, only 25,000 remain and only 18 percent of workers had access to a defined benefit plan.[2] With the remaining public-sector defined benefit plans increasingly being frozen or terminated, virtually all the options to replace the loss of defined benefit plans require defined contributions from the individual. However, with today's historically low personal savings rates, including 42 percent of Baby Boomers who report having nothing saved for retirement, along with insufficient opportunities to access a workplace defined contribution plan to save, many retirees will be forced to consider alternative sources to provide retirement income.[3]

[1] Pension Benefit Guaranty Corporation. Trends in Defined Benefit Pension Plans
[2] Pension Benefit Guaranty Corporation. *Annual Report 2018*.
[3] IRI's *Boomer Expectations for Retirement 2018*

In addition, the shift away from the defined benefit pension has increased the risk of retirees outliving their savings. According to the Society of Actuaries Mortality Tables, for a couple age 65 there is an 89 percent chance one will reach age 90 and in nearly one-half of couples one person will survive to at least age 95. This has made the individual also responsible for ensuring their savings last through retirements that can span 20 to 30 years or more. Therefore, it is was not surprising when IRI research revealed that only 25 percent of the Baby Boomer generation believes it will have enough money to last throughout retirement.[4] These trends have placed nearly 30 million Americans at immediate risk.

The Baby Boomers are not, however, the only generation to be impacted by shifting opportunities and longer lifespans. Forty percent of Generation Xers have no retirement savings, a decrease from the forty-five percent with retirement savings in 2016. And while they have a decade before the eldest of the group reaches traditional retirement age, only one-third have tried to calculate how much they will need to save in order to retire.[5] While Generation X is optimistic – 67 percent are satisfied with their financial situation -- they cite changes to Social Security benefits and health care expenses as their top concerns and 30 percent of the generation anticipates having to work past traditional retirement age and a quarter do not know if they will.[6]

These findings underscore the critical importance of ensuring that the regulatory framework governing insured retirement strategies supports an environment which provides consumers access to products that can meet their need to protect against longevity risk, as well as one that extends access to tax-deferred retirement savings. The findings also emphasize the critical need for Congress to act to advance both common sense retirement security policies and initiatives to promote consumer education and choice.

Bipartisan, Common-Sense Solutions

The Insured Retirement Institute has long supported the principles of protecting the tax-deferred status for retirement savings, expanding opportunities for more Americans to access workplace retirement savings plans and enhancing the auto-enrollment

[4] *Ibid*
[5] IRI's *Generation X and Retirement Readiness – They're (Mostly) Doing it Wrong*
[6] *Ibid*

and auto-escalation features of retirement plans. As such, IRI has identified public policy proposals to address the looming retirement crisis facing a growing number of Americans who are not sufficiently saving for retirement.

Below we are respectfully submitting for your consideration several of the policy proposals contained in the IRI Retirement Security Blueprint that we ask the House Committee on Small Business to consider as it examines the options for small employers, the benefits and barriers they face in offering plans, and options for expanding coverage during the hearing being held today.

The proposals described below include ones which would expand opportunities to save for retirement by enhancing access and features of workplace retirement plans; extend greater access to lifetime income products in workplace retirement plans; help savers make decisions about their finances by improving and modernizing access to information; and maintain and enhance the current tax treatment for retirement savings.

Expand Opportunities to Save for Retirement

Require Employers to Offer Retirement Plans for Workers

Most Americans are not saving enough for retirement because they do not have access to employment-based retirement savings plans. In fact, recent research has shown only 40 percent of full-time workers at small and medium-sized businesses have access to one of the many types of employment-based retirement plans. To expand access for more Americans to have an opportunity to increase their savings for retirement, Congress should enact legislation such as the "***Automatic Retirement Plan Act of 2017***". This bill would generally require all but the smallest employers to maintain a retirement savings plan and employees would be automatically enrolled (with the ability to opt out). It would also remove cumbersome legal and regulatory barriers which discourage employers from offering this benefit to their employees while preserving employer choice and maintaining protections for employers and their employees.

