Piper Pension & Profit Sharing

2554 Lincoln Blvd., #105, Marina Del Rey, CA 90291
Phone: (310) 313-5124
Fax: (310) 313-5125
Email: kurt@piperpension.com

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RE: Comments on Proposed Regulations Relating to Performance of Actuarial Services Under the Employee Retirement Security Act of 1974

I appreciate this opportunity to comment on the proposed amendments to the regulations relating to performance of actuarial services under the Employee Retirement Security Act of 1974 (ERISA) as issued by the Joint Board for the Enrollment of Actuaries on September 18, 2009 (REG -159704-03).

I concur with the comments you will receive from the American Society of Pension Professionals and Actuaries (ASPPA). That said, I want to highlight two comment areas of special interest.

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First, Proposed 901.11(f)(3)(i) provides that qualifying sponsors are organizations recognized by Executive Director and provides that sole proprietors cannot be qualifying sponsors. It is not clear why only corporations and partnerships should be allowed to be a sponsor. The capability of the sponsor seems to be the only criteria that should matter, not the form.

I recommend that the prohibition on sole proprietors be removed. Prohibiting sole proprietors from serving as qualifying sponsors is detrimental to enrolled actuaries of modest resources who receive some or most of their continuing education credit from attending local study groups. For example, the Enrolled Actuaries Workshop in Los Angeles has been providing an educational experience to enrolled actuaries for over 20 years, but since it is not incorporated it would seem to not meet the definition of a qualifying sponsor. As the current chair of the Enrolled Actuaries Workshop, I can testify that we have provided a bounty of quality education over the years. I am not incorporated.

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My second comment pertains to proposed §901.20(b)(3), which states: "An enrolled actuary, upon learning of another enrolled actuary's material violation of this section, shall report the violation to the Executive Director."

I recommend (i) that the following or similar words be inserted at the end of the subsection "unless exempt in accordance with subsection (4), below"; (ii) that subsection (4) state that enrolled actuaries are exempt from the mandatory reporting requirement if they fall within specific

categories; and (iii) that subsection (4) list legitimate bases on which enrolled actuaries are exempt from the requirement.

One category of exemption would be "if the enrolled actuary is prohibited by law from reporting the violation."

Another category would be "if the enrolled actuary was made aware of the other enrolled actuary's material violation through the potential reporting actuary's role in the discipline process of an incorporated organization." This exemption is requested because an enrolled actuary who learns of an apparent material violation as a result of such actuary's participation as an appointed discipline committee/board member or investigator or transmitter of proposed findings to a discipline committee will typically be prohibited from disclosing the violation outside channels prescribed by the organization. Disclosure outside said channels would violate the organization's confidentiality rules, arguably damage the reported actuary without according due process established by the organization, and subject the reporting actuary and the organization to potential liability.

The second proposed exemption above would include enrolled actuaries who are discipline committees or discipline board members; appointed investigators; executive directors, presidents, or other staff responsible for transmitting discipline committee reports.

I appreciate the opportunity to comment. If you have any questions, please feel free to contact me.

Sincerely,

Kurt F. Piper, M.A.A.A., A.S.A., M.S.P.A.
Chief Actuary