

December 1, 2016

Office of Regulations and Interpretations  
Employee Benefit 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

Via e-mail to: e-ORI@dol.gov

**RE: PROPOSED REVISION OF ANNUAL INFORMATION RETURN/REPORTS – RIN 1210-AB63**

Ladies and Gentlemen:

The Accounting Principles and Auditing Procedures Committee (“Committee”) is the senior technical committee of the Massachusetts Society of Certified Public Accountants. The Committee consists of members who are affiliated with public accounting firms of various sizes as well as members in both industry and academia. The majority of the members of the Committee primarily serve small and medium sized clients. The Committee has reviewed and discussed the above referred to proposal. The views expressed in this comment letter are solely those of the Committee and do not reflect the views of the organizations with which the Committee members are affiliated.

First the Committee thanks the Employee Benefit Security Administration (“EBSA”) for the opportunity to comment on this Proposal.

This letter includes comments forwarded to the Committee by the ERISA Accounting and Auditing Committee of the Massachusetts Society of Certified Public Accountants.

The members of both Committees mainly are preparers, auditors and advisors to small and medium sized entities.

**AICPA letter of November 22, 2016**

The Committees have reviewed the comment letter dated November 22, 2016 sent to the EBSA on the proposal by the American Institute of Certified Public Accountants (“AICPA”). The Committees fully concur with all the various comments and recommendations in the AICPA comment letter. The Committee recommend that the comments and recommendations in that comment letter be strongly considered.

## **Disclosure of Audit Matters (Schedule H, Part III Accountant's Opinion, line 3f)**

The Committees are very concerned about the effect of this requirement that "Key Audit Matters" be disclosed as part of the Form 5500 reporting.

The Committees are concerned with whose burden it would be to formulate the required disclosure. Many of the entities the Committee members work with are small and medium sized entities. These entities may not have the capacity to properly respond to this requirement. The Committees are concerned that the Plans may respond to the disclosure requirement incorrectly and the issues that could arise thereon.

The Committees, because of this concern, feel that Plan Administrators would be required to engage the auditor to perform a separate engagement to formulate the required disclosure for the Plan. This would result in a greater cost to the Plan and pose an additional threat to independence. The threat to independence under auditing standards would be that the auditor could be judged to be fulfilling an employee function.

Certain members of the Committees are concerned that if the Plan Administrator or designee formulates and submits the required disclosure and that disclosure is not what the auditor has disclosed to the Plan, issues would be raised if subsequent discovery of unreported key matters is uncovered. The ramification of the subsequent discovery of unreported key matters would affect the auditor and possibly the peer reviewer in addition to the Plan. Members strongly feel that the auditor in this instance would be required to audit what the Plan is responding and disclosing on these matters. Additionally members felt that additional documentation of communication of matters to the Plan would be required to verify what the auditor has disclosed to the Plan. This would be an expansion of the present audit engagement and would result in greater cost to the Plan.

A final concern is the judgement of what is a "key audit matter". Members are concerned, since the requirement to report plan issues could be confusing and may result in uncertainty among preparers, that if the auditor judges that a matter that does not rise to the level of disclosure and the EBSA judges differently what the effect the EBSA judgement will have on the auditor going forward.

A recommendation the Committees put forth to facilitate the intent of this requirement is that any communication of matters that are to be communicated to Plan Management and to Those Charged with Governance in accordance with professional auditing standards be included as part of the Form 5500 reporting. Refer to AU-C Section 260 and AU-C 265. As detailed in the November 22, 2016 letter from the AICPA, this required communication is not due to be communicated to the appropriate party until 60 days after the issuance of the Plan's financial statements and auditor's opinion thereon. A process would be required to be put in place to have these communications forwarded to the EBSA in a timely manner.

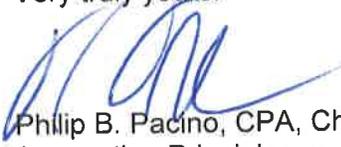
## **Costs to Plan Participants**

All the requirement changes as detailed in the proposal will result in additional burden and costs to comply with these requirements. Plans under certain EBSA rules and regulations can pay

these costs directly from the Plan assets. This could result in a lower investment returns to plan participants. The Committees recommend that a balancing of the additional burdens and costs be considered with a view to the beneficiaries of these Plans, the Plan participants.

Thank you for allowing us to comment on this proposal.

Very truly yours.



Philip B. Pacino, CPA, Chairman  
Accounting Principles and Auditing Procedures Committee  
Massachusetts Society of Certified Public Accountants