



## Form 5500 Overview and Proposed Changes

The Employee Retirement Income Security Act (ERISA) was signed in 1974. The U.S. Department of Labor (DOL) is the agency responsible for administering and enforcing this law. Arrangements that are subject to ERISA must meet a variety of requirements, including filing Form 5500.

In July 2016, the DOL, along with the Internal Revenue Service (IRS) and the Pension Benefit Guaranty Corporation (PBGC) proposed sweeping updates to Form 5500 filing requirements. The updates were released in two main documents, a tri-agency “Proposed Revisions to Form 5500 Annual Information Return/Report Forms” and a shorter document with the proposed regulations, issued by the DOL’s Employee Benefits Security Administration (EBSA).

### Background

ERISA applies to:

- Health insurance, including medical, dental, vision, prescription drug, health reimbursement arrangements (HRAs) and health flexible spending accounts (FSAs) (health savings accounts are not governed by ERISA but the related high deductible health plan is)
- Group life insurance
- Disability income or salary continuance unless paid entirely by the employer from its general assets
- Severance pay
- Funded vacation benefits, apprenticeship or other training programs, or day care centers, scholarship funds, or prepaid legal services
- Any benefit described in section 302(c) of the Labor Management Relations Act (other than pensions on retirement or death)

An employee assistance program or a wellness program is considered a group health plan and so must meet ERISA’s requirements if it provides significant medical care. There is an exception for “voluntary” group or group-type insurance programs that have minimal employer or employee organization involvement.

Form 5500 is the annual report that plans make to the DOL, IRS, and PBGC to report required information about the plan’s financial condition and operations. Most group and pension plans that are

# UBA Compliance Advisor

subject to ERISA are required to file Form 5500. Form 5500 is the primary source of information about the operation, funding, assets, and investments of those pension and other employee benefit plans. In addition to disclosing important information to plan participants and beneficiaries, Form 5500 is considered an essential compliance and research tool for the DOL, IRS, and PBGC. Other federal agencies, Congress, and the private sector also rely on Form 5500 as an important source of information for assessing employee benefit, tax, and economic trends and policies.

A Form 5500 is needed for both qualified (retirement) plans and welfare (group) plans.

Qualified retirement plans include defined benefit, profit sharing, stock bonus, money purchase, and 401(k) plans; Code section 403(b) plans covered by Title I of ERISA; and IRA plans established by an employer. Qualified plans generally must file even if they have fewer than 100 participants, although Form 5500-SF may often be filed instead of the full Form 5500.

Currently, group welfare plans generally must file Form 5500 if:

- The plan is fully insured and had 100 or more participants on the first day of the plan year (dependents are not considered “participants” for this purpose unless they are covered because of a qualified medical child support order).
- The plan is self-funded and it uses a trust, no matter how many participants it has.
- The plan is self-funded and it relies on the Section 125 plan exemption, if it had 100 or more participants on the first day of the plan year.

There are several exemptions to Form 5500 filing. The most notable are:

- Church plans defined under ERISA 3(33)
- Governmental plans, including tribal governmental plans
- Top hat plans which are unfunded or insured and benefit only a select group of management or highly compensated employees
- Small insured or unfunded welfare plans. A welfare plan with fewer than 100 participants at the beginning of the plan year is not required to file an annual report if the plan is fully insured, entirely unfunded, or a combination of both.

A plan is considered unfunded if the employer pays the entire cost of the plan from its general accounts. A plan with a trust is considered funded.

A plan’s Form 5500 must be filed electronically by the last day of the seventh month after the close of the plan year. The filing date is based on the “plan year,” which is designated in the Summary Plan Description (SPD) or other governing document. If a plan does not have an SPD, the plan year defaults to the policy year.

For calendar year plans, the due date for Form 5500 is July 31. Employers may obtain an automatic 2-1/2 month extension by filing Form 5558 by the due date of the Form 5500.

## Form 5500 Structure

[Form 5500](#) is comprised of a “main body” divided into Part I, Part II, and Part III. Following the main body are a number of additional “schedules” that relate to different types of plans and plan design. As a result, each plan will need to determine which schedules are applicable to its design.

# UBA Compliance Advisor

Part I of the main body is the “annual report identification information,” which includes plan year, the type of plan, the type of filing, and identification of a collectively bargained plan, to name a few.

Part II contains basic plan information. Filers will report the name of the plan, the plan sponsor’s name, the ERISA plan number for the plan, the plan’s effective date, the number of participants at different points during the plan year, the plan’s funding arrangement, and more.

Part III relates to [Form M-1](#) and whether or not a plan is required to file this additional form. Form M-1 is a report on Multiple Employer Welfare Arrangements (MEWAs) and Entities Claiming Exemption (ECE) from MEWA status because of certain collectively bargained arrangements.

## Schedules

As of 2016, Form 5500 had a total of six schedules that welfare plans must attach to the filing. Schedule F, which related to fringe benefit information, was suspended by the IRS in 2002.

[Schedule A](#) reports on insurance information, such as contracts with insurance companies. It is not filed for self-funded plans.

[Schedule C](#) reports on service providers for large plans, and must be completed if the service provider was paid \$5,000 or more, or if an accountant or actuary was terminated. Telemedicine services for group health plans are often reported under Schedule C. This is also where a plan often reports commissions paid to brokers, as reportable indirect compensation.

[Schedule D](#) reports on participating plan information or designated filing entity (DFE) information relating to participation in pooled investments or insurance arrangements.

[Schedule G](#) relates to financial schedules and reports information on nonexempt transactions and loans, leases, and fixed income investments in default or that are uncollectible for large plans.

[Schedule H](#) (including accounting opinions) reports financial statements and related information for large plans. A plan that must file a Schedule H must also work with an independent qualified public accountant to prepare an opinion that is attached to the filing.

[Schedule I](#) reports financial statements for small plans that are required to file Form 5500.

## Employee Benefits Security Administration (EBSA) Proposed Rule

On July 21, 2016, the EBSA published a notice of proposed changes to its annual reporting regulations under Title I of ERISA. The proposed revisions exhibit some filing and process changes which are expected to improve efficiency, accuracy, and transparency in the employee benefit plan market.

Some proposed revisions affecting employee pension and welfare benefit plans, plan sponsors, administrators, and service providers include:

- **Expansion and modernization of financial and investment information reported by pension plans** because the current information collected is insufficient to satisfy the objectives to:
  - 1) provide information about the reporting entity for the DOL, IRS, and the PBGC (collectively, “the Agencies”) enforcement, research, and policy formulation programs;

## UBA Compliance Advisor

- 2) assist other federal agencies, Congress, and the private sector in assessing employee benefit tax, and economic trends and policies; and
- 3) understand and more effectively monitor the activities and investments of employee benefit plans for plan participants and beneficiaries of the general public.

The financing of retirement benefits has changed dramatically with the shift from defined benefit pension plans to defined contribution pension plans, which led to increased responsibility for participants to manage their own retirement savings, including selecting investment options in the retirement plan.

- **Elimination of obsolete exemptions for certain plans from Form 5500 reporting**, especially for private employer-sponsored group health plans with fewer than 100 participants that are fully insured, unfunded, or a combination of two. The change would introduce basic reporting requirements for these plans because the current lack of information collected on Form 5500 from group health plans impairs the effectiveness of the EBSA's ability to develop health care regulations and makes it difficult for the DOL to enforce such regulations and educate plan administrators on compliance.
- **Incorporation of new reporting requirements for group health plans and health insurance issuers in both group and individual markets.** A new schedule, Schedule J, is proposed to be required for all group health plans. The rule proposes transparency and quality reporting for non-grandfathered group health plans under Public Health Service (PHS) Act sections 2715A and 2717, as incorporated in ERISA, by collecting and providing high-value data to participants, beneficiaries, and regulators on benefits and plan design characteristics, funding, grandfathered plan status, rebates received by the plan, service provider information, pharmacy benefit managers, information on any stop loss insurance claims processing and payment information, wellness program information, and other compliance information. Section 2715A requires non-grandfathered group health plans and health insurance issuers offering non-grandfathered group or individual health insurance coverage to provide information on health plan enrollment and claims. Section 2717 of the PHS Act requires non-grandfathered group health plans and insurance issuers offering non-grandfathered group or individual health insurance coverage to annually report on the benefits under the plan.
- **Modernization of data collection and usability** by making key retirement and health and welfare benefit data, including information on assets held for investment, more available and usable in the electronic filing and data environment.
- **Improvements with reporting service provider fee and expense information.** Annually reporting compensation received by a service provider and its sources on Form 5500 will improve evaluation of investment, recordkeeping, and administrative service arrangements. In addition, pension plan fiduciaries can effectively negotiate service provider fees based on a better understanding of compensation that the service provider expects to receive.
- **Improvements with employee benefit plan compliance.** The proposed rule would add new questions regarding plan operations, service provider relationships, and financial management of plans in order for fiduciaries to evaluate plan compliance with important requirements under ERISA and the Internal Revenue Code.

## UBA Compliance Advisor

- **Elimination of Schedule I** for small plans that are not eligible to file Form 5500-SF (short form) and instead requiring these plans to complete Schedule H and the Line 4i Schedules of Assets.

Written comments on these proposed changes are due to the DOL on or before October 4, 2016.

### **Proposed Regulations Regarding Form 5500 Revisions**

In coordination with the EBSA, on July 21, 2016, the Agencies issued proposed regulations to revise the Form 5500 Annual Return/Report forms, including Form 5500, Annual Return/Report of Employee Benefit Plan, and Form 5500–SF, Short Form Annual Return/Report of Small Employee Benefit Plan.