Enable All Small Businesses to Use Multiple Employer Plans for The Benefit of Their Workers

Small businesses face financial and administrative challenges, as well as legal risks, when offering a retirement plan to employees. As a result, many do not offer a retirement savings plan for their employees. Allowing small businesses to band together to achieve economies of scale and to delegate to a professional plan fiduciary responsibility for sponsoring the plan would facilitate their offering a retirement plan and would expand access to a workplace plan for more workers. This can be achieved by removing the restrictions on the types of employers that can band together in a Multiple Employer Plan (open MEPs), and by protecting employers who participate in a MEP and their employees from any negative consequences caused by the acts or omissions of other employers (the "one bad apple rule"). Congress should enact legislation to expand access to MEPs, such as the provisions which have been included in the "***Retirement Enhancement and Savings Act of 2019***", the "***Retirement, Savings and Other Tax Relief Act of 2018***", the "***Automatic Retirement Plan Act of 2017***", the "***Retirement Security Act of 2017***", "***Retirement Security for American Workers Act***", and the "***Small Businesses Add Value for Employees Act (SAVE) of 2017***". In addition, given that lifetime income strategies greatly reduce the risk of outliving retirement savings, these plans should be required to make a lifetime income option available to participating employees.

Increase the Auto-Enrollment and Auto-Escalation Default Rates

Studies have shown that automatic enrollment is extremely successful in getting more people to save for retirement with participation rates at least 10 percentage points higher in plans with automatic enrollment (77%) than those without it (67%). Under current law, employers can automatically enroll employees in 401(k) plans and most private-sector employers set the default rate at 3 percent of pay. This is too low for adequate retirement savings. Research by EBRI has found that a 6 percent default savings rate would lead to significantly better retirement outcomes for workers without causing a marked increase in workers opting out of the plan. Workers across all income brackets are statistically more likely to participate when their employers have auto-enrollment but will need higher savings thresholds to reach their retirement savings goals. Congress should increase the default deferral rate to 6 percent at the time of automatic enrollment and permit automatic escalation up to 15 percent. This proposal is part of several bills, including the "***Retirement Enhancement and Savings Act of 2019***", the "***Retirement Security and Savings Act of 2018***", the "***Retirement Security Act of 2017***," the "***Small Businesses Add Value for Employees Act (SAVE) of 2017***," the "***Automatic Retirement Plan Act of 2017***," and the "***Retirement Plan Simplification and Enhancement Act of 2017***."

Enhance the Start-Up Credit for Small Employers' Retirement Plans

Under current law, small employers with up to 100 employees can receive an annual tax credit equal to 50% of the costs of starting a retirement plan, up to a maximum of $500 for three years. Unfortunately, this incentive is not having the desired impact. According to the Bureau of Labor Statistics, less than half of all workers at companies with fewer than 50 employees have access to an employer-sponsored retirement plan. Congress should therefore enact the "***Retirement Enhancement and Savings Act of 2019***", the "***Retirement Security and Savings Act of 2018***", the "***Small Businesses Add Value for Employees Act (SAVE) of 2017***", the "***Automatic Retirement Plan Act of 2017***", or similar legislation to make the start-up retirement credit available for the first five years and to increase the maximum credit to $5,000.

Extend Greater Access to Lifetime Income Products

Clarify Employer Fiduciary Responsibility for Choosing Lifetime Income Products

Current regulations do not provide sufficient clarity about the step's employers must take to satisfy their fiduciary responsibilities if they want to make lifetime income products available to their employees. Employers should be permitted to give their employees access to lifetime income products provided by insurers that meet certain existing regulatory requirements enforced by state insurance regulators, such as capital and reserving standards. This can be achieved either through a Department of Labor rulemaking or Congressional enactment of legislation such as the "***Retirement Enhancement and Savings Act of 2019***", the "***Retirement, Savings and Other Tax Relief Act of 2018***", the "***Increasing Access to a Secure Retirement Act***", and the "***Small Businesses Add Value for Employees Act (SAVE) of 2017***".

Enable Annuity Portability

Due to a technicality in the tax code, employees who invest in lifetime income options through an employment-based retirement plan would lose the guarantees associated with those investments if their employer changes recordkeepers. To avoid this result, many employers simply choose not to offer lifetime income options. Congress should enact the "***Retirement Enhancement and Savings Act of 2019***", the "***Retirement Security and Savings Act of 2018***", or the "***Retirement Plan Simplification and Enhancement Act of 2017***", all of which include provisions to treat a recordkeeping change as a distributable event. This simple amendment will ensure workers are not harmed if their employer decides to make such changes.

Help Savers Make Decisions About Their Finances

Require Lifetime Income Estimates on Workers' Benefit Statements

To save appropriately for retirement, workers should understand how much monthly income their nest egg could generate in retirement. Research by IRI found that more than 90 percent of workers want retirement income estimates and would find them helpful. Additionally, more than 75 percent of workers said they would increase their savings level after seeing these estimates. Congress should enact the "***Lifetime Income Disclosure Act (LIDA)***," which would direct the Department of Labor to adopt a rule requiring the inclusion of lifetime income estimates on benefit statements. This provision was also included in the "***Retirement Enhancement and Savings Act of 2019***", the "***Retirement, Savings and Other Tax Relief Act of 2018***", and the "***Small Businesses Add Value for Employees Act (SAVE) of 2017***".

