

From: Sears, Ben

Sent: Monday, December 05, 2016 6:48 PM

To: EBSA, E-ORI - EBSA

Subject: Comments on DOL, IRS, PBGC Proposed Revision of Annual Information Return/Reports, RIN 1210-AB63 (81 Fed. Reg. 47534, July 21, 2016)

SUBMITTED BY EMAIL TO DOL AT: e-ORI@dol.gov

December 5, 2016

Office of Regulations and Interpretations
Employee Benefits Security Administration
Attn: RIN 1210-AB63;
Annual Reporting and Disclosure
Room N-5655
U.S. Department of Labor
200 Constitution Avenue NW.
Washington, DC 20210

Re: Department of Labor, Employee Benefits Security Administration; Department of the Treasury, Internal Revenue Service; Pension Benefit Guaranty Corporation Notice of Proposed Forms Revisions,
Proposed Revision of Annual Information Return/Reports, RIN 1210-AB63 (81 Fed. Reg. 47,534, July 21, 2016)

Dear Sir or Madam:

Bryan, Pendleton, Swats & McAllister, LLC (BPS&M), Actuaries and Consultants, submits the attached comments on the Department of Labor, Employee Benefits Security Administration; Department of the Treasury, Internal Revenue Service; and Pension Benefit Guaranty Corporation (collectively referred to herein as the "Agencies") Notice of Proposed Forms Revisions, Proposed Revision of Annual Return/Reports, Regulatory Identifier Number RIN 1210-AB63 (81 Fed. Reg. 45, 534, July 21, 2016). We understand from the Fact Sheet issued by the Department of Labor Employee Benefits Security Administration about the Notice of Proposed Forms Revisions (and related Notice of Proposed Rulemaking) on July 11, 2016 that comments on the Notice of Proposed Forms Revisions will be treated as comments on the Notice of Proposed Rulemaking. BPS&M is an actuarial and employee benefit consulting firm with offices in multiple locations.

We hereby submit these comments by email to the U.S. Department of Labor (DOL) at e-ORI@dol.gov

If additional information on any of our attached comments would be helpful, please contact Benjamin R. Sears at our Nashville area office by telephone at (615) 665-5369, by email at ben.sears@bpsm.com, or by correspondence at Bryan, Pendleton, Swats & McAllister, LLC, 5301 Virginia Way, Suite 400, Brentwood, Tennessee 37027.

Respectfully submitted,

BRYAN, PENDLETON, SWATS & MCALLISTER, LLC
By Benjamin R. Sears
5310 Virginia Way, Suite 400
Brentwood, TN 37027

COMMENTS OF BRYAN, PENDLETON, SWATS & MCALLISTER, LLC, ON DOL, IRS, PBGC NOTICE OF PROPOSED FORMS REVISIONS, PROPOSED REVISION OF ANNUAL INFORMATION RETURN/REPORTS, RIN 1210-AB63 (81 FED. REG. 47,534, JULY 21, 2016)

Bryan, Pendleton, Swats & McAllister, LLC (BPS&M), Actuaries and Consultants, submits the following comments on the Department of Labor, Employee Benefits Security Administration; Department of the Treasury, Internal Revenue Service; and Pension Benefit Guaranty Corporation (collectively referred to herein as the "Agencies") Notice of Proposed Forms Revisions, Proposed Revision of Annual Return/Reports, Regulatory Identifier Number RIN 1210-AB63 (81 Fed. Reg. 47,534, July 21, 2016). We understand from the Fact Sheet issued by the Department of Labor Employee Benefits Security Administration about the Notice of Proposed Forms Revisions (and related Notice of Proposed Rulemaking) on July 11, 2016 that comments on the Notice of Proposed Forms Revisions will be treated as comments on the Notice of Proposed Rulemaking.

In general, the Proposed Revision would make very significant revisions to the Form 5500 series forms, related schedules, and instructions and would substantially increase the amount of information required to be reported, the complexity of the information and the manner in which it is reported. This Proposed Revision would present substantial challenges for plan sponsors and their advisors who help them comply with the annual return/reports requirements. The challenges include gathering substantial amounts of additional information, determining how to report the additional information, and complying with timeframes for revised reporting.

The proposed changes in the Proposed Revision are so extensive that we have focused our comments on the major aspects of the Proposed Revision and our recommendations for appropriate revisions and the process for developing them. In the future, we may provide specific, additional comments on details of the Proposed Revision.

Substantial amount of additional information, time, and expense required to comply with the Proposed Revision.

In broad terms, the Proposed Revision requires plan sponsors to gather a substantial amount of additional information and to spend a substantial amount of additional time to prepare the forms to make sure the additional information is properly reported. While plan sponsors typically engage service providers to assist them in preparation of the Form 5500, the Proposed Revision requires gathering, categorizing, and breaking out various data and plan information that will require specific input and assistance from the plan sponsor or other plan experts. The Proposed Revision would also require certain responses to various compliance questions which may involve time for the plan sponsor to consult with attorneys and other professional advisors.

We believe that various service providers, such as investment advisory firms, CPA accounting firms, third party administration firms, software firms providing Form 5500 filing software, employee benefit consulting firms, and other firms, will spend significant additional time and incur increased costs to help plan sponsors comply with the requirements of the Proposed Revision. Accordingly, we believe that the additional burden of providing this significant amount of information and the associated preparation time will likely result in substantial additional expenses for plan sponsors. This additional expense could cause some plan sponsors to lower plan benefits or to reconsider whether to continue providing employee benefit plans.

Need for public hearings on the details of the Proposed Revision.

We support the comments submitted by others earlier that encourage the Agencies to hold public hearings on the Proposed Revision to provide a fuller opportunity for the public to discuss the details of the proposed requirements with representatives of the Agencies. Public hearings provide an opportunity for plan sponsors, practitioners, and other interested parties to discuss with the representatives of the Agencies in an open forum ways to streamline the requirements in a more practical, less burdensome, and more cost effective manner. We believe the magnitude of the changes proposed in the Proposed Revision should be reconsidered by the Agencies in light of the testimony and perspective provided by plan sponsors and practitioners at the public hearings and the dialog among plan sponsors, practitioners, other interested parties, and representatives of the Agencies at the public hearings.

If substantial changes are made to the Proposed Revision after the public hearings, we believe the Agencies should re-propose the revised Proposed Revision for public comment.

Need to delay the time of the proposed effective date of the Proposed Revision until a period of at least 24 months after the Proposed Revision is finalized (final versions of Form 5500 series forms, schedules, and instructions published).

The Proposed Revision, if adopted, generally would apply for plan years beginning on or after January 1, 2019. We understand that a goal of the Agencies is to complete the forms revision and regulatory amendments aspect of the project in advance of key procurement and system development deadlines related to re-competing the contract for the EFAST2 system.

However, we believe additional time will be needed beyond the general effective date proposed in order to provide sufficient time for plan sponsors and providers to make changes to computer systems and procedures to comply with changes of this magnitude and scope. We recommend that the general effective date proposed in the Proposed Revision be delayed for a period of at least 24 months after the Proposed Revision is finalized (i.e., publication of final versions of the Form 5500 series forms, schedules, and instructions containing the Proposed Revision final changes) to give adequate time to implement new procedures and processes.

BENJAMIN R. SEARS | Technical Research Consultant

Bryan, Pendleton, Swats & McAllister, LLC, Actuaries and Consultants | 5301 Virginia Way, Suite 400 | Brentwood, TN 37027
Direct: 615.665.5369 | ben.sears@bpsm.com

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