



AMERICAN BENEFITS
COUNCIL

March 23, 2023

Submitted electronically via www.regulations.gov

Office of Exemption Determinations
Employee Benefits Security Administration
U.S. Department of Labor
200 Constitution Avenue NW
Washington, DC 20210

Re: Proposed Amendment to Prohibited Transaction Class Exemption 84-14 (“the QPAM Exemption”), Z-RIN 1210 ZA07 (Docket ID No. EBSA-2022-0008)

Dear Sir or Madam:

On behalf of the American Benefits Council (“the Council”), I am writing regarding the reopened comment period for the proposed amendment to prohibited transaction exemption 84-14 (“the proposal”). As you know, we have submitted two comment letters regarding the proposal – dated October 11, 2022, and January 6, 2023 – and also testified at the November 17, 2022, public hearing.

In reopening the comment period, the U.S. Department of Labor (DOL) states:

The Department understands that at least one interested party may have additional information to provide the Department that was not submitted by the comment deadline of January 6, 2023. Therefore, the Department is reopening the comment period to provide an opportunity for all interested parties to submit additional information.

It appears that DOL has received an oral or written submission from a party that is sufficiently important that it merits reopening the comment period.

As you know, we are strong believers in the public notice and comment process. In that regard, to ensure the type of robust comment process envisioned by the Administrative Procedure Act (APA), it is very important that the name of that interested party and the substance of the oral or written submission be entered into the public record now. We also request an extension of the reopened comment period until at least 30 days after that information is made public.

The purpose of the APA is to ensure that new rules are subject to a robust public notice and comment process. If a submission is made and the submission is of such magnitude that it merits reopening the public comment period, it is consistent with the purpose of the APA to disclose that submission now to allow commenters to respond to it.

We will be submitting a comment letter during the reopened comment period. In that regard, we look forward to seeing the above-referenced submission so that our comment letter can respond most effectively to the concerns that led DOL to reopen the comment period.

We are also interested in the fact that DOL reopened the comment period potentially for a single party. As we have worked on numerous issues over many years with the DOL, we have on some occasions come across facts or issues that were not raised during the comment process. The possibility of reopening comment periods could be very helpful in such circumstances.

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Thank you for the opportunity to provide our views. If you have any questions or if we can be of further assistance, please contact me at (202) 289-6700 or ldudley@abcstaff.org.

Sincerely,



Lynn Dudley
Senior Vice President, Global Retirement & Compensation Policy

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