

Nov.14, 2016

Employee Benefits Security Administration  
U.S. Department of Labor  
200 Constitution Avenue NW  
Washington, DC 20210  
[e-ORI@dol.gov](mailto:e-ORI@dol.gov)

Re: RIN 1210-AB63 – Federal Register Vol. 81, No. 140 Thursday, July 21, 2016 / Proposed Rules – Proposed Revisions to Form 5500

The Employee Benefits Plan Committee and the Peer Review Committee (the committees) of the Pennsylvania Institute of Certified Public Accountants (PICPA) appreciate the opportunity to comment on the proposed changes to Form 5500. The PICPA is a professional CPA association of more than 22,000 members working to improve the profession and better serve the public interest. Founded in 1897, the PICPA is the second-oldest CPA organization in the United States. Membership includes practitioners in public accounting, education, government, and industry. The committees are composed of practitioners from international, regional, and small public accounting firms. The committees' general observations and specific comments are included below.

### General Observations

While the committees are generally supportive of the U.S. Department of Labor's (DOL) Form 5500 modernization efforts, they are concerned regarding the significant expansion of data submissions and the related impact on the costs of plan administration and plan compliance. They note that the excessive administrative and compliance burden could result in plan sponsors for smaller plans reconsidering whether they will continue to provide the benefits that they currently provide.

### Specific Comments

- a) Proposed additional data
  - i) Data entry – The committees noted that the DOL has proposed the submission of a significant amount of new data, and believes that the cost of providing it could be burdensome, especially if data entry is manual. The committees request that consideration be given to accepting commonly used file formats for uploading to the new EFAST system. The committees recommend working with large investment custodians to identify and delineate a workable file format.
  - ii) Auditor responsibilities – The committees note that the proposal includes significant new data requirements for items that are included in supplemental schedules to the financial statements (e.g., investments - derivatives, alternative investments, etc.). As this information is included in a supplemental schedule to the financial statements, additional auditor time will be required.

- b) Requirement to attach certifications for limited-scope audits – The committees noted that this requirement could be cumbersome for plans that have multiple certifying organizations. They request that in lieu of including attachments to the form, add relevant questions to the form (i.e., whether or not the plan sponsor has received the certification, the certifying institution(s), and the period covered by the certifications).
- c) Peer reviewer information [proposed revisions to Form 5500 Line Item 3g] – In light of the AICPA’s revised peer review enrollment and engagement completion projects, the committees do not believe that it is necessary to provide the name of the firm’s peer reviewer, date of their last peer review, rating received on the last peer review report, number of years that the peer reviewer has been the firm’s peer reviewer, or whether the peer review covered employee benefit plans on the new Form 5500. Specifically, the committees note that the AICPA has instituted a new process to ensure that all firms required to undergo peer review for licensure purposes and perform audits that are filed with the DOL’s filing system are enrolled in the peer review program, and that the scope of their peer review includes an employee benefit plan audit, where appropriate.

The committees believe that including the peer reviewer’s name on the filing would be misleading to the user as to the extent of the involvement of the peer reviewer in Form 5500 preparation or the audit of the related financial statements. Furthermore, the committees note that Form 5500 requires the name of the peer reviewer, who may, or may not, have performed the technical review of the employee benefit plan engagement that was subject to the audit firm’s peer review, as a peer review team member may have been utilized. Additionally, the plan subject to the filing might not have been selected by the peer reviewer or included in the year-end that was subject to the firm’s most recent peer review. Finally, the firm’s quality could have changed from the time the peer reviewer performed the review. Ultimately, the committees believe that requiring this additional information could result in a diminished population of peer reviewers that may have concerns about being associated with public filings for which they were not specifically involved. The committees also observe that the peer reviewers seem to be highlighted more than the independent qualified public accountant.

The committees further note that certain proposed questions could require an answer of “not applicable,” which is not an option under the proposed Form 5500. The committees request that if the peer review information requirement is retained, that an option of “NA” be included in the final version. For example:

- A new firm that takes on an employee benefit plan audit may not have undergone a peer review yet and could potentially still be in compliance with licensing requirements, since most state boards of accountancy allow firms up to 18 months from the time it undertakes an attest engagement to complete a system peer review.
- A firm that has a system review the year before it takes on an employee benefit plan audit would not have an employee benefit plan audit included in the scope of its peer review.

The committees also note that firms that perform Yellow Book audit engagements are required to make the results of their peer review public. AICPA audit quality center members also demonstrate their commitment to quality by including their peer review results in a public database. In lieu of

providing the proposed peer review information on Form 5500, the committees recommend requiring that firms performing employee benefit plan audits make the results of their peer review publicly available.

- d) Reporting communications with those charged with governance, including errors or irregularities, illegal acts, material internal control weaknesses, a loss contingency, going concern issues, the existence of plan qualification issues, and any unusual or infrequent subsequent events or transactions [proposed revisions to Form 5500 Line Item 3f] – The committees note that guidance for the existence of plan qualification issues and any unusual or infrequent subsequent events or transactions is not currently included in the accounting and auditing literature. Therefore, practitioner’s judgement could vary widely in determining what is required to be communicated.

Additionally, in accordance with U.S. generally accepted auditing standards, auditors have 60 days after the financial statement audit report date to communicate certain material weaknesses in internal control. As many employee benefit plan audit reports are dated close to the Form 5500 filing deadline, it is likely that such communications have not occurred prior to the filing of Form 5500, making compliance with this proposed requirement burdensome.

Furthermore, the committees believe that the proposed requirement to include the auditor’s communications to those charged with governance in the Form 5500 could provide a disincentive for firms to report such items or communicate any comments that assist with qualitative compliance since such information would become public record. Since plans likely will not want any such auditor communications made public, this proposed requirement could potentially favor the selection of firms that are not industry experts (who may not understand plan compliance issues), firms that will determine such items to be immaterial for communication, or firms that take the position that the standards do not require them to find compliance matters.

We appreciate your consideration of our comments. We are available to discuss any of these comments with you at your convenience.

Sincerely,



Richard Fischer, CPA  
Chair, PICPA Employee Benefits Plan Committee



James K. Pasquarette  
Chair, PICPA Peer Review Committee