

DOL's Response to ASPPA GAC

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U.S. Department of Labor
PWBA
Washington, DC 20210

Brian Graff, Executive Director
American Society of Pension Actuaries
4245 North Fairfax Drive Suite 750
Arlington, Virginia 22203

Dear Mr. Graff:

Thank you for the American Society of Pension Actuaries' recent letter regarding the Department of Labor's review of the reporting rules for small pension plans under the Employee Retirement Income Security Act of 1974, as amended (ERISA). As you have heard, the Department is considering a variety of options for improving security and accountability of retirement savings held in small pension plans. The importance of this issue is clearly shown by the many other organizations and associations that joined you in submitting the letter.

At the outset, we wish to assure you that we do not intend to propose changes in this area which would require small businesses' pension plans to use an independent financial institution as a trustee or custodian for their plans. We share your concern about actions in this area that would increase administrative costs for small business owners thinking about continuing existing pension plans or offering new ones. In fact, research indicates that approximately one-third of Americans have not put aside money specifically for retirement, and we understand that this problem is particularly serious in the small business sector where just 20% of workers participate in retirement plans at their jobs.

Still, the Department of Labor, as the federal agency responsible for administering and enforcing ERISA, needs to continually examine whether additional steps should be taken to ensure continued public confidence in the soundness of small pension plans, which we believe to be essential to encourage growth in pension plan coverage.

The recent case in Connecticut involving the Emergi-Lite pension plan was widely reported in the media and focused attention on a potential vulnerability of small pension plans to fraud and abuse. In that case, employees were unaware that their retirement savings had been stolen because of false statements made over several years by the plan manager. Fortunately, cases such as the Emergi-Lite one are rare and legal steps often can be taken to recover lost assets.

Based on our experience dealing with thousands of inquiries every year from workers regarding their plans, we are convinced that well informed workers are often in the best position to be watchdogs over their own pension plans. We, accordingly, have focused our work in this area on the need to give workers better ways to make sure that the assets reportedly held by their pension plans are in fact there. We are looking into what responsible small business owners do today to give their employees access to that sort of information, and we are developing proposed regulations with an eye towards adopting good business practices currently in use. In this regard, we have consulted with a variety of groups, including your organization, the Profit Sharing/401(k) Council, the American Bankers Association, the American Council of Life Insurance, and the Investment Company Institute, regarding their experiences with small business pension plans. Thank you for your valuable input.

In closing, let me again assure you that a key factor in our consideration will be the costs and burdens imposed on small businesses. Moreover, any regulation developed by the Department in this area will be published in the Federal Register and subject to public comment. We welcome your involvement in this effort and we look forward to continuing to work with your organization on this important project.

Sincerely,

Leslie B. Kramerich
Deputy Assistant Secretary for Policy