### **Goals of the Proposed Regulations**

The proposed revisions reflect efforts of the Agencies to:

- Improve employee benefit plan reporting for filers, the public, and the Agencies by modernizing financial information filed regarding plans.
- Update fee and expense information on plan service providers with a focus on harmonizing annual reporting requirements with the DOL's final disclosure requirements enhancing mineability of data filed on annual return/reports.
- Require reporting by all group health plans covered by Title I of ERISA, including adding a new Schedule J (Group Health Plan Information).
- Improve compliance under ERISA and the Internal Revenue Code (Code) through selected new questions regarding plan operations, service provider relationships, and financial management of the plan.

The proposed revisions would affect employee pension and welfare benefit plans, plan sponsors, administrators, and service providers to plans subject to annual reporting requirements under ERISA and the Code.

### **Proposed Effective Date**

If adopted, these revisions, which are being proposed in conjunction with a recompetes of the ERISA Filing and Acceptance System (EFAST2) contract, generally would apply for plan years beginning on or after January 1, 2019. EFAST2 is expected to begin processing the Plan Year 2019 Form 5500 Annual Return/Report beginning January 1, 2020.

The Agencies anticipate actively engaging in outreach and education regarding the form revisions well in advance of the plan year for which the majority of the revisions would be effective.

### **All Plans that Provide Group Health Benefits Will Need to Provide Annual Reporting**

Under the proposed regulations, all plans that provide group health benefits will be subject to some level of annual reporting, with a focus on compliance issues.

Under the proposal, those plans that provide group health benefits that are already required to file Form 5500 – generally all large plans and small plans that are funded with a trust or that are otherwise not eligible for the annual reporting relief for unfunded and insured plans – would have to file group health

## UBA Compliance Advisor

plan information on a new separate schedule called Schedule J (Group Health Plan Information), as well as complete those elements of Form 5500 and schedules that those plans are already required to complete, as modified by this proposal.

Plans that provide group health benefits that have fewer than 100 participants currently exempt from filing an annual report because they are either completely “unfunded” or partially insured and partially unfunded would be required to file Form 5500 (except for those questions applicable only to pension plans) and the new Schedule J.

Under the proposal, plans that provide group health benefits that have fewer than 100 participants that currently are exempt from annual reporting under 29 CFR 2520.104-20 because they are fully insured would be required to file with answers to certain questions on Form 5500 and the Schedule J.

### **Proposed Instructions for Form 5500**

Under the proposed regulations, there will be separate instruction charts for filers instead of the current single Quick Reference Chart. The separate charts would provide instructions specific to various types of filers, such as pension plans, direct filing entities (DFEs), group health plans, and welfare plans other than group health plans.

### **Changes to Schedule H (Financial Information) – Balance Sheet and Income Statement**

Under the proposal, Schedule H, Parts I and II, would retain the essential asset/liability and income/expense structure of the current reporting requirement. The proposed regulations would modify the asset breakouts on the balance sheet component of Schedule H to enable more accurate and detailed reporting on the types of assets held by a plan, including alternative investments, hard-to-value assets, and investments through collective investment vehicles. The proposal would also update the income/expense statement of Schedule H to get a better picture of earnings and expenses associated with plan investments and operations.

Current Line 1a, “total noninterest bearing cash,” would be reported as a line item under General Investments. This would also result in Line 1b “Receivables” and Line 1c “General Investments” being renumbered as Lines 1a and 1b respectively. Participant loans would continue to be reported as a separate asset line item, but would be reported as a line item under renumbered Line 1a as a receivable rather than under its current reporting classification under General Investments.

Under proposed Line 1b (currently Line 1c) General investments, the proposed regulations would add both new categories and new line items within existing categories. “Cash and cash equivalents” would be the first category under General Investments.

As indicated above, noninterest bearing cash (such as cash on hand or cash in a non-interest bearing checking account) would no longer be separated from General Investments. Instead, it would be a line item under “cash and cash equivalents.” The category would also have sub-categories for interest-bearing cash (assets that earn interest in a financial institution account, such as interest-bearing checking accounts, passbook savings accounts, or money market bank deposit accounts). While the line items are new, the information is already required to be reported on current Line 1c(1).

“General Investments” would continue to be used for reporting debt interests and obligations. The proposed regulations would keep the existing line item for corporate debt instruments; however, under that category would be investment grade debt and high-yield debt, rather than “preferred” and “all other,”

## UBA Compliance Advisor

as on the current Schedule H. In addition, U.S. government securities would be broken out from other government securities. Further, there would be line items for other loans (other than loans to participants), exchange traded notes, and asset-backed securities (other than real estate), and debt obligations associated with real property would be reported under the real property category, rather than generally under other debt obligations.

The next category under General Investments would continue to be for reporting corporate stocks. Under the corporate securities category, filers would still distinguish between preferred and common stock for reporting direct holdings of corporate securities; however, there would be new line items for publicly traded and non-publicly traded securities under both the preferred and common stock elements.

The existing reporting line items for certain collective investment vehicles that are treated as holding plan assets under the DOL's plan asset regulation (i.e., bank common or collective trusts (CCTs), insurance company pooled separate accounts (PSAs), master trusts) generally would be retained, but grouped together for reporting under a new category entitled "Eligible Pooled Investment Funds (Other Than Registered Investment Companies)."

A plan's investments in CCTs and PSAs would be reported in the aggregate on single line items for each vehicle type on the Schedule H Line 1b balance sheet information regardless of whether the CCT or PSA files Form 5500 as a DFE. The Line 4i(1) Schedule of Assets held for Investment of either the plan or the CCT or PSA, depending on whether the CCT or PSA has filed, would be where the value of underlying assets would be reported.

Reporting of investments in master trusts by plans and reporting by master trusts would be substantially revised, including reporting on the plan's asset and liability statements on Schedule H, Part I. Specifically, plans would report their total holdings in master trusts on Schedule H, Line 1b, on an aggregate basis, and the reporting concept of the master trust investment account (MTIA) would be eliminated. The participating plans' fractional interest in the various holdings of the master trust (which currently are reflected in the MTIA Form 5500) now would be shown on the various plans' Schedule H, Line 4i(1) Schedule of Assets Held for Investment at End of Year and Line 4i(2) Schedule of Assets Disposed of During the Plan Year, as well as on the filings by the master trust itself.

The existing category entitled "Value of interest in funds held in insurance general accounts (unallocated contracts)" would be replaced by adding line items for various types of unallocated contracts. The proposal would add to the existing general category line items for deposit administration, immediate participation guarantees, guaranteed investment contracts, and other unallocated insurance contracts. These classes of contracts parallel the existing Schedule A reporting on insurance contracts with unallocated funds.

New line items would be added to the existing category entitled, "Partnership/joint venture interests" for reporting on the value of interest in limited partnerships, venture capital operating companies (VCOCs), private equity, hedge funds, and other partnership/joint venture interests. Further, the proposed regulations would add an off-balance sheet item in this category where filers would indicate the total value of such investments that are plan asset vehicles and those that are not.

The real estate category on the Schedule H balance sheet would be expanded to include line items for investments in particular types of assets or pooled investment funds designed to invest primarily in real estate or real estate mortgages. The proposed new line items are: developed real property (other than employer real property), undeveloped real property (other than employer real property), real estate

## UBA Compliance Advisor

investment trusts (REITs), mortgage-backed securities (including collateralized mortgage obligations (CMOs)), real estate operating companies (REOCs), and other real estate related investments.

A significant new reporting category is for investments in derivatives. The line items in the derivatives category would be futures, forwards, options, swaps, and “other.” As in the other general categories, filers would enter a description for assets listed as “other.”

A new category would be added for foreign investments with line items to separately report holdings of foreign equities and debt interests. Under the proposal, foreign equities would include American Depository Receipts, U.S.-traded foreign stocks and stocks traded on foreign markets. Foreign debt would include both long-term and short-term foreign debt investments, but would not include such foreign securities held through U.S. registered investment funds or exchange traded funds, CCTs, PSAs, 103-12 IEs, or master trusts. There also would be line items for foreign real estate, currency, and “other,” with a description required for anything reported in the “other” category.

A new asset category would be added on Schedule H for “tangible personal property,” which currently appears on the Schedule I. Filers would report in this category direct investments in tangible personal property, with line items for collectibles, precious metals, and “other.” There would also be a separate breakout category for commodities, which would be divided into precious metals and “other.”

The proposed regulations also affect reporting of assets held through participant-directed brokerage accounts. Under the proposal, filers would provide the total current value of all assets held through participant-directed brokerage accounts, except there would be separate sub-totals for brokerage account investments in tangible personal property, loans, partnership or joint venture interests, real property, employer securities, and investments that could result in a loss in excess of the account balance of the participant or beneficiary who directed the transaction. On the proposed Line 4i Schedules of Assets, assets held through a participant-directed brokerage account would be permitted to be reported in the aggregate as a single asset held directly by the plan. The broker would be identified as the “issuer/borrower/etc.” In the element requiring the filer to indicate on what line the assets were reported, the filer would enter on Line 1b all the types of investments held through a participant-directed brokerage account.

New compliance questions would be added regarding assets reported on Schedule H. The new compliance questions would ask whether the plan has investment acquisitions that are leveraged, including assets subject to collateralized lending activities (e.g., securities lending arrangements, repurchase agreements, etc.). If “Yes,” then the plan would be required to identify whether the plan engaged in securities lending arrangements, including repurchase agreements or sell/buy-backs, or other transactions that subjected plan assets to a mortgage, lien, or other security interest, and to describe the arrangement. The plan would then have to report, as a total, the amount of cash, the value of securities, the value of other assets obligated in connection with collateralized lending activities at end of year. The plan would also have to report on the approximate ratio of collateralized/leveraged investments to total plan assets at end of year.

