Written Testimony of

Nicola Favorito

Deputy Treasurer for Retirement Services / Commonwealth of Massachusetts

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"Small Business Retirement Pooling: Examining Open Multiple Employer Plans"

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Introduction

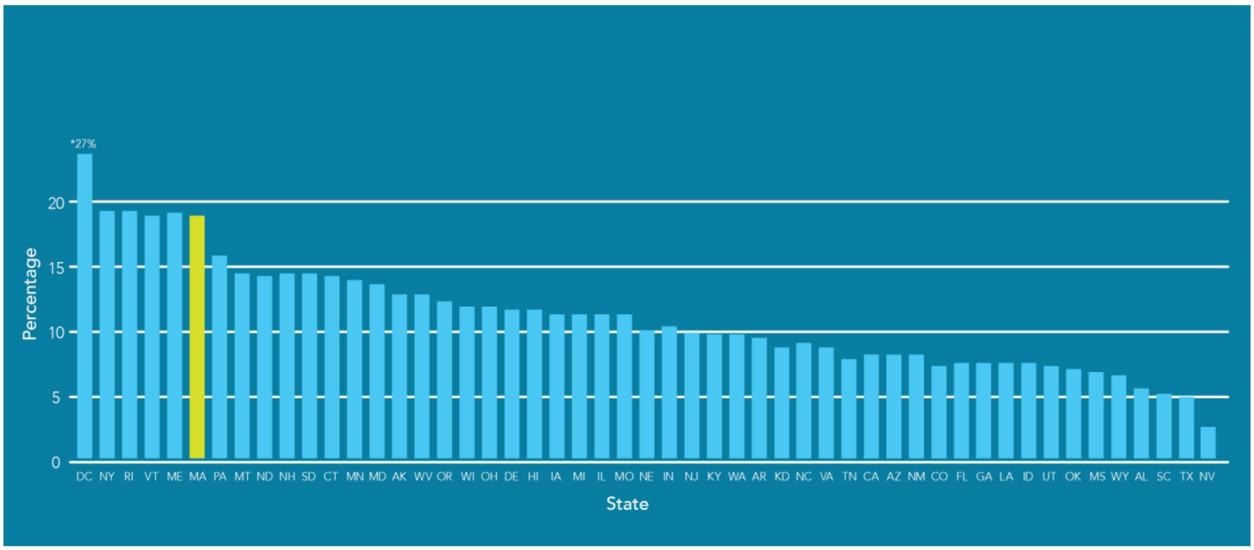
On behalf of Massachusetts Treasurer & Receiver General Deborah Goldberg, we would like to thank you Chairman Enzi, Senator Warren and members of the Committee for the opportunity to participate in today's discussion regarding Open Multiple Employer Plans. We will outline our efforts in this regard at the state level as we develop a retirement plan for Massachusetts nonprofit organizations. We hope you will concur that the information we provide you will be consistent with many of the themes previously expressed to this committee and those who have testified in support of expanding retirement plan accessibility and the use of MEPs.

The Commonwealth has a long history in sponsoring retirement benefits for its own employees. Its state defined benefit plan was established in 1911; its teacher system in 1914; and its optional §457(b) plan in 1976. These plans collectively account for more than 250,000 active members / participants, retirees, and more than $67b in assets. As we will describe further, these and other factors afford our office economies of scale around plan design and costs which benefit plan participants and the taxpayers.

As chair of the Massachusetts State Employees Retirement System, and having prior extensive experience with private sector business management, Treasurer Goldberg recognizes the importance of providing workers with quality retirement benefits, especially to those who may not have them readily accessible. In an effort to leverage its experience providing retirement benefits, the Commonwealth has embarked to make retirement benefits accessible to private sector employees.

The Challenge

As illustrated in the graph below, the nonprofit business sector represents nearly 17 percent of the Massachusetts state economy employing over 500,000 individuals making it the sixth largest in the nation.[1] In many cases nonprofit organizations simply lack the resources to administer an affordable retirement plan, resulting in countless employees being isolated from any retirement benefits outside of Social Security. According to the Boston Foundation, a full 56 percent of grassroots organizations with budgets of less than $250,000 do not offer any retirement plans to their employees making it challenging for the nonprofit sector to attract high quality talent.



