Liberate Employers

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Shifting the burden of benefit provision away from employers is a good idea

Employers don't like being in the benefit business, and having benefits linked to employers is not good for employees. Employers often complain that they face complex regulations and escalating financial commitments and that worrying about health and retirement plans diverts their attention from their business activities just when they need most to focus. If large employers feel burdened, small employers must feel overwhelmed. And employer-based plans create complications for employees when they change jobs, such as the prospect of new health insurance providers and the temptation to cash out 401(k) balances.

Given that employer-linked benefits are not optimal for anyone, it seems like a good time to take a look at alternatives. In 2007 the ERISA Industry Committee (ERIC) – a membership organization representing the employee benefit plans of the nation's largest employers put forth a proposal that would shift the responsibility of the provision of retiree and health benefits from the employer to a "New Benefit Platform for Life Security."

The new system would involve establishing third-party Benefit Administrators – trusted intermediaries with expertise in designing, delivering, and managing health and retirement benefits. These administrators could be banks, insurance companies, investment companies, or new entities created specifically for this purpose. These entities would compete among themselves for employers' business and also for individuals who want to buy their benefits directly.

To ensure that every business would have access to at least two Benefit Administrators, the federal government would establish uniform services areas for retiree and health benefits. The government would also establish national standards for the Benefit Administrators so that individuals could make apples-to-apples comparisons. But the Benefit Administrators would be free to offer additional benefits, such as life insurance or group auto and homeowners insurance. Employers would have the option to contract with one or more of these providers, but could continue to manage their own benefits if they wanted. The competing Benefit Administrators and their affiliates would assume ERISA's fiduciary liability. The complex non-discrimination rules would be replaced with "safe harbor' designs to encourage broad-based availability of benefits.

The ERIC proposal spells out the type of retirement savings and health offerings that the Benefit Administrators would provide. Because the proposal was released before the passage of the Affordable Care Act, it makes sense to focus on the savings plans. Each Benefit Administrator would be required to offer three types of plans. The first is a "Guaranteed Benefit Plan" – a cash balance plan insured by the Pension Benefit Guaranty Corporation – where the employer, and perhaps the employee, would make the contributions and the Benefit Administrator would establish the minimum guaranteed credit and be responsible for managing the assets.

Benefits would be paid as an annuity at retirement with no loans or guarantees before that time. The second is a “Retirement Savings Plan” – a defined contribution plan similar to a 401(k) – that would be financed by employers and employees and would be portable among competing Benefit Administrators. The third component is a “Short-Term Security Account” that could be used for specific purposes, such as uncompensated medical expenses or education. The proposed structure could be combined with auto-enrollment to enhance participation.

Remember this proposal comes from the employers. It would get the retirement and health plans off their books and relieve them of fiduciary liability, while creating a structured uniform system that could provide greater coverage and adequate benefits. Employers want out, and it seems perfectly reasonable to me that their role be reduced to more of a conduit. Employers who want to offer generous benefits to compete for talent could continue to do so, but their job would involve simply transferring money to some type of new platform. You may or may not like the ERIC proposal, but it reflects a lot of work and seems like a good place to start a discussion about the role of employers in the provision of retirement and health insurance benefits.