The proposed regulations retain the same basic structure for reporting income under Part II, Income and Expense Statement, however, the proposal creates additional categories. The interest income category includes a new line item for government securities other than U.S. government securities, and the unrealized appreciation (depreciation) of assets category would be broken out to report separately partnership/joint venture interests, commodities investments, derivatives, employer securities, foreign investments (other than those held through U.S. registered investment funds), and employer real property.

## UBA Compliance Advisor

New categories would be added to the “Administrative Expenses” category of the Income and Expense section of the balance sheet. Line items would be added for salaries and allowances, Independent Qualified Public Accountant (IQPA) audit fees, recordkeeping and other accounting fees, bank or trust company trustee/custodial fees, actuarial fees, legal fees, valuation/appraisal fees, and trustee fees/expenses (including travel, seminars, meetings).

Administrative expense reporting would be changed to identify when participant accounts are charged directly by revising the expense information on Schedule H. The total administrative expense line would require that administrative expenses charged directly against participant accounts be separately reported from those direct expenses charged to other plan asset sources. Filers would separate transaction-based charges to individual participant accounts and plan level expenses apportioned among participant accounts. With respect to the latter, filers would indicate whether the expenses were apportioned per capita, pro rata by account balance, or by other apportionment methods.

### **Proposed Changes to Schedule H, Line 4i Schedules of Assets**

The proposed regulations would require filers to complete standardized Line 4i Schedules of Assets in a data-capturable format.

Under the proposed reporting structure, there would continue to be two separate schedules of assets. The first would be the existing Schedule of Assets Held for Investment at End of Year. The second would modify the existing “Schedule of Assets Acquired and Disposed of Within Year” to a “Schedule of Assets Disposed of During the Plan Year.”

A new data element on the Line 4i(1) Schedule of Assets Held for Investment would require the filer to indicate whether the plan or reporting DFE held the investments directly, through a master trust, CCT, PSA, or a 103-12 IE.

If the assets are held through a DFE, the filer (whether a plan or an investing DFE) would be required to list each DFE as an investment and enter for each DFE in which the filer was invested the name, employer identification number (EIN), and plan number (PN) used by the DFE on its own Form 5500. If a PSA or CCT in which the reporting plan or DFE invests has not filed a Form 5500 Annual Return/Report, the filer would have to check a box to indicate that the CCT or PSA has not filed a Form 5500, and the investing plan or DFE would have to break out the underlying assets of the CCT or PSA on its own Line 4i(1) Schedule of Assets Held for Investment at End of Year.

The current instructions tell filers to use an asterisk to identify investments that involved a party-in-interest on the Line 4i Schedule of Assets Held for Investment at End of Year; under the proposed regulations, the asterisk would be replaced with a check box to indicate whether the investment involved a party-in-interest.

To indicate the type of asset generally, filers generally would be required to indicate on the Line 4i Schedule of Assets the category under which the value of the asset was included on the Schedule H asset statement (proposed Line 1b), or if held through a CCT or PSA that has not filed, where the individual assets would have been included on Line 1b if not held through the CCT or PSA.

The proposal would add to the Line 4i(1) Schedule of Assets Held for Investment at End of Year a requirement to report investment identifiers such as CUSIP (Committee on Uniform Securities Identification Procedures), CIK (Central Index Key), and LEI (Legal Entity Identifier), if applicable, for each

## UBA Compliance Advisor

asset. Filers would also be expected to provide any other uniform number applicable to the entity or asset being reported, such as the Financial Instrument Global Identifier (FIGI).

Filers would continue to be required to report the current value of each investment asset listed on the Line 4i Schedules of Assets. To improve reporting on hard-to-value assets where the current value is, by definition, not readily available, filers would be required to check a box for each individual investment listed to indicate whether the asset is “hard-to-value.” A non-exhaustive list of examples of hard-to-value assets includes non-publicly traded securities, real estate, private equity funds, hedge funds, and real estate investment trusts (REITs).

In the element requiring filers to indicate the location where the asset was aggregated for purposes of balance sheet reporting on Line 1b, the filer would have to indicate all of the following applicable categories of investments: tangible personal property, loans, partnership or joint venture interests, real property, employer securities, investments that could result in a loss in excess of the account balance of the participant or beneficiary who directed the transaction, and any asset that would be categorized as “other.”

For the second of the Line 4i Schedules of Assets, which would correlate under the proposal to Schedule H, Line 4i(2), the proposal would change “Schedule of Assets Acquired and Disposed Within Year” to “Schedule of Assets Disposed of During the Plan Year.” To implement the change in the schedule, filers would have to indicate the acquisition date. Basic parallel changes would be made to the Line 4i(2) Schedule to keep it generally consistent with the Line 4i(1) Schedule.

Line 4j Schedule of Reportable (5%) Transactions would remain essentially unchanged; however, consistent with the Line 4i Schedules of Assets, a checkbox is being added to this schedule to indicate whether the reportable transaction or series of transactions involved a person known to be a party-in-interest. Under the proposal, Line 4j would be structured in a standard format for data input and collection purposes; filers would not be able to use a nonstandard attachment.

### **Proposed Changes to Direct Filing Entity (DFE) Reporting**

The proposed regulations include changes to the information about DFEs and their underlying investments to be reported by both the plan and the DFE. The proposal includes correlative changes to Schedule D, including the elimination of the requirement of plans to complete Schedule D.

Regarding DFE reporting of holdings within master trusts, the proposed regulations eliminate the concept of a separate MTIA filing as part of the changes to Schedules D and H and the Line 4i Schedules of Assets. Specifically, Form 5500 would be required to be filed for each master trust in which a plan has an interest.

The master trust, like an MTIA under the current rules, would be required to include as part of its Form 5500, a Schedule D to list all participating plans. The Schedule D listing of participating plans would include the requirement to report the total value of each participating plan's investment assets in the master trust. Plans would report their investments in master trusts in detail on Schedule H, Line 4i(1) Schedule of Assets Held for Investment at End of Year, including the name and EIN of the master trust used on the master trust's Form 5500. Plans would also list the aggregate value of their investment in master trusts on the Schedule H balance sheet.

The master trust's report would include expenses that are allocable equally to all plans investing in the master trust. All other expenses would have to be allocated to the individual participating plans and reported at the individual plan level.

## UBA Compliance Advisor

In order to be a master trust for the proposed reporting purposes, either the master trust must operate on a calendar year or the master trust and all of the plans invested in the master trust must operate on the same fiscal year. Where the master trust is on a calendar year and a participating plan on a fiscal year other than a calendar year, similar to Schedule A reporting of insurance contracts, the information reported by the plan would be for the master trust year ending within the plan year.

Filing requirements would be changed with respect to CCTs and PSAs. The current requirement to break out the assets of non-filing CCTs or PSAs would be retained, but the proposal would shift the details of the underlying investments to the newly structured Line 4i(1) Schedule of Assets. Under the proposed revisions, investing plans, on their own Line 4i Schedules of Assets, would be required to list each underlying investment, identifying that the investment was held through a non-filing CCT or PSA, including the CCT's or PSA's name and other identifying information, as well as the information on the underlying asset.

Plans would be relieved from breaking out the individual assets on the Schedule H, Line 4i Schedules of Assets, if the CCT or PSA instead files its own Form 5500, including Schedule H and the Schedule of Assets Held for Investment. The proposed regulation would indicate that providing the information needed for a plan to complete the Line 4i Schedules of Assets constitutes compliance with the requirement to transmit information regarding the assets held by the CCT or PSA. With this change, information regarding the underlying investments of CCTs and PSAs, which have been provided only to plan fiduciaries, will now be part of the annual return/report data set; it will be filed either by the participating plans or by the CCT or PSA.

The DOL's regulation at 29 CFR 2520.103-12 provides that an entity in which two or more unrelated plans invest that is not a CCT, PSA, or master trust, and which is deemed to hold plan assets under the DOL's regulations at 29 CFR 2510.3-101 that voluntarily chooses to file Form 5500 Annual Return/Report for itself on behalf of its investing plans, is treated as a "103-12 IE" filing entity for Form 5500 reporting purposes. Under the proposal, reporting for these pooled investment vehicles generally remains unchanged, except to the extent that the data elements for the existing forms and schedules have changed for all filers.

For a plan to be able to report investments in such entities as a single investment on the balance sheet portion of Schedule H, as under the current reporting rules, the entity in which the plan invested would have to complete its own Form 5500, together with a Schedule H and Line 4i Schedules of Assets, as well as Schedules A, C, D, G, as revised in the proposal, and the entity's own IQPA report. Under the proposal, similar to reporting assets held through participant-directed brokerage accounts, filers would have to indicate all the Line 1b balance sheet breakout categories for types of underlying investment of each 103-12 IE, but would not have to identify each individual investment.

The reporting requirements for Group Insurance Arrangements (GIAs) would generally remain unchanged, except GIAs would be subject to the same changes in reporting as comparable welfare plans, including the new requirements for welfare plans that provide health benefits. As under the current rules, welfare plans that are fully insured, including group health plans, would still be exempt from filing Form 5500 if they participate in a GIA that has filed its Form 5500. GIAs would continue to be required to file all the same forms, schedules, and attachments as a large group health plan funded with a trust. GIAs that provide group health coverage would be required to file a separate Schedule J for each separate employer's participating plan.

## UBA Compliance Advisor

The proposals continue the Schedule D requirement for DFEs in which plans invest, but not for plans participating in DFEs. DFEs would continue to report identifying information about the participating plan and the dollar value of each investing plan's interests in the DFE as of the end of the DFE reporting year. Participating plans, because they would be reporting detailed information about investments in DFEs on their Line 4i Schedules of Assets, would no longer have to complete the Schedule D.