Encourage Electronic Disclosure for Retirement Plans

Encouraging the use of modern electronic communication would have a direct and beneficial impact on workers and beneficiaries. Participants of all ages and incomes increasingly prefer to access information online, allowing them to more easily act on that information. According to the Progressive Policy Institute, the volume of printed disclosure is intimidating to workers and the static nature of printed documents does not invite the interactive engagement consumers need to manage their retirement portfolios appropriately. Congress should enact legislation, such as the "***Receiving Electronic Statements to Improve Retiree Earnings (RETIRE) Act***," to permit electronic delivery to be the default option for providing required disclosures to plan participants, with an option to receive paper if desired.

Maintain and Enhance the Current Tax Treatment for Retirement Savings

Maintain Tax-Deferred Treatment for Retirement Savings

The "***Tax Cuts and Jobs Act***" which was enacted into law in 2017, recognized the vital role tax deferred retirement savings plays in spurring America's economic growth and prosperity. By maintaining the tax-deferred treatment of retirement savings, Congress preserved the tools necessary to help Americans save for their retirement during their working years. Research conducted by IRI shows Americans would save less if tax deferral is reduced or eliminated. Congress should continue to promote the use of tax deferral for retirement savings to encourage more Americans to prepare and save for a secure retirement.

Protect the Current Structure and Diversity of Workplace Retirement Plans

There are several types of workplace defined contribution retirement plans which consider the differences among workers in various employment sectors, such as the private, governmental, church, educational, and nonprofit sectors. The most prominent are 401(k), 403(b) and 457(b) plans. Proposals to consolidate these types of plans have been discussed during previous efforts to reform the tax code for purposes of simplification and consolidation. These proposals were not included in the "***Tax Cuts and Jobs Act***" and the distinct types and structures of retirement plans which were created to address the needs of distinct types of workers were maintained in the tax code. Congress should continue to protect and retain the current structure and diversity of workplace retirement plans.

Provide Favorable Tax Treatment for Guaranteed Lifetime Income in Retirement

Distributions and withdrawals from guaranteed lifetime income products – like annuities – are currently taxed as ordinary income. However, these products provide significant social and economic benefits. By helping older Americans avoid outliving their assets, annuities reduce pressure on Social Security and similar programs. Congress should therefore create tax incentives – such as a lower tax rate or an exclusion from taxation – to encourage greater use of guaranteed lifetime income products.

Conclusions

IRI respectfully submits and strongly urges the Committee to examine comprehensive retirement legislation to modernize private-sector retirement savings opportunities and provide options for small employers that will remove the barriers they face in offering plans resulting in expanding benefits to cover more workers who are employed by America's small business owners. The policy objectives detailed in this statement for the record have all been included in the "**Retirement Enhancement and Savings Act (RESA) of 2019**", legislation which IRI is proud to support. IRI respectfully requests that the members of the U.S. House of Representatives Committee on Small Business consider co-sponsoring RESA and seek to advance the legislation expeditiously during the 116th session of Congress.

Thank you for the opportunity to present this statement for the record. It is our hope you will find it useful, and IRI welcomes the opportunity to work with the Committee in the future as you consider legislative avenues to help all Americans achieve their retirement goals.

SMALL BUSINESS COUNCIL OF AMERICA

SMALL BUSINESS COUNCIL OF AMERICA
STATEMENT FOR THE RECORD
U.S. HOUSE SMALL BUSINESS COMMITTEE HEARING ON
"UNLOCKING SMALL BUSINESS RETIREMENT SECURITY"

MARCH 27, 2019

The Small Business Council of America (SBCA) appreciates the opportunity to submit this statement. The SBCA is a national nonprofit organization which has represented the interests of privately-held and family-owned businesses on federal tax, health care and employee benefit matters since 1979. The SBCA, through its members, represents well over 100,000 enterprises in retail, manufacturing and service industries, virtually all of which provide health insurance and retirement plans.

