

Quadrennial  
Benefits  
Conference



PAST, PRESENT AND FUTURE

# Church Plans and UMC Plans



**Wespath**  
BENEFITS | INVESTMENTS



# Church Plans Context

Church plans  
*“are some of the oldest  
retirement plans in the country” ...  
“several date back to the 1700s”*

125 Cong. Rec. 10,052 (1979)  
(statement of Sen. Talmadge)

**1784**

**Christmas Conference  
of Methodist Church**

**“Worn-out preachers fund”**



# Church Plans Formalized

<p><b>1974</b> ERISA* enacted</p>	<ul style="list-style-type: none"><li>• Defined “church plans”</li><li>• Exempted church plans from much of ERISA</li></ul>
<p><b>Issue</b> “Eligible employers” definition</p>	<ul style="list-style-type: none"><li>• Excluded “church agencies” (after sunset provision)<ul style="list-style-type: none"><li>– Permitted only “steeple”</li></ul></li></ul>

**\*ERISA: Employee Retirement Income Security Act**



# Church Plan Characteristics

Church plans exempted from ERISA to avoid  
“an unjustified invasion of the confidential relationship that is believed  
to be appropriate with regard to churches and their religious activities.”

**S. Rep. No. 93-383 at 81 (1973)**

## **Church plans exemptions include:**

- Pension Benefit Guarantee Corporation coverage (Title IV):
  - No premiums; no pension insurance for benefits
- Minimum funding requirements
- ERISA fiduciary standard
- Strict notice requirements—e.g., SPDs, SMMs\*
- Certain coverage requirements
- Claims and appeals procedures
  - COBRA for health plans

\* **SPDs: Summary plan descriptions; SMMs: Summaries of material modification**

# Church Alliance

**CHURCH ALLIANCE**  
Acting on Behalf of Church Benefits Programs

**1975**

## **Church Alliance for Clarification of ERISA**

- Benefit board CEOs—**multi-denominational**
- **Goal—amend ERISA**
  - Allow church agencies to remain covered in ERISA-exempt church plans

# Church Plan Advocacy

**1980**

## **Church Alliance successfully amends ERISA definition of “church plan”**

- Allowing church agencies to remain covered in benefit board-maintained church plans with steeples

**Church Alliance**—a key way for church plans/  
church benefit boards to engage policymakers

# Wespath Engagement

- Engages policymakers in several ways
- Prohibited from “partisan political activity” as 501(c)(3) tax-exempt entity
- ¶1004—General Board of Church and Society coordinates legislative activities for agencies with General Church funds
  - Wespath does not receive any General Church funds (¶1504.19)



Wespath can express views to policymakers about certain policies that may impact its work

# Wespath's Sustainable Investment Strategies (Department)

- **Engages corporations** in which it invests
- **Engages Congress**
  - **Example:** Letter to U.S. House Financial Services Committee opposing bill that would restrict proxy-voting advisory firms (2016)
- **Engages regulators**
  - **Example:** Letter to SEC\* commissioner supporting greater climate change risk disclosures for public companies (2016)
- **Engages world policymakers**
  - **Example:** Letters to G20 on climate change

\*SEC: Securities and Exchange Commission

## Sustainable Investment Strategies





# Wespath and Church Alliance



**Barbara Boigegrain**

Wespath General Secretary and CEO

- Permanent Church Alliance Steering Committee member
- Chairperson since 2012



**Andrew Hendren**

Wespath General Counsel

- Church Alliance Secretary/Treasurer

# Church Alliance Engagement—Congress



## **Protect unique nature of “church plans;” correct concerns**

- Multi-Employer Pension Plans Amendments Act (1980)
- Tax Equity and Fiscal Responsibility Act (TEFRA, 1982)
- National Markets Improvement Act (1996)
  - Church plan exemptions from securities law
- Church Plan Parity and Entanglement Prevention Act (1999)
- Clergy Housing Allowance Clarification Act (2002)