### **Revisions to Schedule H and Form 5500-SF Questions Regarding Plan Terminations, Mergers and Consolidations**

The proposed regulations expand the question that asks whether the plan has adopted a resolution to terminate to also ask for the effective date of the plan termination, the year in which assets were distributed to plan participants and beneficiaries, and whether the plan transferred assets or liabilities to another plan.

The proposal would also add a question asking filers to indicate whether another plan transferred assets or liabilities to the reporting plan (other than pursuant to a direct rollover). If the plan received a transfer of assets or liabilities from another plan, then the filer would be asked to provide the date and type of transfer (merger, consolidation, spinoff, other).

Under the proposed regulations, if the plan is a defined contribution pension plan that terminated and transferred plan assets to a financial institution and established accounts in the name of missing participants, then the filer would be asked to provide the name and EIN of the financial institution, the date the assets were transferred to the institution, the number of accounts established, and the total amount transferred.

The proposal would add to both Schedule H and Form 5500-SF a compliance question for defined contribution pension plans asking whether there were any uncashed checks at the end of the plan year. If "Yes," filers would be required to report how many uncashed checks there were and the total dollar value of the uncashed checks. Defined contribution pension plan filers would also be asked to describe briefly in an open text field the procedures that they followed to verify a participant's address and to monitor the uncashed checks. The proposed instructions provide that, for Form 5500 reporting purposes, an uncashed check is one that is no longer negotiable or is subject to limited payability.

### **Changes to Form 5500-SF**

In general, small plans that are invested only in "eligible" plan assets and otherwise meet the existing requirements for eligibility to file Form 5500-SF would continue to be able to file Form 5500-SF.

Welfare plans with fewer than 100 participants that do not provide group health benefits and that are required to file an annual return/report and that meet the eligibility requirements for Form 5500-SF will still be able to use Form 5500-SF to satisfy their filing requirement.

Welfare plans with fewer than 100 participants that provide group health benefits are not eligible to use Form 5500-SF.

For Form 5500-SF filers, there would be a modest additional breakout on the balance sheet information to give a basic picture of the types of eligible assets in which Form 5500-SF eligible small plans are invested. Specifically, filers would have to categorize the plans' investments into one of the following categories: (1) cash/cash equivalents; (2) money market funds; (3) publicly traded stock

## UBA Compliance Advisor

(preferred/common); (4) publicly traded bonds, including government securities; (5) interests in registered investment companies (mutual funds, unit investment trusts, closed end funds); (6) interests in PSAs; (7) interests in CCTs; and (8) interests in insurance policies/contracts other than PSAs, such as annuity contracts. In contrast to the Schedule H balance sheet financial breakout categories, there would be no “other” category for the balance sheet financials on Form 5500-SF. If a small plan were to be invested in any assets other than those in the eight listed categories, it would not be eligible to file Form 5500-SF.

The proposal would eliminate the current Form 5500 and Form 5500-SF line items that require the filer to enter “plan characteristics codes” onto the form from a list in the instructions. Instead, the filer would complete a series of separate questions. In general, those changes involve requesting information about plan characteristics as a series of “Yes/No” and check box questions. In addition, as with Form 5500 Schedule H filers, the proposal would require that the Form 5500-SF filed for a participant-directed individual account plan must include an electronic copy of the comparative chart of designated investment alternatives (DIAs) currently required to be provided to participants of such plans.

### **Changes to Filing Exemptions and Requirements for Small Plans Not Eligible to File Form 5500-SF**

The proposed regulations offer several changes for small plans that are not Form 5500-SF eligible filers. First, Schedule I would be eliminated. Under the proposed change, small plans that are not eligible to file Form 5500-SF and that currently file Schedule I would be required to complete Schedule H and the applicable Line 4i Schedules of Assets.

Although such small plans would be required to complete Schedule H instead of Schedule I, including the Line 4i(1) and 4i(2) Schedules of Assets, to minimize increased burden, as under the current rules, small plans that meet the specified requirements would continue to be eligible for a waiver of the annual examination and report of an independent qualified public accountant (IQPA). Under the proposal, all welfare plans with fewer than 100 participants that are required to file an annual return/report would continue to be eligible for a waiver of the annual examination and report of an IQPA.

The proposal would change the rules for determining when a plan is exempt from the requirement to include an IQPA report with its filing. The proposed regulations would add a new question to Form 5500, for defined contribution pension plans only, asking for the number of participants with account balances at the beginning of the plan year.

Defined contribution pension plans would determine whether they have to file as a large plan and whether they have to attach an IQPA report based on the number of participants with account balances as of the beginning of the plan year, as reported on Form 5500 or Form 5500-SF.

The proposed regulations would also require a Schedule C to be filed by small pension plans that are not eligible to file Form 5500-SF, small welfare plans that provide group health benefits that are not unfunded or insured (e.g., funded using a trust), and other small welfare plans that are not unfunded or insured plans and are not eligible to file Form 5500-SF.

### **New Questions on Employer Matching Contributions, Employee Participation Rates, and Plan Design for Defined Contribution Pension Plans**

The proposed regulations will add new questions that are intended to collect better information on pension plan coverage and performance as retirement savings vehicles.

## UBA Compliance Advisor

Specifically, the proposed regulations would add new questions to Form 5500, Form 5500-SF, and Schedule R on participation, contributions, and asset allocation by age, and participant-level diversification. The questions would ask for the number of participants making catch-up contributions, investing in default investment options, maximizing the employer match, and deferring compensation.

The proposed regulations would also add questions to Form 5500 and Form 5500-SF to collect information on the number of participants in defined contribution pension plans with account balances as of the beginning of the plan year and on the number of participants that terminated employment during the plan year that had their entire account balance distributed. The proposed regulations would also add questions about whether the plan uses a default investment alternative for participants who fail to direct assets in their account and which type of investment alternative is used.

### **Changes to Reporting on Schedule G (Financial Transaction Schedules)**

The proposed regulations would reconfigure Schedule G's reporting to require more uniform and detailed information on loans, fixed income obligations, and leases in default, including swaps/options and derivative transactions. The proposed regulations would create specific data elements on the existing Schedule G line items for plans to identify specifically swaps and options that would otherwise have been reported as loans or fixed income obligations in default or uncollectible.

### **Re-introduction of Schedule E to Improve Information on Employee Stock Ownership Plans (ESOPs)**

The proposed regulations will bring back a revised version of Schedule E to Form 5500. The questions moved to Schedule R for the 2009 revisions would be removed from Schedule R and instead be included on the new and revised Schedule E.

The questions on the proposed Schedule E are divided into sections based on whether the ESOP stock was acquired by a securities acquisition loan, whether the stock is readily tradable on an established securities market (including stock acquired by securities acquisition loans), whether the ESOP has an outstanding securities acquisition loan, and some miscellaneous questions.

Part I of the proposed Schedule E would apply only if the ESOP acquired common or preferred stock with the proceeds of a securities acquisition loan. Several questions relate to the valuation of the stock acquired by the ESOP and, in particular, cases where a premium is paid for a controlling interest in a company where, in fact, a controlling interest is not acquired. Questions would also be included regarding the release of common stock from a suspense account and its allocation. As with Line 4 of the 2008 Schedule E, the proposed Schedule E would also ask if the ESOP holds preferred stock and further ask for the method by which the preferred stock is convertible into common stock.

Part II of the proposed Schedule E would ask questions related to compliance issues when stock that is not readily tradable on an established securities market is acquired by an ESOP. Specifically, with respect to each acquisition of stock, the proposed schedule would ask for information on the relationship of the seller of the stock to the plan or to the employer, and whether the seller is a party-in-interest or a disqualified person under the prohibited transaction rules of Title I of ERISA and the Code, respectively. Further, the proposed schedule would ask for the total consideration paid and the date of the transaction. The proposed schedule would also ask if the stock was valued by an independent appraiser and, if not, the identity of the person who valued the stock. Last, Part II would ask for the valuation methods used to value the stock.

## UBA Compliance Advisor

Part III of the proposed Schedule E asks questions applicable to ESOPs with outstanding securities acquisition loans. Unlike the 2008 Schedule E, which only asked whether the ESOP had a securities acquisition loan, the proposed Schedule E would ask for more information regarding these loans. The proposed schedule asks for basic information regarding the amount and date of the loan, as well as the interest rate on the loan. The proposed Schedule E would ask for the lender's relationship to the plan and the plan sponsor, whether the lender is a disqualified person or a party-in-interest, and whether the loan was guaranteed by a disqualified person or a party-in-interest. Part III would also ask questions regarding whether the loan is in default and whether the loan has been refinanced.

Part IV of the proposed Schedule E would include miscellaneous questions. The proposed schedule would ask whether employee elective deferrals were used to satisfy any securities acquisition loan. With the exception of the elective deferral question, the Part IV questions are carried over from the 2008 Schedule E and continue to address significant compliance issues under the Code. Specifically, the proposed Schedule E would ask whether the ESOP is maintained by an S corporation and whether there are any disqualified persons under Code section 409(p)(4) (lines 1a and 1b of the 2008 Schedule E), whether any unallocated securities (or proceeds from unallocated securities) were used to repay an exempt loan (Line 6 of the 2008 Schedule E), and whether the plan sponsor paid dividends deductible under Code section 404(k) (Line 2b of the 2008 Schedule E). This last question is further broken down on the proposed schedule to include information as to the amount of the deduction, the dividend rate, and whether the dividends were used to reacquire stock held by the ESOP.