First and foremost, the SBCA strongly believes that, while there is certainly room for improvement, **the present qualified retirement plan system has been very successful in providing retirement security for the owners and employees of small businesses.**

Unfortunately, most of the data used to measure the success of retirement plans makes it hard to get a clear picture of how the small business retirement plan system is performing for several reasons. First, traditional analysis fails to distinguish between new and established small businesses. Approximately half of all new small businesses fail in their first five years -- before most small business owners have even considered sponsoring a qualified retirement plan or other employee benefits.[1] The inclusion of these infant-stage, and typically smaller, businesses depresses the data. Moreover, most analyses ignore the fact that not all employees meet the retirement plan eligibility requirements. Part-time employees, employees under age 21 and transient employees are generally ineligible to participate in a retirement plan. The statistics cited for the low retirement plan coverage, however, most often include the entire workforce and do not differentiate between the entire workforce and that percentage of the workforce that is actually eligible to participate in a retirement plan based upon current law. When these ineligible employees are excluded, the coverage numbers improve significantly.

A 2015 study,[2] which used actual data from employees' W-2 forms, found that 80% of all employees who work in companies with 10 or more employees are offered a retirement plan and that of these employees, 65% made 401(k) contributions.[3] The predecessor study to the 2015 study

[1] See U.S. Small Business Administration, Office of Advocacy, Frequently Asked Questions About Small Business, August 2018, available at https://www.sba.gov/sites/default/files/advocacy/Frequently-Asked-Questions-Small-Business-2018.pdf.

[2] Dushi, Iams and Lichtenstein, Social Security Bulletin, Vol. 75 No.2 2, 2015, Retirement Plan Coverage by Firm Size: An Update.

[3] The size of the company makes a significant difference. W-2 data, which is accurate only to 401(k) plans and 401(k) contributions, reflects that 51% of small businesses with more than 10 employees but less than 25 offer a retirement plan. The same data reflects that 63% of small businesses which employ 25 employees but less than 50 offer a

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which was conducted in 2011,[4] revealed that, when asked, only 49% of employees who worked for companies with 10 or more employees thought they were participating in a retirement plan (i.e., making 401(k) contributions), whereas the W-2 data indicated that 62% of employees were actually participating in a plan. This means that 13% of all employees making 401(k) contributions through payroll deduction did not even realize that they were making 401(k) contributions!

The foregoing numbers reflect that the small business retirement plan system is successful in delivering benefits for small business employees. **This success is largely dependent on federal tax laws.**

A qualified retirement plan, whether small or large, creates significant rights for the plan participants and generates significant costs for the sponsoring entity. Funds in a retirement plan are not tax sheltered, rather they are tax deferred until the participants receive them, at which time they are brought into the participant's gross income. Retirement plan assets are not subject to favorable capital gains treatment, nor do they receive a step up in basis at the owner's death. Most small business plans are adopted by the small business to provide a tax-advantaged way for the owners to save for their and the other key employees' retirement. The rules of retirement plans force the owners to make significant contributions for the non-highly compensated employees. Thus, in the small business qualified retirement plan world, it is not unusual for the company (in addition to contributions made by the employee) to make contributions for its employees in the 3 – 8.5% of compensation range. **Because of the large number of employees who are actually covered by the qualified retirement plan system any changes that would motivate employers to freeze or eliminate the plans could have significant and detrimental long term repercussions.**

- ***Tax Incentives in the Retirement Plan System are the Primary Motivation for Small Business Owners to Sponsor Retirement Plans and Must be Maintained***

Despite common misperceptions, as a whole, the tax treatment of retirement plans is not particularly attractive since all retirement plan funds are eventually subject to ordinary income. Further, retirement plan assets do not receive a step up in basis upon the death of the owner. Reducing the tax advantage of sponsoring a retirement plan could very well incentivize small business owners to freeze or terminate their plans. **The SBCA contends that the private small business retirement system should remain voluntary[5] and should continue to rely upon tax**

retirement plan. 73% of small businesses which employ 50 employees but less than 100 offer a retirement plan. 87% of businesses with more than 100 employees offer a retirement plan. There is no further breakdown given for over 100 employees so we do not know how many small to mid-size businesses – often defined as up to 500 employees offer plans compared to the large businesses.

[4] Dushi, Iams and Lichtenstein, Social Security Bulletin, Vol. 71 No.2, 2011, Assessment of Retirement Plan Coverage by Firm Size, Using W-2 Tax Records.

[5] While the SBCA believes that the small business retirement plan system should be voluntary, the SBCA is concerned that the recent increase of state action in this arena will only further complicate things for employers and would

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incentives, combined with the understanding that one needs to save for one's own retirement security, to fuel the system.

