Advisory Council on Employee Welfare and Pension Benefit Plans

Membership Balance Plan

December 2016

Name

Advisory Council on Employee Welfare and Pension Benefit Plans (Council).

Authority

The Council is mandated by Section 512(a)(1) of the Employee Retirement Income Security Act of 1974 (ERISA). It was established in accordance with the provisions of the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C., App. 2.

Mission/ Function

Provide the Secretary of Labor with expert advice concerning the technical aspects of the provisions of ERISA. The Council accomplishes its objectives by defining issues to study each year, in consultation with the Employee Benefits Security Administration (EBSA), the agency that administers the Council, and providing its findings and recommendations to the Secretary in a report on each issue. In accordance with Section 512(a)(1) of ERISA, which established the Council, membership must represent points of view of people from varying backgrounds as detailed below.

Points of View

In accordance with Section 512(a)(1) of ERISA, there are 15 membership positions available on the Council. Each of these positions is designated to represent a specific background or perspective including the following:

- Three of the members are representatives of employee organizations (at least one of whom is a representative of an organization whose members are participants in a multiemployer plan);
- Three of the members are representatives of employers (at least one of whom is a representative of employers maintaining or contributing to multiemployer plans);
- Three members are appointed from the general public (one of whom is a person representing those receiving benefits from a pension plan);
- One member is from the field of accounting;
- One member is from the field of actuarial counseling;
- One member is from the field of corporate trust;
- One member is from the field of insurance;
- One member is from the field of investment counseling;
- One member is from the field of investment management.

Also, based on 41 CFR § 102-3.60(b)(3), in the selection of Council members, EBSA considers the importance of finding representation from those groups who are affected directly by ERISA policies and plans, those who have an interest in ERISA plans, and those who are qualified to provide advice. Because technical expertise is necessary, the membership is selected from those who have demonstrated professional and personal qualifications with specific experience in implementing, communicating, administering, and/or understanding ERISA plans.

The Office of the Solicitor provided guidance to determine that the members of the Council are Special Government Employees because they are selected based on their expertise, not to represent particular groups.

Other Balance Factors

Section 512(a)(1) of ERISA requires that no more than eight members of the Council shall be members of the same political party.

Members serve a 3-year term, as provided in the statute. There is no statutory restriction on appointment to subsequent terms. However, in selecting members, the agency works to include people who are new to the Council.

Except as otherwise required by law, Council membership will be consistent with the applicable FACA regulations. Membership on the Advisory Council on Employee Welfare and Pension Benefit Plans will be fairly balanced. Members will come from a cross-section of those directly affected, interested, and qualified as appropriate to the nature and functions of the Council.

The composition of the Council will depend upon several factors, including i) the Council's mission; ii) the geographic, ethnic, social, and economic impact of the Council's recommendations; iii) the types of specific perspectives required, for example, those of consumers, technical experts, the public at-large, academia, business, or other sectors; iv) the need to obtain divergent points of view on the issues before the Council; and v) the relevance of State, local or tribal governments to the development of the Council's recommendations.

To the extent permitted by FACA and other laws, Council membership also should be consistent with achieving the greatest impact, scope and credibility among diverse stakeholders. The diversity in such membership includes, but is not limited to, race, gender, disability, sexual orientation and gender identity.

Candidate Identification Process

The agency will employ a multi-faceted approach to inform the general public as well as the Department's workforce regarding vacancies on the Council and the period and requirements for submitting nominations. The Agency will submit for publication a notice in the Federal Register announcing the number of vacancies, the requirements for submitting nominations to the agency, as well as the period for submitting nominations. To promote widespread notification of these vacancies, the Agency also will work with others in the Department of Labor, other government agencies, and with diverse stakeholders throughout the country, including professional organizations, academia, and individuals, as well as past members of the Council. The Agency's outreach will include those who historically have had limited awareness and participation in the Council and its activities.

The Agency will report on its efforts to the Council and the Secretary.