Several of the questions on the proposed Schedule E would be IRS-only questions. These questions are subject to the electronic filing rules imposed by Treasury regulations, but they are not subject to the DOL electronic filing mandate. The IRS-only questions would be identified on Schedule E or in the Schedule E instructions. Accordingly, although filers would be required to answer most questions on the proposed Schedule E electronically using EFAST2, some filers who are not subject to the IRS electronic filing requirements and elect not to answer the questions through EFAST2 would have the option of answering the IRS-only questions on IRS Form 5500 SUP "Annual Return of Employee Benefit Plan Supplemental Information," which is a separate paper IRS-only information collection system maintained by the IRS outside of the EFAST2 system.

### **Changes to Schedule C and Related Changes to Schedule H**

The proposed regulations would change Schedule C to require reporting of indirect compensation only for "covered" service providers and for compensation that is required to be disclosed, as defined in 29 CFR 2550.408b-2(c)(1). It would essentially require the pension plan administrator to report the actual compensation paid to or received by covered service providers based on the expected compensation included in the 408b-2 disclosures that the service provider furnished to the plan as part of the process of establishing and maintaining the service contract or arrangement with the plan. The instructions similarly would be clarified to track more closely the language of the 408b-2 regulation.

The proposed regulations would eliminate the reporting concept of "eligible indirect compensation." The proposed Schedule C instructions borrow from instructions in Schedule A on determining plan-level allocation of insurance contract fees and commissions. Specifically, the Schedule C instructions permit any reasonable method of allocation to be used to estimate plan level fees for Schedule C, provided the method is disclosed to the plan administrator.

Filers would be required to report "covered" service providers who have received \$1,000 or more in total direct and indirect compensation (that is, money or anything else of monetary value in connection with

## UBA Compliance Advisor

services rendered to the plan or the person's position with the plan during the plan year, including payments from participants' accounts). As on the current Schedule C, plans would only need to report other service providers (such as an accountant that received only direct compensation) who received \$5,000 or more in direct compensation in connection with services rendered to the plan or the person's position with the plan during the plan year, including payments from participants' accounts.

The proposal would have filers use a separate Schedule C for each service provider required to be reported. The proposal would add to Schedule C a requirement to report contact information for service providers that are not natural persons. Filers would be required to identify a person or office, including contact information, so that the plan administrator may contact with regard to the information required to be disclosed on Schedule C.

The proposal would also clarify and expand the existing question that asks the filer to indicate whether the service provider has a relationship to the employer, an employee organization, or a person known to be a party-in-interest. The proposal would now state that filers should indicate any relationship of the service provider to the plan, for example, employer, plan sponsor, plan sponsor employee, plan employee, named fiduciary, employee organization, and "other," with a description. Under the proposal, filers would be required to indicate on Schedule C (by checking a box) whether the service providers receiving compensation are fiduciaries within the meaning of section 3(21) of ERISA.

The proposed regulations clarify the required reporting on the types of services provided and the types of compensation received by individual service providers by separating the existing compound question into two separate reporting elements: one line to indicate service codes, and the other to indicate compensation codes. Filers would need to report service codes for all service providers, regardless of the type of compensation received, but would only have to indicate compensation codes for indirect compensation.

The proposed regulations would add a new Line 1c for providers of information technology/computer support, which would include computer office automation, information processing, local and wide area network support, services supporting hardware, software, telecommunications systems, including automated telephone response systems, and systems security.

The proposed Schedule C instructions would continue to permit filers to offset from the total amounts of direct compensation the amounts received from a so-called ERISA recapture or ERISA budget account or similar account. The proposed regulation will include a "Yes/No" question on revised Line 1, to ask whether any such account or arrangement has been used by the plan during the plan year.

The additional proposed question would ask whether the service provider arrangement includes recordkeeping services to a plan without explicit compensation for some or all of such recordkeeping services or with compensation for such recordkeeping offset or rebated in whole or in part based on other compensation received by the service provider, or an affiliate or subcontractor. If so, the filer would be required, using the same methodology used in the service provider's estimate of the cost to the plan of recordkeeping services, to enter the dollar value of the compensation the service provider received for recordkeeping services.

The proposed Line 1 would also include a data element that asks whether the service provider listed on Schedule C was also identified on Schedule A as having received insurance fees and commissions. Filers are not required to report on Schedule C insurance fees and commissions that are already reported on Schedule A.

## UBA Compliance Advisor

On proposed Line 2, filers would report direct compensation paid to the service provider by the plan.

On proposed Line 3, filers would report the total amount of compensation received by the covered service provider identified in Line 1a in connection with services provided to the plan from sources other than the plan or plan sponsor, including charges against plan investments. The amount of compensation reported would include compensation received by an affiliate or subcontractor in connection with the services rendered to the plan, where the compensation is reported as part of a bundled service arrangement.

Total indirect compensation would now be required to be reported as a dollar amount. Although a dollar amount would be required, the proposal would permit reporting an estimated dollar amount. If the dollar amount is an estimate, the filer still would be required to indicate that a formula was used in determining the actual compensation paid to or received by the service provider.

As with the current Line 3, filers would continue to identify the sources of the indirect compensation received by the covered service provider identified in Line 1, and would also identify the type of fee or compensation. For each source, filers would be required to enter a dollar figure or estimate of the amount of compensation, and, if a formula was used to calculate an estimate, a description of the formula.

The proposed regulations also add a new question that would require filers to indicate whether the arrangement with each covered service provider required to be reported on Schedule C involved any related party compensation. If "Yes," the filer would be required to indicate the services for which the compensation was paid, the names of the payers and recipients of such compensation, status as an affiliate or subcontractor (indicated by check box), and the amount of the compensation.

The instructions, as proposed, would increase the threshold for reporting non-monetary compensation in Schedule C from \$100 to \$250. A corresponding change also would be made to the Schedule A instructions for reporting fees and commissions.

The proposed instructions clarify the requirements for reporting the travel or educational expenses of plan employees or trustees, including reimbursement, on both Schedule C and Schedule H. The instructions would be clarified to provide that trustee and employee expense reimbursements are required to be reported on Schedule C only if the amounts are taxable compensation for trustees or employees.

If trustees receive payment or reimbursement from the plan for travel, education, conferences or similar expenses that exceed the limits under the Code, they would have to include them as threshold expenses for Schedule C and include the fee code for reimbursement when identifying trustee compensation. For reporting those amounts paid for or reimbursed by the plan, regardless of whether they are taxable to the trustee, a proposed new line item under the administrative expenses category would be added to Schedule H to report aggregate plan expenditures on trustee travel, meetings, education and similar expenses, whether paid directly by the plan or as a reimbursement to trustees. Non-monetary compensation for travel, conferences, entertainment, etc., provided by parties other than the plan, that is not de minimis, as defined in the instructions, would continue to be reportable indirect compensation.

Under the proposed regulations, the question that asks filers to identify the termination of service providers on the annual return/report would be moved to Schedule H from Schedule C to associate it with a new compliance question that asks whether any service providers were terminated. The proposal would change the questions to add a check box for the filer to indicate whether it was an accountant or actuary that was terminated. The instructions for this section would also be updated to provide a "Tip" stating that if the only

## UBA Compliance Advisor

reason for a change of appointment of an enrolled actuary was a temporary leave of absence due to non-work circumstances of the enrolled actuary, the filer would so indicate in the “explanation” field.

The proposed regulations would also add a question on Schedule H regarding the termination of any service provider for a material failure to meet the terms of a service arrangement or failure to comply with Title I of ERISA, including the failure to provide required disclosures under 29 CFR 2550.408b-2.

### **Data Mineability**

The Agencies generally plan to continue the data publication processes currently in place and provide an even more robust Form 5500 Web-based search application. This application would allow users to develop more custom queries to better target desired data. It would also include options to download data in various machine-readable and open formats (such as Excel or comma-separated value [CSV] files). Expanding the downloadable options would facilitate researching and comparing plan information. The dissemination could also support predefined queries presented in a dashboard format to graphically illustrate individual plan performance as well as performance in comparison to plans of similar size or features.

To enhance the mineability of Form 5500 data, the proposed regulations structure and standardize the schedules required to be attached to the form.

Some currently unstructured data or new elements would also be collected as structured data under the proposal, including the lists of employers participating in multiple-employer and controlled group plan members required to be attached to Form 5500 or Form 5500-SF; the Schedule H, Line 4a Schedule of Delinquent Contributions; and the Line 4j Schedule of Reportable Transactions. The proposal would eliminate the instructions for Schedule A that permit filing as an attachment appropriate schedules of current rates filed with the appropriate state insurance department or by providing a statement regarding the basis of the rates in an attachment, in lieu of completing information on “Contracts With Allocated Funds.” The instructions would instead direct the filer to enter a statement regarding the basis of the rates into an open text field on Schedule A. Information on contracts with allocated funds would therefore be completed on Schedule A as structured data.

### **Information Collection Moves from Attachments to Open Text Fields on the Face of Forms and Schedules**

To increase accessibility of data, the proposed regulations would replace some of the attachments to the schedules with text fields. For Schedule G (Financial Transaction Schedules), the nonspecific requirement to provide “detailed descriptions” in an open text field, including a variety of elements to report loans and leases in default or uncollectible, has been replaced with individual questions on each of the elements originally required to be in the detailed description. In addition, attachments to Schedule G in the form of “Overdue Loan Explanation” and “Overdue Lease Explanation” for loans and leases that are overdue or uncollectible would be replaced with open data fields on Schedule G.

The proposed regulation will expand data elements on the actuarial schedules (Schedules MB and SB), including information previously reported on PDF attachments. Under the proposal, single-employer and multiemployer plans that are currently required to provide a Schedule of Active Participant Data as a PDF attachment would be required to enter the data into Schedules MB and SB. Supplemental information required by enrolled actuaries who have not fully reflected regulatory requirements under ERISA or the Code in completing Schedule MB or SB would be reported on the schedules rather than on PDF attachments.