When a small business closes down its retirement plan, the owners are not likely to increase the pay of the non-key employees to take into account the loss of the plan contribution. Rather the owners will take the amount that would have been contributed to the non-key employees as additional compensation for themselves, or reinvest it in the company.[6] In the early 1980s, a series of laws decreased benefits for the key employees and increased contributions for non-key employees while increasing administrative burdens. As a result, many small business owners determined that the costs of sponsoring a retirement plan outweighed the benefits to be derived for the key employees. Accordingly, existing plans were frozen or terminated in droves and new plans were not established. The same thing will happen today if the tax incentives are limited or removed from the underpinning of the small business qualified retirement plan system.

Because of this, it is important that all existing tax incentives for retirement plans be preserved. This includes, but is not limited to:

- **Maintaining existing contribution levels**

- **Not subjecting 401(k) contributions to additional personal income taxes for individuals in higher tax brackets** - If the 401(k) contributions of small business owners and their key employees are taxed at the time the contributions are made, small business owners will be likely to cut back or freeze the 401(k) feature in a profit sharing plan since this is the most burdensome part of the plan.

- **Retaining the ability of individuals to have any money remaining in an IRA be paid in installments over their beneficiaries' lifetimes, especially for their children** - Over the last few years, there have been a number of proposals (including, most recently, the Senate version of the Retirement Enhancement and Savings Act, discussed further below) which would require some or all retirement plan assets to be forced out of an IRA shortly after the passing of the employee (and the employee's spouse, if married). The SBCA is gravely concerned that the partial or total elimination of the "stretch IRA" (which allows the amount remaining in an IRA at an employee's death to be distributed over the life expectancy of the beneficiary who inherits it), will cause people to be wary of accumulating

therefore would support a limited and reasonable federal plan that would supersede state action, such as in the form proposed by Chairman Neal (D-MA) in his Automatic IRA Act of 2017 (H.R. 3499).

[6] Some economists have claimed that if a small business did not sponsor a retirement plan, the small business owners would pay the employees their regular compensation plus the amount that would have gone into the retirement plan for them. These claims do not account for the financial decisions faced by small business owners nor the fact that many employees themselves do not consider retirement contributions when assessing their compensation. When a small business closes its retirement plans, owners are not likely to increase the pay of non-key employees to take into account the loss of the plan contributions.

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"too much" retirement money because of its ultimate undesirable tax treatment. This may cause employees to under save for their retirement and could further give rise to owners freezing contributions or closing down the whole plan. We saw the negative impact of the 15% excise tax on excess retirement accumulations back in the late 1980's when accountants determined that a plan was funded at such a level that the 15% excise tax would be imposed and told their clients to freeze the plans and stop funding their own retirement contributions into the plan. We believe that this will happen again with the partial elimination of the stretch IRA, particularly if a dollar threshold is made part of the law. In our opinion the only safe way to partially eliminate the stretch IRA without compromising the small business retirement system would be to have the stretch end prematurely at 15 or 20 years so that the behavior of the owners would likely not be changed by the cut off of the IRA and forcing it into the income of the children.

When small business owners are motivated to shut down or freeze their plans, ultimately, the real losers will be the small business employees who often enjoy very generous employer contributions. The data clearly demonstrates that the most effective way for people to save is through payroll deduction. Employees are far more likely to save in a 401(k) plan than in any other vehicle, including an IRA. It is therefore counterproductive for the retirement security of small business employees to impose new restrictions or taxes on the business owners and other key employees at a possible cost of eliminating the most effective method for all of the employees to save.

- ***Changes Should be Undertaken with Care and Consideration***

Both the House (H.R. 5282) and Senate (S. 2526) versions of the Retirement Enhancement and Savings Act ("RESA"), introduced in the 115th Congress include a number of provisions that would assist in ensuring the continued viability of the small business retirement plan system. Unfortunately, the SBCA cannot endorse the current Senate version of RESA due to its partial elimination of the stretch IRA (discussed above), which the SBCA believes is inadvisable and would have a detrimental impact on small business plan sponsorship and its increase in the penalties for the failure to file a Form 5500 or other notices. The SBCA finds it strange that two of the significant revenue raisers to pay for this new provision which is intended to help small businesses sponsor retirement plans in a more cost effective way (see below on multiple employer plans or MEPs) are aimed squarely at small businesses. It is the small business that will fail to file its Form 5500 or do so late and thus, will face new substantially increased penalties. Similarly, it is primarily small business owners who will have accumulated enough funds in their retirement plans (and often rolled over to IRAs upon retirement) who will feel the brunt of the partial elimination of the stretch IRA. This is because small business owners rely on the contributions they make to the qualified retirement plan as the primary source of their retirement security (because many small businesses cannot be sold). Generally, their counterparts in the larger business context rely upon non-qualified deferred compensation plans for their retirement security.

