

Office of Regulations and Interpretations
Employee Benefits Security Administration
US Department of Labor
200 Constitution Ave., NW, Room N-5655
Washington, D.C. 20210

Tuesday, September 13, 2016

Re: RIN R1210-AB63 – Request for extension of public comment period and public hearing on proposal to modernize and improve Form 5500 Annual Return

The American Retirement Association (ARA) is submitting this letter as an initial response to the request for comments on the proposal to modernize and improve Form 5500 (“Proposal”) made by the Department of Labor (“DOL”), Internal Revenue Service (“IRS”) and Pension Benefit Guaranty Corporation (“PBGC”) (collectively, “Agencies”). The Proposal adds new questions regarding plan operations, service provider relationships, and financial management of plans. Under the Proposal, the form revisions would begin with the Plan Year 2019 Form 5500 and are generally being coordinated with the procurement process related to the Electronic Filing Acceptance System (EFAST).

The ARA is a national organization of more than 20,000 members who provide consulting and administrative services to American workers, savers and sponsors of retirement plans and IRAs. ARA members are a diverse group of retirement plan professionals of all disciplines including financial advisers, consultants, administrators, actuaries, accountants, and attorneys. The ARA is the coordinating entity for its four underlying affiliate organizations, the American Society of Pension Professionals and Actuaries (“ASPPA”), the National Association of Plan Advisors (“NAPA”), the National Tax-deferred Savings Association (“NTSA”) and the ASPPA College of Pension Actuaries (“ACOPA”). ARA members are diverse but united in a common dedication to America’s private retirement system.

The ARA has several initial recommendations pending a more complete review of the Proposal.

1. ARA **recommends** that the public comment period be extended by 105 days to January 17, 2017. This would provide a comment period totaling 180 days which would be the minimum amount necessary to adequately review and comment on the Proposal.

The complexity of the Proposal requires extensive analysis in order to understand the impact to plans and service providers. ARA intends to provide detailed comments and recommendations on the Proposal and additional time is needed for the analysis and to collate the feedback in a constructive and cohesive format.

In addition, the 75-day comment period that has been proffered by the Agencies is coincident with the period during which practitioners are occupied with the completion of the 2015 Form 5500 for calendar year plans (where the due date has been extended, a very common practice). The result is that many of our members with specialized knowledge that would otherwise be applied to our thoughtful consideration of the proposal will, for the most part, be unavailable until after the October 17, 2016 filing deadline.

In addition, many service providers are applying the staff and technical resources that would otherwise be applied to analyzing the Proposal to the more immediate need to review and implement the DOL's final "conflicted advice" regulation. A longer comment period would allow for better allocation of the resources necessary to consider the many issues raised by the Proposal.

2. ARA **recommends** that additional time be provided to transition into the significant technology changes the Proposal will require and that the effective date should be deferred to allow for consideration of public comment as to ways information can be collected in a less costly and burdensome manner.

While the proposed timeline is closely aligned to the EFAST procurement, ARA believes it is important that the process and timing of the Proposal take into consideration the realities faced by the industry. The time, financial and technology burden of the Proposal is staggering. The new questions would require many system and technology-based enhancements to be developed and implemented by January 1, 2019, in order to be able to report out the data needed to respond as of the end of that plan year. Many of the proposed questions request detailed information that is presently not tracked by third party administrators and recordkeepers.

Before any business will invest the necessary resources to create new systems and processes, however, the forms and instructions must be published in final format. It generally takes 6-12 months to approve the capital investment and personnel allocations necessary to implement the necessary changes. Thereafter, the extensive technology, communication, and procedure changes of the Proposal may take more than an additional 12 to 24 months for providers to develop and implement. Given these factors, the earliest the Proposal should be effective is for plan years beginning on or after January 1, 2020 (or later if the final version of the form is delayed). Otherwise, the "rush to judgement" will unnecessarily increase the costs and burdens associated with providing the information solicited on the form and schedules.

3. ARA **recommends** that the Agencies hold a public hearing on the Proposal.

The ARA respectfully requests that the Agencies hold a public hearing on the Proposal following the close of the written comment period. Upon initial review of the Proposal (and its preamble), it is difficult to ascertain the purpose and underlying goal for collecting the information being solicited by many of the questions and schedules. The give and take between commentators and regulators at a public hearing would provide an opportunity for interested parties to better

understand the Agencies' objectives. A public hearing would also allow stakeholders to review and respond to comments submitted by other parties. The expectation is that this process will enable refinement of comments in a way that will increase the accuracy, utility and efficiency of the data and collection process (and ultimately reduce the costs and burdens of collection).

These comments were prepared by ASPPA's Reporting and Disclosure Sub-committee of the ASPPA Government Affairs Committee, Kizzy Gaul, Chair on behalf of ARA. Please contact Craig Hoffman, General Counsel and Director of Regulatory Affairs at ARA, at (703) 516-9300 ext. 128, if you have any comments or questions regarding the matters discussed above.

Thank you for your time and consideration.

Sincerely,

/s/

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/s/

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