## UBA Compliance Advisor

A number of questions on Schedule SB would be required to be reported on the schedule rather than on PDF attachments. This would include the reporting of information on the plan's late election to apply funding balances to quarterly installments, an adjustment to the amount of the credit balance reported in the prior year in the first year a plan is subject to the minimum funding requirements of Code section 430 or ERISA section 303, use of multiple mortality tables and substitute mortality tables, a change in non-prescribed actuarial assumptions and a method change for the current plan year, and a schedule of amortization bases.

The proposed regulations would consolidate certain data reported on Schedule SB on PDF or other similar attachments. The discounted employer contribution PDF attachment would be consolidated with the list of contributions currently included on Schedule SB. Also, for plans in at-risk status for the current plan year, the PDF attachment describing the at-risk assumptions for the assumed form of payment would be consolidated with the attachment describing the other actuarial assumptions. Withdrawal liability payments will be reported separately from plan year contributions on Schedule MB. In addition, for both Schedules SB and MB, the schedule of all amortization bases currently filed as a PDF attachment would be consolidated with the schedule of new amortization bases.

The proposal would require multiemployer plans and single-employer plans that enter data in the Schedule of Active Participant Data to report on Schedules MB and SB the average age of active participants, and the average credited service of active participants as of the valuation date.

Also, multiemployer plans and single-employer plans that have retired participants and beneficiaries as of the valuation date and terminated vested participants as of the valuation date would be required to enter data in two new schedules on Schedules MB and SB: the Schedule of Retired Participants and Beneficiaries Receiving Payment Data and the Schedule of Terminated Vested Participant Data. This information would be reported according to age bracket, but information would not be required to be reported for an age grouping consisting of 10 or fewer participants.

Additionally, all plans would report the average age and average in-pay annual benefit for retired participants and beneficiaries receiving payment. Plans with terminated vested participants would report the average age and average annual benefit, and assumed form of payment and the assumed first age of payment.

The proposed regulations would allow the plan actuary to sign Schedules MB and SB electronically. The plan actuary can access the EFAST2 website at [www.efast.dol.gov](http://www.efast.dol.gov) to register for electronic credentials to sign or submit filings.

### **Plan Characteristics Codes and Other Identifying Codes Are Replaced with Yes/No Questions and Checkboxes on the Face of Forms**

In the proposed regulations, the use of "codes" appearing in the instructions would be limited and refined to the extent feasible. New "Yes/No" and check box questions would replace most Form 5500 and Form 5500-SF questions that currently require filers to list Plan Characteristics Codes. On Schedule C, rather than entering multiple codes to identify both types of fees or compensation and kinds of services, the filer would check as many boxes as are applicable to indicate all types of services for each provider identified. In another element that is for reporting only sources of compensation from parties other than the plan or plan sponsor, filers will separately indicate all types of fees or compensation.

# UBA Compliance Advisor

## **Compound Questions Are Separated**

The proposed regulations would separate out reporting for the various types of direct filing entities to make clearer the precise reporting requirements for each type of entity. The proposals would also clarify the instructions to the forms and schedules by separating compound questions.

## **More Detailed Identifiers, Instructions, and Definitions**

The proposed regulations add clarifying definitions and instructions to improve the consistency of responses. For example, the proposal clarifies conventions for identifying filers by name and identifying numbers. The proposal also requires plans to use legal entity and other industry and regulatory identifiers whenever possible.

The proposal would add more explicit instructions, for example, on reporting delinquent participant contributions and completing the Line 4i Schedules of Assets. In addition, because filers would be asked to identify plan characteristics and type through questions on the face of Form 5500 or Form 5500-SF instead of using codes in the instructions, there are proposed instructions for various questions in this information category.

## **New Group Health Plan Reporting Requirements and Information**

The proposed regulations expand reporting to all employee benefit plans providing group health benefits, including plans that claim grandfathered status and retiree-only plans.

Under the proposal, all ERISA-covered plans that provide group health benefits, regardless of size, and regardless of whether funded with a trust, unfunded, or a combination unfunded/insured, would be required to file Form 5500, including the new Schedule J (Group Health Plan Information), as well as any other applicable schedules.

However, small fully-insured group health plans would be required to only answer a limited number of questions on Form 5500 and the new Schedule J. The current exemptions from financial reporting on Schedules H, G, and C for insured plans, unfunded plans, and plans that are a combination of unfunded/insured that meet the requirements of 29 CFR 2520.104-44 would continue to apply for all welfare plans, including group health plans, regardless of size. The current exemption from financial reporting on Schedule G for welfare plans that cover fewer than 100 participants as set forth in 29 CFR 2520.104-46 would also continue to apply.

Under the proposed regulations, plans that provide group health benefits that have fewer than 100 participants that are not unfunded or insured (for example, funded using a trust) would be required to complete Schedule H (because Schedule I is being removed and group health plans are not permitted to use Form 5500-SF) as well as Schedule C, if applicable.

Under the proposed regulations, small fully insured group health plans would be required to answer only certain questions on Form 5500 and on Schedule J. This limited filing, which would be similar in scope to the limited pension plan reporting for plans established under section 408 of the Code that requires such plans to complete certain Form 5500 questions and no schedules, is intended to serve as an annual registration statement with basic identifying and insurance information.

# UBA Compliance Advisor

## **New Schedule J (Group Health Plan Information)**

The proposed Schedule J (Group Health Plan Information) would report information about group health plan operations and ERISA compliance, plus compliance with certain provisions of the Affordable Care Act. Group health plans that are part of a GIA and subject to the exemption from filing under 29 CFR 2520.104-43 would not be required to file Schedule J. A GIA's Form 5500 Annual Return/Report filing, however, would have to include a separate Schedule J for each group health plan participating in the GIA.

The proposed Schedule J would collect information on the characteristics of the plan that is providing group health benefits, including the approximate number of participants and beneficiaries covered under the plan at the end of the plan year, and the number of persons offered and receiving coverage under the plan through COBRA, whether the plan offers coverage for employees, spouses, children, or retirees, and what type of group health benefits are offered under the plan, for example, medical/surgical, pharmacy or prescription drug, mental health/substance use disorder, wellness program, preventive care, vision, dental, or various other types of benefits.

The proposed regulations would require plans that provide group health benefits to provide information on whether their health plan funding and benefit arrangement is through a health insurance issuer and whether benefits are paid through a trust or from the general assets of the employer. Schedule J would also ask whether there were participant or employer contributions.

With respect to plans that use a prototype health insurance policy or arrangement (sometimes referred to as "off-the-shelf" plans/policies), the plans would provide, if applicable, the relevant unique identifying information (such as a state assigned policy identification number) of the prototype/off-the-shelf policy or arrangement.

Under the proposed regulations, plans that provide group health benefits would report whether one or more of the plan's benefit package options are claiming grandfathered status under the Affordable Care Act, whether the plan is a high deductible health plan, a health flexible spending account (FSA) (or includes a health FSA as a component), or a health reimbursement arrangement (HRA) (or includes an HRA as a component).

Proposed Schedule J would ask whether the plan received rebates, refunds, or reimbursements from a service provider such as a medical loss ratio (MLR) rebate under the Affordable Care Act and offset rebates from favorable claims experience. If so, filers would be required to report the type of service provider, the amount received and how the rebates were used (returned to participants, premium holiday, payment of benefits, or other).

In addition, proposed Schedule J would request that group health plans identify any service providers to the plan (not already reported on Schedule A or Schedule C) by providing the name, address, telephone number, employer identification number, and, if applicable, the National Insurance Producer Registry National Producer Number (NPN) as established by the National Association of Insurance Commissioners (NAIC). Such service providers include a third party administrator/claims processor, including an issuer subject to an "administrative services only (ASO)" contract, mental health benefits manager, wellness program manager, substance use disorder benefits manager, pharmacy benefit manager/drug provider, or independent review organization.

## UBA Compliance Advisor

Proposed Schedule J also asks for the total premium payment made for any “stop loss” coverage, as well as information on the attachment points of coverage, individual claim limits, and the aggregate claim limit contained in the policy.

For group health plans that are not required to complete Schedule H (generally, fully insured, unfunded plans, or combination insured/unfunded plans), the proposal would require that information regarding employer and participant contributions be reported on Schedule J, including employer contributions received, participant contributions received, employer contributions receivable, participant contributions receivable, other contributions received or receivable (including non-cash contributions) and the total of all contributions. Filers would also be required to report whether there was a failure to timely transmit participant contributions to the plan.

Proposed Schedule J also would seek claims payment data, including information on how many post-service benefit claims (benefit claims) were submitted during the plan year, how many benefit claims were approved during the plan year, how many benefit claims were denied during the plan year, how many benefit claim denials were appealed during the plan year, how many appealed claims were upheld as denials, how many were payable after appeal, and whether there were any claims for benefits that were not adjudicated within the required timeframes.

The proposed Schedule J would also seek data on how many pre-service claims were appealed during the plan year, and how many of those appeals were upheld during the plan year as denials and how many were approved during the plan year after appeal.

Under the proposed regulations, plans would be asked to report whether the plan was unable to pay claims at any time during the plan year and, if so, the number of unpaid claims. Plans would also be asked to report the total dollar amount of claims paid during the plan year, and if the plan provides benefits through an insurance policy, to identify any delinquent payments to the insurance carrier within the time required by the carrier, and whether any delinquencies resulted in a lapse in coverage. The proposal would add a similar question to Schedule A; delinquencies identified on Schedule A would not need to be reported again on Schedule J.