The SBCA, though hopeful, does have reservations about the extent to which all of the various proposals on multiple employer plans (MEPs) will have a significant impact on the availability of retirement plans for small business employees and the cost associated with such changes.

Under both versions of RESA, MEPS would become "open" meaning that the requirement that there be some nexus amongst the companies that adopt the MEP would be eliminated. Also, each separate plan would rise or fall on its own merits – no longer would one "bad" plan taint the whole group with the possibility that all the plans in the MEP could be disqualified because of the one bad apple (plan). Today, most plan advisors counsel their clients to stay away from MEPS because of these problems. Many members of Congress seem to believe that opening up MEPS will solve the problem of lagging coverage in the small plan area. The theory is that MEPS will reduce admin costs, costs of investments and remove almost all (or in at least one version – virtually all) fiduciary responsibility for the company joining the MEP. Even though all of this sounds good in theory, given the fact that the introduction of SEPs and SIMPLE IRAs didn't crack the nut, it is not clear why MEPS would. Of course, problems like start-ups simply not having the money or the bandwidth to provide a plan, or small businesses just hoping to make payroll, or the fact that a significant percentage of new businesses don't make it through their first few years of existence are ignored as the real reasons why many small businesses do not sponsor retirement plans. Nevertheless, they may work and for that reason the SBCA does support the necessary improvements to the MEP rules. However, the SBCA cannot accept that small business owners (and in some cases their families) that are sponsoring retirement plans or have successfully saved in them while providing retirement security for their employees are being asked to pay for these improvements in the law.

To the extent that Congress is going to try for large scale retirement law changes, the SBCA contends that the paygo rules should not be applicable to retirement plan legislation inasmuch as the short budget window distorts the actual revenue loss and the need to make sure that retirement savings is encouraged should trump any short term revenue loss (which is later made up outside the normal budget window).

- ***The Laws Governing Retirement Plans Can be Simplified***

While the small business retirement plan system has been largely a success, there is still much room for simplification with the goal of reducing or eliminating complexities that are unnecessary or that result in burdens that outweigh the desired policy objectives. Often when a number of relatively minor changes that assist in the sponsorship of a retirement plan are put together, they have a real impact on simplifying the whole system. This is often best achieved by providing plan administrators with the opportunity to take advantage of *optional* simplification such as the 401(k) safe harbor provisions. This allows companies to weigh the advantage of reducing complexity with the costs of possible plan amendments, required contributions, redoing employee communications and software and educating plan participants, if necessary.

The SBCA believes that the following proposals would encourage small and mid-size employers (and assist larger plans as well) to establish qualified plans by simplifying the rules and reducing unnecessary administrative burdens:

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Eliminate Top-Heavy Rules for Defined Contribution Plans

When first enacted, the top-heavy rules imposed additional minimum contributions and accelerated vesting on small and mid-size retirement plans, which were virtually always top-heavy due to the mathematical tests used to determine such status. Over the years, the rules have changed so significantly that the top-heavy rules are now an archaic appendage similar to that of the appendix in the human body – they do nothing but cause problems. Nevertheless, those who are not immersed in the technicalities of retirement plan law insist that the top-heavy rules still operate so as to benefit non-highly compensated employees. This outdated view has resulted in inertia on the Hill when it comes to repealing these unnecessary and complicated rules. Because this situation has existed for at least ten years, the following proposals would at least work to ameliorate the most negative aspects of the top-heavy rules. However, these ideas would not accomplish the goal nearly as effectively as outright repeal of the obsolete and complicated top-heavy rules for defined contribution plans. ***Both the House (H.R. 5282) and Senate (S. 2526) versions of the Retirement Enhancement and Savings Act, introduced in the 115th Congress, called for the elimination of the top-heavy rules.***

Eliminate Top-Heavy Contributions for Plan Participants with Less Than One Year of Service so that Employees Are Allowed to Make 401(k) Contributions during Their First Year

