From: David Evangelista
Sent: Tuesday, December 06, 2016 12:25 AM
To: EBSA, E-ORI - EBSA
Subject: re: RIN 1210-AB - Comments on proposed revisions to Form 5500
Importance: High

December 5, 2016

Office of Regulations and Interpretations
Employee Benefits Security Administration
ATTN: RIN 1210-AB63

Via email: e-ORI@dol.gov

Re: Proposed 5500 Revisions RIN 1210-AB63

The Department of Labor has recently expressed concerns about auditing firms performing sub-standard audits of employee benefit funds while continuing to apply pressure on plan trustees and administrators to keep professional fees at a minimum. The proposed modifications to, and enhanced disclosures, will significantly increase efforts and fees associated with completing Form 5500. Specifically these “enhancements” will come at a large cost to plan participants; the additional costs of Plan Administrators and/or TPAs and outside professionals will be passed along as plan expenses to plan participants, thus depleting more assets from an already stressed U.S. retirement system.

Although we fully support the submissions made on behalf of the profession by the AICPA, the NYSSCPA and other State CPA Societies, and on behalf of Plans and Plan Sponsors by such groups as NCCMP, we offer the below specific comments on these proposed changes in unison with other fellow CPAs practicing in the specialty of employee benefit plans.

Investment Holdings:

It is generally agreed that modernized reporting is necessary and that current ‘Plan Asset’ reporting needs to be updated. Currently, many plans access non-traditional investments through non-publicly traded investment vehicles such as partnerships, corporations, pooled separate accounts, collective trust funds, funds that contain (either directly or indirectly through investments in ‘Funds of Funds’) derivatives, options, swaps, real estate, commodities, distressed/high yield and other debt, real property, and other non-traditional investments, any of which may or may not be leveraged. It appears that the proposed formats (separate off balance sheet reporting of plan assets, expanded categories for CCTs/PSAs, new categories for derivatives, commodities, real property, and others) and details of leveraged portfolios will not yield the desired consistent reporting of such non-traditional investments that are not held directly by a plan.

Rather than require more detailed disclosure thereof on Schedule H, and possibly in the Plan’s financial statements, we suggest that the same or better result might be achieved by asking Plan’s to disclose certain very specific information about individual investment vehicles, including their full name and address, contact information, Federal EIN and other such information to allow interested parties to obtain specific information on the underlying investments if they so desire and at their own cost and time, thus alleviating the Plan from having to incur such additional expense. Also, if such other required information was reported via the Form 5500 to direct interested parties to where they can find such detailed information on specific investments, it may be time to change or end the "Plan Asset Look-Through Rule"; either extending the required percentage of ERISA plan investors to 50% or more to require such disclosure, or to eliminate the entire requirement all together. Disaggregating assets on the Form 5500 under this rule is not providing any useful information to interested parties and just serves to increase the cost of preparation of the Form 5500. As above, better information can be accessed directly by interested parties from the investment vehicles if the proper information to do so is reported in a Plan's Form 5500.

Income and Expenses:

It appears there has been no consideration to update the traditional calculation of realized and unrealized gains and losses for 5500 reporting purposes (utilizing fair market value at the beginning of the reporting period rather than historical cost). These calculations are burdensome, often ignored by many, and do not yield appreciable information to readers. As discussed above, due to the complex structures associated with alternative investments, it appears the requested breakdown of realized and unrealized appreciation/depreciation will not yield the desired consistent reporting of such non-traditional investments that are not held directly by a plan.

Accounting Fees:

The proposed segregation of accounting fees between 'Audit Fees' and 'Recordkeeping and Other Fees' may be misleading since, in many cases, for multi-employer plans, non-audit fees paid to accounting firms commonly include payroll audit fees. Accordingly, disclosures may be enhanced by requiring separate breakouts of 'recordkeeping' and 'other services', rather than the proposed combined category, or separate categories altogether for bookkeeping/accounting services and payroll compliance auditing services, etc..

Proposed Schedules of Assets and Assets Disposed of During the Year:

The continued requirement to report **every** asset holding results in volumes of data and dilutes the value of the disclosure. Alternatively, disclosing sales of non-publicly traded securities in excess of a specified threshold (consistent with the proposed schedule of Assets Disposed of During the Plan Year) would be more valuable to readers.

Service Provider Disclosures:

The requirement to disclose compensation greater than $1,000 for "Covered Service Providers" while continuing to require disclosure of compensation greater than $5,000 for other service providers is burdensome with limited reporting value. While many plans have merged and/or grown over the years, the $5,000 reporting threshold remained the same, thereby diminishing the value of these disclosures. Alternatively, requiring reporting compensation of any service provider more than a higher threshold (for example: $20,000 or a sliding scale based on Net Asset's Available for Benefits) would be more useful to readers.

Schedule J – Group Health Plan Information:

This new schedule, whose sole purpose is data mining will result in a significant cost to many plans and employers. Requiring these disclosures as part of the 5500 inherently puts the burden of gathering applicable information on the IQPA. If this information is, in fact, necessary, a direct submission by the plan to the Department of Labor would be more cost effective. Forcing the thousands of these type of group health plan's to commence filing a Form 5500 to comply with this proposed requirement will only serve to lead more companies to discontinue providing health coverage directly in lieu of the ever increased cost of compliance.

Accountants' Information:

The requirement to publicly disclose the name of the audit engagement partner and the proposed disclosure of the IQPA's peer review on a public document is beyond the intended public disclosure of plan information. Furthermore, as this level of detailed information is not required for any other plan service provider, it appears the Form 5500 is being used to demonstrate a bias against IQPA's. Perhaps it might be better to ask a CPA firm to demonstrate its commitment to the servicing of employee benefit plans by asking them to disclose if they are members of the AICPA's Employee Benefit Plan Audit Quality Center, whose members have a higher passing rate of performing compliant employee benefit plan audits than those practitioners who are not members of the Center. If a compromise is necessary, the first choice would be to include the IQPA's peer review report and leave off the private and specific name of the audit engagement partner, which of course can and does change from time to time and can be an area missed by the preparer of the Form 5500 if it is not the IQPA but rather the Plan itself or an outside third party TPA or Trustee/Custodian/Recordkeeper.

We thank you in advance for your consideration of our recommendations and would be happy to provide any details and to follow-up on these recommendations at your request.

Sincerely,

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