BlackRock

July 20, 2020

Office of Exemption Determination
Employee Benefits Security Administration
U.S. Department of Labor
200 Constitution Avenue NW, Suite 400
Washington, DC 20210
Attention: Z-RIN 1210–ZA28

Submitted online via http://www.regulations.gov

RE: Prohibited Transactions involving Pooled Employer Plans under the SECURE Act and Other Multiple Employer Plans: Z-RIN 1210–ZA28

The Setting Every Community Up for Retirement Enhancement Act ("**SECURE Act**") amended the Employee Retirement Income Security Act of 1974 ("**ERISA**") to allow for pooled employer plans ("**PEPs**"). BlackRock, Inc. (together with its affiliates, "**BlackRock**") respectfully submits its comments to the Department of Labor ("**DoL**") in response to the DoL's request for information ("**RFI**") regarding the formation and operation of PEPs and other multiple employer plans ("**MEPs**").

Retirement security is an important financial priority for every American and, especially as our population ages, it is clear that policy changes are needed to ensure that a secure retirement is available to all. BlackRock believes that a key goal of any change to the retirement landscape should be to make saving for retirement easier – both for employers to offer retirement plans, and for their employees to participate.

As we have previously noted, PEPs and MEPs present a promising way to encourage small employers to offer retirement plans.[1] These plans allow businesses to share administrative and other responsibilities associated with establishing and maintaining a retirement plan. We believe that PEPs and MEPs can significantly reduce and simplify the burdens on employers, particularly smaller companies that would like to offer plans but are discouraged to do so because of the potential costs, resources requirements, complexity, and fiduciary risk. Thus, we are supportive of the DoL's efforts to facilitate the formation and operation of PEPs and MEPs.

[1] *See e.g.,* BlackRock, *ViewPoint*, Increasing Access to Open Multiple Employer Plans (Jan. 2018), available at https://www.blackrock.com/corporate/literature/whitepaper/viewpoint-increasing-access-open-multiple-employer-plans-january-2018.pdf; BlackRock, Letter to DoL – "Open MEPs" and Other Issues Under Section 3(5) of ERISA (Oct. 29, 2019), available at https://www.blackrock.com/corporate/literature/publication/dol-open-meps-other-issues-erisa-102919.pdf; BlackRock, Letter to DoL – Definition of "Employer" Under Section 3(5) of ERISA – Association Retirement Plans and Other Multiple-Employer Plans (Dec. 21, 2018), available at https://www.blackrock.com/corporate/literature/publication/dol-association-retirement-plans-open-meps-122118.pdf.

BlackRock manages assets on behalf of individual and institutional clients across equity, fixed income, real assets, and other strategies. The assets we manage represent our clients' futures and the investment outcomes they seek, and it is our responsibility to help them better prepare themselves and their families to achieve their financial goals. Two thirds of the assets we manage are retirement-related assets. BlackRock manages assets for public and private pensions, including defined benefit ("**DB**") and defined contribution ("**DC**") plans of varying sizes.

Individuals around the world save and invest for retirement using BlackRock's products. In 1993, BlackRock launched LifePath®, the first target date strategy, with the goal of helping plan sponsors guide their participants successfully into and through retirement. Target date funds ("**TDFs**") provide a diversified mix of equities and fixed income that rebalances over time, helping retirement savers take more risk when they're young, and gradually reducing risk over time as the point of retirement approaches. Given BlackRock's role as a global investment manager and provider of a broad set of investment solutions, including TDFs, we have included below some insights in response to the DoL's question regarding plan investment options.

1. **Question B.1:** *What plan investment options do respondents anticipate will be offered in PEPs and MEPs? Are the investment options likely to be as varied as those offered by large single employer plans? Are the options likely to be more varied than those offered by small single employer plans?*

TDFs are one of the most commonly used retirement solutions, and these products are likely to be considered as plan investment options in MEPs and PEPs. As of 2019, 93.3% of DC plans offer TDFs, and 87.3% of plans use a TDF as their Qualified Default Investment Alternative ("**QDIA**") that participants are automatically enrolled in if they do not opt for a different investment.[2] As of year-end 2018, target-date assets represented more than 27% of all 401(k) assets and a majority (58%) of 401(k) net flows. Cerulli has projected that within five years, target-date inflows will comprise over three quarters of all 401(k) contributions.[3] TDFs are utilized by plans of all sizes, though allocations typically increase along with plan size: approximately 22.8% of assets in Micro plans (<$5 million) were invested in TDFs, compared to 32.2% of assets in Mega plans (>$1 billion).[4] In addition to QDIAs such as TDFs, retirement plans may also offer other investment options in their lineup, such as mutual funds, collective trust funds, separate accounts, annuities, company stock, and/or other investments.

In terms of how varied investment options are likely to be, we would expect that the number of options available in MEPs and PEPs may vary, similar to what we see in the single employer plan space, where the number of investment options depends on the type of plan sponsor and the plan size. In our experience, smaller plans generally tend to have more investment options than larger plans. This may be in part due to behavioral research

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[2] Callan Institute, 2020 Defined Contribution Trends Survey, available at https://www.callan.com/wp-content/uploads/2020/01/Callan-2020-DC-Trends-Survey.pdf.

[3] The Cerulli Report U.S. Defined Contribution Distribution (2019), available at https://www.cerulli.com/publications/8ae7427e-afd0-e811-a968-000d3a32c8b8/2019-us-defined-contribution-distribution-annual.

[4] Id.

that larger plans rely on, which suggests that having too many options may confuse participants, increase procrastination, and thereby reduce participation in the plan.[5]

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We thank the DoL for providing the opportunity to comment in response to the DoL's RFI regarding the definition of "employer" in section 3(5) of ERISA. Please contact the undersigned if you have any questions or comments regarding BlackRock's views.

Sincerely,

Kate Fulton
Head of U.S. Public Policy Group

Dagmar Nikles
Head of Plan Strategy, Retirement Group

Nicole Rosser
Director, Legal & Compliance

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[5] See e.g., Donald B. Keim and Olivia S. Mitchell, National Bureau of Economic Research Working Paper No. 21854, "Simplifying Choices in Defined Contribution Retirement Plan Design" (Jan. 2016), available at https://www.nber.org/papers/w21854?mod=article_inline; Sheena Iyengar, Wei Jiang, and Gur Huberman, Pension Research Council, "How Much Choice Is Too Much?: Determinants of Individual Contributions in 401K Retirement Plans" (2003), available at https://pdfs.semanticscholar.org/04f0/7b37fc9deb167e56c729e1f35e052998ba4a.pdf; O, S. Mitchell and Stephen P. Utkus, Oxford University Press, "*Pension Design and Structure: New Lessons from Behavioral Finance*" (2004), available at https://pensionresearchcouncil.wharton.upenn.edu/wp-content/uploads/2015/09/0-19-927339-1.pdf.