Because of the top-heavy rules, small and mid-size plans that are top-heavy cannot allow recent employees into the 401(k) portion of their profit sharing plan without these employees receiving an employer contribution even though they have not met the requirements for the regular "profit sharing contribution." Thus, even though from a policy perspective we should want to encourage new hires to start saving for their retirement as soon as possible, the top-heavy rules impede this. Enactment of the change above will result in more participation in the 401(k) plan sooner rather than requiring employees to be at the company for a year before being able to enter the 401(k) portion of the retirement plan. The one-year wait is the "typical" wait for eligibility for entry into small retirement plans and this is because of the top-heavy rules. *The Retirement Plan Simplification and Enhancement Act of 2017 (H.R. 4524), introduced by Chairman Neal (D-MA) in the 115th Congress, would allow a small business to bring in employees early without being subjected to the top-heavy rules.*

Allow Small and Mid-Size Companies to Sponsor Employee Pay All 401(k) Plans without the 401(k) Contributions Made by Key Employees Triggering the Top Heavy Rules

Under current IRS regulations, when a key employee makes a 401(k) contribution, that employee contribution is deemed to have been made by the company and the company is then required to make top-heavy contributions for the non-key employees. Because of this rule, small to mid-size employers who would like to offer 401(k) plans must either commit to make company contributions to non-key employees or to exclude key employees from participation in the 401(k) plan. Many small companies cannot afford to make company contributions and it should come as no surprise that most small business owners are not motivated to offer plans in which they, and other key employees, cannot participate. Thus, from a policy perspective, employees who might have made 401(k) contributions are not given the opportunity because the significant barriers that stand only before small to mid-size companies offering this type of plan. Unfortunately, it seems that some members of Congress do not understand that most small business owners are not interested in incurring additional expense and administrative burdens without any perceived benefits for themselves. Employees of small or mid-sized employers would certainly be better off with an employee pay-all plan, in which both key and non-key employees could contribute without creating a required contribution for the company, than with no plan at all. Under such a scenario, the regular anti-discrimination tests would still apply to offer protection for non-key employees. Larger companies (which, because of the mathematical tests, are never top-heavy) can sponsor employee pay-all 401(k) plans. This regulation under the top-heavy rules unfairly discriminates against small businesses and their employees.

Simplify the 401(k) Discrimination Testing Referred to as the "ADP" Tests

The anti-discrimination rules for 401(k) plans (the ADP tests) are more complicated than needed. For instance, the tests set forth in the proposal referred to as the "ERSA" (Employer Retirement Savings Accounts – see below) would satisfy the policy goals of the ADP while reducing some of the complexity currently inherent in these tests. This could be an optional ADP test so that companies who are able to deal with the current ADP tests are not required to change retirement plan documents, software and procedures.

The ERSA proposal called for the contribution percentage for eligible highly compensated employees (HCEs) for the plan year not to exceed 200% of such percentage for the non-highly compensated employees (NHCEs) if the contribution percentage of the NHCEs does not exceed 6%. If the contribution percentage of the NHCEs exceeds 6%, then no testing would be required. The proposal also has two safe harbors to avoid the simplified nondiscrimination test which are similar to the current 401(k) safe harbors.

Eliminate Yearly Safe Harbor Notices for 401(k) Safe Harbor Match and Eliminate the 3% Non-Elective Safe Harbor Notice Entirely

These notices, both required by statute, are costly and burdensome. The match safe harbor notice does serve a policy purpose in that it can affect the amount of 401(k) deferrals an employee may choose to make in order to receive the match. However, rather than yearly notices, the notice could stay in effect unless and until revoked. The notice could be part

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of the Summary Plan Description. The safe harbor notice for the 3% non-elective safe harbor serves no policy purpose at all and should be eliminated as soon as possible. In fact, one could argue that it might cause plan participants to reduce their 401(k) contributions since they are being notified that the company will be making a 3% contribution for them. ***The Family Savings Act of 2018 (H.R. 6757), that was introduced as part of Tax Reform 2.0 in the 115th Congress, calls for the elimination of the safe harbor notice for the 3% non-elective safe harbor. This bill also would make it easier for companies to adopt a non-elective safe harbor in a 401(k) plan during the year – another welcome change.***

Have an Optional Definition for Compensation that HR Can Understand

Companies should be given a new optional safe harbor definition of "compensation" that is easy to understand and calculate. Many mistakes occur in the determination of participants' compensation because the various definitions of compensation are now too complicated for a layperson to understand. In fact, it is now too complicated for many ERISA experts to understand. As with many other areas of the retirement plan law, we now have definitions of "compensation" that are "perfect" in that almost every conceivable situation is now covered by regulations and required plan amendments. However this perfection has come at a real cost - a loss of accuracy due to a lack of comprehension.