Proposed Schedule J would also request compliance information from plans providing group health benefits. The proposed compliance section of Schedule J asks if all plan assets were held in trust, held by an insurance company qualified to do business in a state, or as insurance contracts or policies issued by an insurance company consistent with section 403 of ERISA and 29 CFR 2550.403a-1 and 2550.403b-1, whether plan assets are not held in trust based on reliance on Technical Release 92-01, whether the plan’s summary plan description (SPD) and summaries of material modifications (SMM), and summary of benefits and coverage (SBC) are in compliance with the applicable content requirements, whether coverage provided by the plan is in compliance with applicable federal laws and the DOL’s regulations.

The proposed regulations would move to Schedule J the current questions on Form 5500 that ask all welfare plans to report on whether they are subject to, and if so, have complied with the Form M-1 filing requirements. Form 5500 / Schedule J filers that must file the Form M-1 would not be required to answer on Schedule J those compliance questions answered on Form M-1.

### **Limited Form 5500 Reporting for Small Fully Insured Group Health Plans**

The proposed regulations would eliminate the current exemption from filing for small fully insured group health plans and would require a very limited Form 5500 / Schedule J filing. For small fully insured plans

## UBA Compliance Advisor

that provide health benefits, the proposed regulation would replace that exemption with a new limited exemption as an alternative form of reporting. Specifically, these small plans would be required to complete Lines 1 through 5 (basic identifying information) on Form 5500, and Lines 1 through 8 on Schedule J (basic participation, coverage, insurance company, and benefit information).

### Changes to IRS-only Questions for 2016 Plan Years and Form 5500-SUP

The proposed regulations added various questions to the 2016 forms and schedules that relate to common compliance problems.

Under the proposed regulations, both the 2016 Form 5500 and the 2016 Form 5500-SF include a box in the signature block of the form for information regarding the preparer's name and address. Similarly, line 6 of both Schedules H and I of the 2016 Form 5500, and line 14 of the 2016 Form 5500-SF, would request information regarding the name of the plan's trust, the trust's employer identification number (EIN), the name of the trustee or custodian, and the trustee or custodian's telephone number.

The proposed regulations add several other compliance questions on the 2016 Forms 5500 and 5500-SF that require entry of plan characteristics codes. For example, the IRS replaced characteristic code 2J, which identifies the plan as including a cash or deferred arrangement under Code section 401(k), with a line item on the 2016 Forms 5500 and 5500-SF. Similarly, Code 3D, a characteristic code that currently applies to pre-approved pension plans, is replaced with a separate line item on the 2016 Forms 5500 and 5500-SF.

The proposed regulation adds several questions to the 2016 Forms 5500 and 5500-SF to address various compliance issues. The proposed regulations would add the following questions:

- If the employer aggregated plans to test whether the plan satisfied the nondiscrimination and coverage tests of Code sections 401(a)(4) and 410(b).
- Whether the plan satisfied the coverage requirements of Code section 410(b) on the basis of either the ratio percentage test or the average benefit test.
- Whether the plan sponsor used the design-based safe harbor rules, the current year ADP test, or prior year ADP test for non-highly compensated employees in accordance with 26 CFR 1.401(k)-2(a)(2)(iii) to satisfy the nondiscrimination requirements of Code sections 401(k)(12), (13).
- Whether the employer is an adopter of a master and prototype plan or a volume submitter plan that is subject to a favorable opinion or advisory letter from the IRS, and the date of that favorable letter.
- Whether an individually designed plan received a favorable determination letter from the IRS.
- Whether any distributions during the plan year were made to an employee who attained age 62 and had not separated from service for defined benefit plans or money purchase pension plans.

Those filers who are required by the electronic filing regulations to file Form 5500 electronically will be required to answer these IRS compliance questions electronically using EFAST2 for the 2016 and later plan years. The IRS will provide a paper form containing these IRS compliance items for use by filers who are not subject to the electronic filing requirements of the Treasury regulations and who elect not to answer the questions through EFAST2. A draft of the paper form, Form 5500-SUP, Annual Return of

## UBA Compliance Advisor

Employee Benefit Plan Supplemental Information, was released for public comment in October 2014. The 2016 Form 5500-SUP is expected to be modified to reflect the changes proposed for the 2016 plan year.

### IRS-Only Questions for Later Plan Years

The proposed regulations would add new questions for later plan years to the new Schedule E, ESOP Annual Information, including:

- Whether the ESOP is maintained by an S corporation and, if so, whether any prohibited allocations were made to any disqualified persons.
- Whether the employer maintaining the ESOP paid dividends deductible under Code section 404(k).
- If the ESOP held any preferred stock and under what formula that preferred stock was convertible into common stock.
- If any unallocated securities were used to pay an exempt loan and, if so, the method used.
- If the employer made payments in redemption of stock held by an ESOP to terminating participants and deducted them under Code section 404(k).

The proposed regulations would add questions to Forms 5500 and 5500-SF for later plan years, including:

- Whether a defined benefit pension plan complies with the participation requirements of Code section 401(a)(26).
- Whether minimum required distributions were made to 5% owners in accordance with Code section 401(a)(9).
- Whether hardship distributions were made during the plan year for a section 401(k) plan.
- Whether the plan provides for designated Roth contributions under Code section 402A.
- Whether defined contribution pension plans are frozen.

The proposed regulations would replace plan characteristic codes with separate questions in Forms 5500 and 5500-SF. For example, the IRS proposes to replace characteristic codes 2L and 2M regarding Code sections 403(b)(1) and 403(b)(7) arrangements with separate line items. Also, characteristic code 1I currently applies to frozen defined benefit pension plans that do not provide any new benefit accruals as of the last day of the plan year. Neither Form 5500 nor Form 5500-SF, however, currently requests similar information regarding frozen defined contribution pension plans. The IRS proposes to add a question to these forms for defined contribution pension plans asking whether the plans are frozen.

The proposed regulations would add a line item to Forms 5500 and 5500-SF for plans electing non-church plan status.

The proposed regulations would ask a new IRS question on Schedule H and Form 5500-SF regarding unrelated business taxable income (UBTI).

## UBA Compliance Advisor

Also, the proposed regulations would require a trustee's signature to be added in the trustee information section on Schedule H and Form 5500-SF. The signature is intended to satisfy the requirements under Code section 6033(a) for an annual information return from every Code section 401(a) organization exempt from tax under Code section 501(a). Because this is an IRS-only signature, filers who file fewer than 250 returns during the year will be able to satisfy this signature requirement by filing Form 5500-SUP.

### **New Schedule H and Form 5500-SF Compliance Questions**

The proposed regulations would add new compliance questions, including:

- Whether any person disqualified under ERISA section 411 was permitted to serve the plan.
- Whether the plan is a participant-directed account plan, and, if so, whether the plan provided participants with the fee disclosures.
- Whether the employer sponsoring the plan paid administrative expenses that were not reported as service provider compensation on Schedule C or a plan administrative expense on Schedule H.
- Whether the plan sponsor or its affiliates provided any services to the plan in exchange for direct or indirect compensation.
- Whether the plan had any leveraged investment acquisitions, the total amount of those acquisitions, and the ratio of the leveraged investments to total plan assets.
- Whether the accountant orally or in writing communicated various governance issues discovered during the audit, including errors or irregularities, illegal acts, material internal control weaknesses, and the existence of plan qualification issues.

The proposed regulations would require filers to attach the certification of investment information created by certain banks or insurance companies.

The proposed regulations also standardize information reported on Schedule H, Line 4a. Under the proposed changes, filers would complete a standardized, structured attachment that includes information about whether the correction of the delinquency was made within or outside of the Voluntary Fiduciary Correction Program (VFCP) and Prohibited Transaction Exemption 2002-51. As under the current requirements, filers must continue to report the deficiency until correction is made. The proposed changes also facilitate accurate reporting by requiring the delinquent contribution information to be included in supplemental schedules.

The proposed regulations add new questions on Schedule G (Financial Transaction Schedules), including:

- Asking for more detailed information about the nature of nonexempt prohibited transactions engaged in by the plan.
- Asking filers to check a box indicating the nature of nonexempt prohibited transactions.
- Asking whether the transaction is discrete or ongoing and whether the transaction has been fully corrected, either through or outside of the VFCP.

## UBA Compliance Advisor

- Asking for the date the transaction was fully corrected, a description of the corrective action and whether, if a nonexempt transaction occurred with respect to a disqualified person and the person was notified, Form 5330 was filed with the IRS to pay the excise tax on the transaction.

The proposed regulations would add new line items on Schedule A for reporting whether any premium payments were overdue and, if so, the amount delinquent, and whether there was a policy or contract reported on the schedule that was issued by an insurance company wholly owned by the plan or the plan sponsor.

### **Schedules MB and SB – New Questions and Identifying Information for Attachments**

The proposed regulations would add new questions to the actuarial Schedules MB and SB. On Schedule SB, reporting of the target normal cost would be revised to separate out the plan-related expenses. On Schedule SB, the proposed regulations would require single-employer plans with 500 or more participants as of the valuation date to report projections of expected benefit payments to be paid for the entire plan (not including expected expenses) for each of the next ten plan years starting with the plan year to which the filing relates. For this purpose, the plan would assume that there were no additional accruals, experience (such as termination, mortality, and retirement) consistent with the plan's valuation assumptions, and that no new entrants would be covered by the plan. The requirement would not be applicable to plans with fewer than 500 participants as of the valuation date. Under the proposed regulations, this question would also be added to Scheduled MB.