Importantly, this sector is characterized by dedicated employees who tend to remain in the non-profit world even when they do change employment. It is a sector that employs women predominantly, who typically face shorter working careers, improving longevity relative to their male counterparts, and unfortunately lower rates of compensation: Factors which make retirement security more challenging.

Chapter 60 of the Acts of 2012, signed into law on March 22, 2012, authorized the Treasurer and Receiver General to establish a defined contribution retirement plan for not-for-profit employers

1 Bureau of Labor Statistics

of the Commonwealth of Massachusetts incorporated under section 501(c) of the Internal Revenue Code, that are established, organized or chartered under the laws of the Commonwealth and doing business in the Commonwealth. The Legislation limited the size of participating employers to those with not more than 20 persons.

Volume Submitter vs Multiple Employer Plan:

With the foregoing as background, we would like to highlight how this Committee's focus on MEP's has bearing on our efforts at the state level. In 2012 establishing our program as a volume submitter plan represented the most practical plan design at the time. Volume submitter plans allow multiple employers to adopt their own separate plan via an adoption agreement with the State as the plan sponsor. As a general matter for a volume submitter all employers would have their own autonomous plans and would be responsible for maintaining their own documents, trust agreement, IRS form 5500 filings and plan records. However, each employer would also need to adopt amendments to the plan documents as needed, such as for changes in law, changes in plan design, and fee changes. Adopting employers under a volume submitter plan assume fiduciary and administrative responsibilities in the oversight of their individual plan to ensure compliance with ERISA. This structure also presents cost challenges to prospective employers.

By comparison, as has been detailed to this Committee previously, a multiple employer plan structure ("MEP") would permit employers (that meet specified eligibility criteria) to join the plan. The MEP would be considered a single Plan and trust under ERISA. The plan document would provide that the plan is subject to Title I of ERISA and is intended to comply with Internal Revenue Code tax qualification requirements. The MEP would have a single separate trust holding contributions made by the participating employers, the employer's employees, or both. Only a single Form 5500 annual return report would be filed for the whole arrangement.

Under this structure participating employers would have limited fiduciary and administrative responsibilities. Administrative costs could be kept low by aggregating assets and leveraging economies of scale as the plan grows. The Treasury is in the process of exploring the feasibility and advantages of offering the nonprofit 401k plan as a MEP.

Plan Design

The Treasurer's office is developing the nonprofit plan as a 401(k). Offering the program as a 401(k) would allow us to incorporate all of the consumer protections inherent in ERISA-type-plans as well as best practice design features found in both defined benefit and defined contribution plans. These features would include:

- Auto-enrollment of employees at a rate equal to 6% of pay with employees eligible to opt out or select an alternate savings rate;
- Auto-escalation of employee contributions to 10% of pay in annual 1% increments;
- Professionally managed diversified investment options; and
- Portability.

Additional protections are secured through the public procurement process we are required to utilize in engaging record keepers, auditors and consultants.

Key demographic data for the nonprofit sector as well as behavioral science observed in our own experience and in the defined contribution industry support the need for automatic features within the plan design. The higher ratio of female to male employees with a large percentage of those employees earning salaries less than $30,000.00 support this conclusion. The following charts from Vanguard's *How America Saves 2015 – A report on Vanguard 2014 defined contribution plan data*; illustrate the dangers of participant inertia for these employees in the absence of auto features:

Participation rates by plan design, 2015

Vanguard defined contribution plans permitting employee-elective deferrals

	Voluntary Enrollment	Automatic Enrollment	All
All	58%	88%	66%
Income			
< $30,000	29%	82%	42%
$30,000-$49,999	53%	90%	64%
$50,000-$49,999	62%	92%	69%
$75,000-$99,999	69%	94%	74%
$100,000+	85%	96%	87%
Age			
<25	25%	81%	37%
25-34	51%	88%	62%
35-44	61%	88%	68%
45/54	65%	90%	71%
55-64	69%	91%	74%
65+	64%	87%	69%
Gender			
Male	56%	89%	65%
Female	63%	88%	71%
Job tenure (years)			
0-1	33%	82%	48%
2-3	56%	92%	67%
4-6	63%	92%	71%
7-9	68%	92%	73%
10+	73%	93%	77%

Source: Vanguard, 2016.