Reduce Extensive, Burdensome and Unnecessary Reporting to Participants and Employers

The SBCA would recommend that the retirement plan system be rid of unnecessary notices that are not conveying timely or worthwhile information as follows:

- Amend ERISA to eliminate summary annual reports.

- Eliminate the requirement for quarterly investment statements (and make an annual notice) if participants have Internet access to their investment account information.

- Reduce the number of required notices by consolidating and simplifying existing notices.

Eliminate Required Minimum Distributions (RMDs)

It makes no sense to require individuals to remove funds from an IRA or retirement plan prior to their retirement or when not needed. **Presently, the law requires small business owners (*and only small business owners*) to start receiving RMDs *while they are working*.** The demographics of the group comprised of small business owners are such that money saved in a plan or an IRA will be crucial to their retirement security.

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Further, all IRA owners must start removing money from their IRAs whether needed or not by the April 1st following the calendar year in which they attain the age of 70 ½. Life expectancy appears to be increasing significantly, particularly for the oldest sectors of our population. There is no reason why the tax code should be forcing people to remove money that is intended to provide retirement security before it is needed. Worse, it is likely that the withdrawn money will be spent rather than growing tax deferred inside the IRA. It is essential that the money be available to the IRA owners when they reach the ages of 85, 90 or beyond. Eliminating required minimum distributions and allowing participants more control after the age of 59 ½ will also help to simplify the tax code.

At a minimum, the 70 ½ beginning date should be pushed back to 75. Concern has been raised that this change would reduce revenue from taxes but the policy objective here is far more important than a short term deferral in revenue.

Modify the QPSA Rules so That the Age 35 Requirement is Eliminated

The law now provides that a plan participant subject to the survivor annuity requirements of section 401(a)(11) generally may only waive the Qualified Pre-retirement Survivor Annuity (QPSA) benefit (with spousal consent) on or after the first day of the plan year in which the participant attains age 35. However, a plan may provide for an earlier waiver (with spousal consent), provided that a written explanation of the QPSA is given to the participant and such waiver becomes invalid upon the beginning of the plan year in which the participant's 35th birthday occurs. If there is no new waiver after such date, the participant's spouse must receive the QPSA benefit upon the participant's death. This provision does not promote any particular policy goals and is exactly the type of unnecessary provision that should be eliminated.

Limit Interim Amendments

Several years ago, small plans (like all plans) had been getting hit with almost yearly amendments that were costly, and, by and large, unnecessary. These interim amendments placed an enormous burden on the small business retirement plan system. When making any changes in the retirement plan area, Congress should include a direction to the IRS that no amendments are to be required on the new law, including regulations on the new law, for a period of at least 3 years, or, better, until the next required restatement of the plan document. Summary of material modifications would still be required for changes requiring such notice to the plan participants.

Allow Companies to Exceed Funding Levels to a Defined Benefit Plan When Times Are Good and Ease Up on Funding Rules When There are Significant Losses in the Market

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Congress has historically been concerned that companies might be sheltering excess money in their defined benefit plans. As a result, laws have been structured over time to the current point where companies are more or less forced to fund to a specific target each year rather than be allowed to prefund their retirement plan obligations when times are good. These strict parameters make little sense. Under the law, companies are already prohibited from benefitting from excess funding of defined benefit plans. Companies are still required to make up the difference if there is an underfunding but are prohibited from benefitting from a plan being overfunded. Thus, the only policy justification behind prohibiting companies from prefunding their retirement obligations is already fully addressed by other laws. On the other hand, companies will be more motivated to offer defined benefit plans if they are able to prefund and not have to worry that the defined benefit plan contributions will become a burden for them in down years.

Change the Law so that All or a Portion of a Retirement Plan Distribution is Subject to Capital Gains Tax

In order to induce employers to provide qualified retirement plans that are inherently costly to administer and administratively burdensome, the final tax consequences should be as advantageous as possible. Today, some owners balk at putting in a plan because they believe that it is easier and just as cost-effective to take an after-tax bonus and invest it in the market where it will ultimately receive favorable capital gains treatment. Retirement plans are not tax shelters; rather, they are trusts that simply defer taxation for a time. If a portion of the distribution from a retirement plan was subject to capital gains rather than income tax, it is likely that contributions going into small business retirement plans would significantly increase.

Extend Charitable Distributions from Qualified Plans at age 65 (age 65 for IRAs also) of up to $100,000 Per Year Per Individual

This would increase contributions to charitable organizations.

The SBCA appreciates the Committee's consideration of these important issues and stands ready to lend its expertise and assistance to the members of the Committee and their staff members.

For more information, please contact:

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