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March 18, 2019

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The Honorable Gene Dodaro
Comptroller General
U.S. Government Accountability Office
441 G Street, N.W.
Washington, D.C. 20548

Dear Mr. Dodaro:

We write to respectfully request that the U.S. Government Accountability Office (GAO) examine the enforcement practices and priorities of the Department of Labor's (DOL's) Employee Benefits Security Administration (EBSA).

As you know, EBSA is the primary federal agency tasked with providing participant protection, education, and oversight of retirement and health care plans. EBSA is responsible for overseeing nearly 694,000 retirement plans and approximately 2.2 million health plans. In total, such plans cover about 143 million workers and their dependents. These plans are crucial to the health and retirement security of working people, providing peace of mind and financial security to the millions of Americans who have worked to earn these benefits.

A crucial function of EBSA's mission is enforcing statutory protections that ensure plan participants receive the full benefits to which they are entitled, and that they are protected from harmful actions that could undermine the health and retirement plans in which they are enrolled. Given the central role that EBSA plays in protecting these workers' benefits and the vast number of plans for which EBSA must provide oversight, it is critically important that EBSA conduct its work with care, diligence, and efficiency.

Accordingly, we ask that GAO evaluate EBSA's enforcement practices and priorities and, where appropriate, conduct a forensic audit of EBSA's enforcement actions. Such an evaluation is long overdue, as GAO last examined EBSA's enforcement activities in a 2007 report that recommended several improvements to enforcement processes and information-sharing between agencies. Numerous subsequent developments, including EBSA's 408(b)(2) Fee Disclosure Rule and the enactment of legislation such as the *Mental Health Parity and Addiction Equity Act*

and the *Affordable Care Act*, have substantially changed the landscape in which retirement and health plans operate.

Specifically, we are interested in gathering information about EBSA's ability to conduct oversight of health and retirement benefits, as well as the effectiveness with which the agency works with stakeholders and plan participants. As part of that work, we ask that GAO examine the following areas:

1. EBSA's enforcement practices and targeting methods and how such practices and methods compare with similar federal enforcement agencies, including its performance metrics.
2. Recent trends regarding EBSA's process for prioritizing its enforcement efforts and any changes in this process. In particular, we are interested in the process by which EBSA balances its enforcement efforts among national enforcement projects, major case and employee contributions priorities, and regional projects and whether improvements can be made to the process.
3. Recent trends regarding the number and nature of complaints that EBSA receives and any trends that can be used to inform best practices need to protect plan participants from emerging threats.
4. Recent trends regarding the number and nature of EBSA's civil and criminal investigations, including the disposition of these investigations.
5. Recent industry-specific trends and/or regional trends among EBSA's civil and/or criminal investigations.
6. The process by which EBSA and the Solicitor of Labor determine which civil investigations are referred for litigation and whether this process has changed in recent years.
7. Referrals that EBSA receives from other agencies, such as the Internal Revenue Service, the Pension Benefit Guaranty Corporation, the Securities and Exchange Commission, and the states agencies, including whether the number and/or nature of these referrals have changed in recent years.
8. The number and nature of EBSA's joint investigations with other agencies for matters of an interdisciplinary nature.
9. EBSA's recruitment and retention efforts for benefit advisors, investigators, and other skilled personnel to conduct its critically important enforcement duties. Please assess EBSA's attrition rate and how it compares with DOL generally and other similar federal enforcement agencies.
10. The effectiveness of EBSA's voluntary compliance programs in correcting minor violations, including areas in which these programs should be improved and/or expanded.
11. Additional tools or resources that could help EBSA improve its education, outreach, and assistance to workers, employers, and plan officials with respect to its Dislocated Worker

Rapid Response Sessions, Compliance Assistance Activities, or other participant assistance and public awareness activities.

12. EBSA's ability to adapt its enforcement practices and priorities in the changing landscape of retirement and health benefits.
13. EBSA's financial resources and whether they are adequate to effectively conduct its enforcement and compliance efforts.
14. Statutory or regulatory changes that could make EBSA more effective in protecting the health and retirement benefits of American workers.

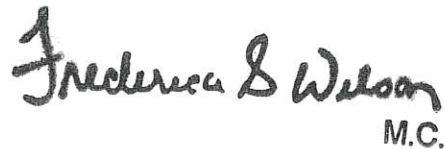
We appreciate GAO's attention to and assistance with this request. If you have any questions, please contact us or Daniel Foster or Kevin McDermott with the House Education and Labor Committee at (202) 225-3725.

Thank you for your attention to this matter.

Sincerely,



ROBERT C. "BOBBY" SCOTT
Chairman



M.C.

FREDERICA WILSON
Chairwoman
Subcommittee on Health, Education, Labor,
and Pensions