Participant deferral rates by plan design, 2015

Vanguard defined contribution plans permitting employee-elective deferrals

	Voluntary Enrollment	Automatic Enrollment	All
All	7.2%	6.1%	6.8%
Income			
< $30,000	5.1%	3.6%	4.4%
$30,000-$49,999	5.9%	5.0%	5.5%
$50,000-$49,999	6.9%	6.5%	6.8%
$75,000-$99,999	7.7%	7.8%	7.7%
$100,000+	8.4%	8.1%	8.3%
Age			
<25	5.1%	3.8%	4.5%
25-34	5.8%	4.9%	5.5%
35-44	6.5%	5.7%	6.3%
45/54	7.4%	6.8%	7.2%
55-64	8.9%	8.1%	8.7%
65+	10.4%	9.0%	10.0%
Gender			
Male	7.0%	6.3%	6.8%
Female	7.4%	6.0%	6.9%
Job tenure (years)			
0-1	5.4%	4.1%	4.7%
2-3	6.5%	5.9%	6.2%
4-6	6.9%	6.8%	6.8%
7-9	7.3%	7.1%	7.3%
10+	8.0%	8.1%	8.0%
Account balance			
1. <10K	4.0%	3.5%	3.8%
2. <25K	6.2%	6.3%	6.3%
3. <50K	7.3%	7.2%	7.3%
4. <100K	8.5%	7.9%	8.3%
5. <250K	9.8%	9.2%	9.6%
6. 250K+	10.8%	10.7%	10.7%

Source: Vanguard, 2016.

As illustrated in the above tables, plans with automatic enrollment have higher participation rates across all demographic data points as compared to voluntary plans. While automatic enrollment will lead to increased participation rates it may, in some circumstances have an unintended negative effect on participant deferral rates. For example if the default participant deferral rate is set too low (3% or lower) and/or in the absence of an auto-escalation feature, employees could face shortfalls in their retirement savings.

Investment design

The Plan's investment structure is being designed to permit all Plan participants, regardless of their previous knowledge or experience, to construct an investment plan appropriate to their financial circumstances, goals, time horizons and risk tolerances. All investment options will be "white label" to help participants focus on each option's investment strategy. The nonprofit 401(k) Plan investment structure would have three tiers; Plan participants may allocate and transfer their assets among investments in each tier. A description of each tier follows:

Tier 1 – Custom Target Date Funds – For Plan participants lacking the knowledge, experience or time to construct a unique asset allocation plan: a series of low cost custom target-date retirement funds constructed, managed and monitored by the Plan's investment consultant acting as a 3(38) fiduciary.

Tier 2 – Objective Based Portfolios – The objective based funds offer four diversified investment options in four classes of the defined contribution objectives menu (Growth, Income, Capital Preservation and Inflation Protection). Each fund offers participants a professionally managed efficient portfolio constructed and monitored by the Plan's investment consultant acting as a 3(38) fiduciary.

Tier 3 – Managed Account Service – This would be an advice service offered through the Plan's recordkeeper.

Conclusion

As with many other small businesses, the greatest barrier for nonprofit organizations is not the willingness or desire to offer retirement benefits to their employees but the cost. Because a nonprofit organization's ability to fundraise is often tied to overall operating expenses it is critical to keep administrative costs to an absolute minimum. This has a direct effect on the organization's ability to cover the administrative oversight and expenses associated with the sponsorship of a quality retirement plan.

The MEP structure would directly address some of the key challenges nonprofit employers face when deciding whether it is feasible to offer a retirement plan to their employees. Employers must also assess plan administration and their fiduciary responsibilities and liabilities.

As contemplated by our office, the state (either directly or through one or more contract agents) would be an ERISA fiduciary and assume administrative responsibilities for the program. Administrative costs could be kept low by aggregating assets and leveraging economies of scale as the plan grows.

On behalf of Treasurer Goldberg and the Commonwealth we would encourage this Committee and Congress to continue its efforts toward expanding accessibility to well-run retirement programs for those who may not have it now. We would also urge the continued consideration of MEPs in this regard.

Thank you for the opportunity to submit our views and for your consideration.