# Church Alliance Engagement—Regulators



**IRS/  
Internal Revenue Service**



**U.S. Department of  
Health and Human Services**



**U.S. Department of Labor**



**U.S. Commodity Futures  
Trading Commission**



**Securities and  
Exchange Commission**

# Church Alliance Engagement—Courts



***Amicus curiae* briefs**

# Most Recent Success



## Church Plan Clarification Act (2015) (Part of PATH\* Act)

- “Controlled Group” Rules
- Grandfathered 403(b) benefit limits
- Automatic enrollment
- 403(b)-401(a) mergers/transfers
- Collective trust investments

\* **PATH: Protecting Americans from Tax Hikes Act**



# Congressional Photo Moment



# Current Church Plan Challenges



- ACA\* challenges
- Church Health Plan Clarification Act

\* **ACA: Affordable Care Act**

# Current Church Plan Challenges

- Housing allowance court challenges
- FFRF\* claim
  - Housing allowance—**unconstitutional**
  - Current case—Wisconsin federal trial court
  - Previous cases (2010, 2014) dismissed—**lack of “standing”**

\* FFRF: Freedom from Religion Foundation



# Current Church Plan Challenges

- Church plan litigation—  
pending U.S. Supreme Court review
- PRC\* and plaintiff's lawyers challenge church plan status
  - Affiliated hospitals
  - Other agencies (publishing houses, etc.)

**Claim:** Only “church or convention or association of churches” can “establish” church plan

\* PRC: Pension Rights Center

# Current Church Plan Challenges

## Dodd-Frank Act

- Regulatory implementation—  
SEC and CFTC\*
- Commodity Pool Operator  
(CPO) exemption



\* CFTC: Commodity Futures Trading Commission



# Current Church Plan Challenges

## Class Action Fee Litigation

- **2006 to 2015—401(k) plans**
  - \$100s of millions in settlements
- **2015—church plan [403(b)]**
  - Portico (ELCA\* Board of Pensions)
  - Pending in Minnesota State Supreme Court

\* ELCA: Evangelical Lutheran Church in America

# Current Church Plan Challenges



## Class Action Fee Litigation

- **2016**—universities
  - 12 well-endowed private university 403(b) plans [one 401(k) plan]
  - Duke, Yale, Northwestern, Vanderbilt, MIT, Emory, Johns Hopkins, NYU, Columbia, Cornell, Penn, USC

# Segue to UMC



**U.S. Congress**



**UMC General Conference**

# General Conference 2016



## What did General Conference do?

- Council of Bishops—special commission on human sexuality
- Possible *Called Session of General Conference in 2018*

# General Conference 2016

## Regarding Wespath—Plan Changes

<b>CRSP*</b>	<b>CPP*</b>	<b>GEPP and RPGA*</b>
<ul style="list-style-type: none"><li>• “Plan compensation”</li><li>• Other technical fixes</li></ul>	<ul style="list-style-type: none"><li>• Eligibility—simplified</li><li>• Benefits design—some changes</li><li>• Other technical fixes</li></ul>	<ul style="list-style-type: none"><li>• Technical fixes</li></ul>

- \* **CRSP: Clergy Retirement Security Program**
- CPP: Comprehensive Protection Plan**
- GEPP: Global Episcopal Pension Program**
- RPGA: Retirement Plan for General Agencies**



# General Conference 2016

## Regarding Investments

- Divestment efforts **rebuffed**
- Wespath proposals amending ¶717 and Resolution 4071 to accentuate “sustainability and engagement” **approved**
- Resounding message for **Wespath to stay engaged**



# GC Photo Moment



**Matt Miofsky** @mmiofsky

May 13

Ladies and gentlemen,  
the best dressed man  
in Methodism

**@HendrenAndy** of GBOPHB  
**#UMCGC**

# Wespath Will Stay Engaged

...to help participants and plan sponsors navigate the path made less certain by policy changes on many fronts...

## **Corporations and Investment Managers**

On environmental, social and governance (ESG)

## **Policymakers**

- Through Sustainable Investment Strategies
- Through the Church Alliance



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