### **Form 5500 and Form 5500-SF PBGC Compliance Questions**

For 2016, the proposed regulations would add a question to the existing question on Schedules H and I, Line 5c, that asks, if a plan is a defined benefit plan, whether it is covered by the PBGC insurance program. The new question would ask filers that checked the box "Yes" to enter the My PAA-generated confirmation number for the PBGC premium filing for this plan year. In this proposal, the questions would move to Form 5500 and Form 5500-SF. The proposed regulations would move Line 5c on Schedule H and I to Line 9a(4) of Form 5500 and Line 12a(4) of Form 5500-SF. The new question described above about PBGC premium filings would be added to these lines.

### **Miscellaneous Technical and Conforming Changes for Forms and Instructions**

On both Form 5500 and Form 5500-SF, filers that check the "single-employer plan" box as instructed, but which have multiple employers obligated to contribute to the plan that are members of a controlled group, would be required to file an attachment identifying the participating employers.

Form 5500, as proposed, would ask filers to identify and provide contact information for the "named fiduciary" under ERISA section 3(21).

New breakout questions would be added to both Form 5500 and Form 5500-SF for defined contribution pension plans to report the number of participants with account balances as of the beginning of the plan year, the number of participants that made contributions during the plan year, and the number of participants that terminated employment during the plan year that had their entire account balance distributed.

The following new information would also be required to be reported on Form 5500 or Form 5500-SF in the questions that are intended to replace the current plan characteristics code structure:

## UBA Compliance Advisor

- The current requirement for defined benefit pension plans to identify whether the filing is for a frozen plan would be extended to defined contribution pension plans.
- Defined contribution pension plans would now be required to identify whether the plan is a SIMPLE 401(k) plan under Code sections 401(k)(11) and 401(m)(10).
- Defined contribution pension plans would now be required to identify whether the plan has a designated Roth feature.
- Defined contribution pension plans that have participant-directed brokerage accounts would now be required to enter the number of participants using such accounts during the plan year.
- Defined contribution pension plans would have to indicate whether the plan has any intended qualified default investment alternatives (QDIA) and, if so, to indicate the types of alternatives.
- Pension plans would be required to report if the plan is an eligible combined plan under Code section 414(x).
- Pension plans would be required to report if a rollover from a plan was used to start up the business sponsoring the plan (a Rollovers as Business Start-Ups or ROBS transaction).
- Pension plans would be required to report if the plan is electing church plan status under Code Section 410(d).
- Defined contributions pension plans would be required to indicate whether they provide financial education and/or financial advice for participants.
- Plans would be required to report if the plan provides long term care insurance.
- On Form 5500, plans that provide group health benefits would have to indicate, more specifically, whether they provide medical/surgical benefits, pharmacy or prescription drug benefits, mental health/substance use disorder benefits, wellness program, preventive care services, emergency services, and pregnancy benefits.

The signature section on Form 5500 would be revised to add a checkbox to indicate whether the plan is a Taft-Hartley plan and to provide a dedicated signature area for both a “management” and a “labor” trustee.

In addition to the changes described above, Schedule A and its instructions would be clarified to specify that the plan is required to report the insurance carrier’s NAIC “Company Code,” when reporting the NAIC number.

Plans that provide group health benefits through an insurance contract would also be required to provide the insurance carrier’s required health plan identification number (HPID) under the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

Schedule J would require filers to provide the NAIC Producer Code if there is a stop loss policy associated with the plan’s obligation to pay health benefits.

On the new Line 2 of Schedule A, plans would be required to report if the policy or contract was issued by an insurance company that is wholly owned by the plan or the plan sponsor.

## UBA Compliance Advisor

The current questions and instructions on Schedule A for persons covered under an insurance contract that reported on Schedule A would be clarified and expanded. The instructions are clarified to make explicit that the existing requirement to report the approximate number of persons includes participants, beneficiaries, and dependents covered under the contract. For welfare benefit contracts, the question has also been itemized to require the approximate number of persons covered for each type of benefit.

The proposed regulations would add new checkboxes on Schedule A to enable filers to indicate whether the contract covered accidental death and disability (AD&D) or long term care insurance. The existing element on Schedule A to identify that plan assets are in insurance company "pooled separate accounts" would be broken into "pooled separate accounts" and "other" separate accounts. If "other," filers would be required to enter a description of the separate account. Plans that provide life insurance would be required to indicate, on Schedule A, whether a life insurance contract is "term life" or "other." If the life insurance contract is other than term life, the filer would continue to have to enter a description.

The Schedule C instructions with regard to exceptions for reporting employees whose compensation is less than \$25,000 would be clarified to provide that, for Schedule C purposes, compensation does not include the employer portion of FICA and FUTA taxes as part of the total compensation of an employee. The instructions would be modified to specify that expenses for travel, education, conferences, meals, etc., whether paid directly by the plan or reimbursed to the employee, have to be included in determining total compensation of plan employees, but only if such payments would be reportable as taxable income to the employee.

The proposed regulations on Schedule A would also require plans to report on the relationship to the plan, employer, employee organization, sponsor, fiduciary, or other party-in-interest of the agent, broker, or other person to whom commissions or fees were paid.

When reporting on Schedule A that an insurance company failed to provide the information needed to complete the annual return/report, if it is "fee and commission" information that is not provided, then filers would only need to check a box to so indicate. Filers would continue to have a place to describe other types of information.

In addition to the changes described above to Schedule H, filers would be required to report, in the existing section on the IQPA report on Schedule H, the state in which the IQPA report was issued.

The existing questions for Form 5500 filers to indicate plan funding and benefit arrangements would be added to Form 5500-SF.

The proposed regulations also intend to simplify the final filing requirements for plans trustee by the PBGC that have 500 or fewer participants. Specifically, the question on whether the plan has come under the trusteeship of the PBGC would be moved from current plan characteristic code 1H on Form 5500 and part of Line 4k on Schedule H and Line 13b on Form 5500-SF to a checkbox on Part I of Form 5500.

Form 5500 filers that, as of the date the return/report is filed but not later than the due date of the return/report with automatic extension, have been trustee by the PBGC under section 4041(c) or 4042 of ERISA, would be required to check that box and enter the date of the PBGC trusteeship in the space provided.

## UBA Compliance Advisor

Plans with 500 or fewer participants (see Form 5500 Part II, Line 6, asking for participant count) that check this box would be required to complete all of Form 5500 Part I and Lines 1, 2, 3, 6, 9a(3) and 9a(4) of Part II. This would be the last Form 5500 they would need to file.

Plans with more than 500 participants (in Part II, Line 6) would be required to complete Form 5500 in the same manner as they have in the past and would need to file Form 5500 for a following short plan year (depending on when the plan was trustee).

Similarly, Form 5500-SF filers with plans that, as of the date the return/report is filed but not later than the due date of the return/report with automatic extension, have been trustee by the PBGC under section 4041(c) or 4042 of ERISA, would be required to check a box in Part 1A and enter the date of the PBGC trusteeship in the space provided. Plans that check this box would be required to complete all of Part I and Lines 1, 2, 3, 5 (if applicable), 6, 9a(3) and 9a(4) of Part II.

The proposals will accept the electronic signature by the plan actuary on Schedules MB and SB, and the electronic signature by the plan trustee for trust information on Form 5500-SF and Schedule H. If a plan actuary or a plan trustee chooses not to sign electronically, then the actuary or trustee must sign the schedule or Form, and an electronic reproduction must be attached to Form 5500 or Form 5500-SF. This electronic reproduction must be labeled "Trustee Signature" for trust information on Schedule H or Form 5500-SF, and "Actuary Signature" for the plan actuary on Schedule MB or SB, and must be included as a PDF attachment or any alternative electronic attachment allowable under EFAST2, if it is not electronically signed.

### **Electronic Filing of Certain IRS-Only Forms**

The proposed regulations would enable filers to file IRS Forms 5500-EZ and 5558 through EFAST by creating an electronic version of each of these forms.

The proposed regulations would provide an electronic version of the Form 5500-EZ to be filed on the EFAST2 system. This electronic version would be in addition to the paper version. Accordingly, except to the extent they are subject to the electronic filing mandate, one-participant plans and foreign plans subject to the filing requirements of the Code would be able to elect to file either the paper version of Form 5500-EZ with the IRS or file the electronic version through EFAST2. These filers would no longer be allowed to file Form 5500-SF. One-participant plans and foreign plans that are required by 26 CFR 301.6058-2 to file electronically would be required to file the electronic version of Form 5500-EZ.

The proposed regulations would create an electronic version of Form 5558 to be processed through EFAST2, which would enable filers to use the same system to request an extension that they use to file Form 5500. The electronic filing of this form would benefit the filers and the Agencies by reducing errors that are more likely to occur during the manual preparation and processing of paper returns and reports. Electronic filing also results in faster settling of accounts and better customer service. Under this proposal, the paper Form 5558 would continue to be filed with the IRS by those filers who wish to file Form 5558 on paper.

The proposed regulations would create a new paper form for extensions of time to file Form 5330. This new extension form would have provisions similar to those in Form 5558 to the extent they apply to Form 5330.

# UBA Compliance Advisor

## Resources

[Proposed Revision of Annual Information Return/Reports](#)

[Fact Sheet: Proposal to Modernize and Improve the Form 5500 Annual Return/Report Filed by Employee Benefit Plans](#)

[Technical Appendix](#): Documentation of the Methodology Used to Calculate the Burden Associated with the Proposed Form 5500 21st Century Initiative

[Proposed Rules on Annual Reporting and Disclosure](#)

7/21/2016

---

This information is general and is provided for educational purposes only. It is not intended to provide legal advice. You should not act on this information without consulting legal counsel or other knowledgeable advisors.



Shared Wisdom. Powerful Results.®