

Form 5500: The Devil is in the Details

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Agenda

- Brief overview of Form 5500 filing requirement
- Form 5500
 - Changes to the 2016 Form 5500
 - Highlights of the 2017 Form 5500
 - The Form 5500 of the 21st century
- Form 5500 red flags
- Government initiative
- Potential ERISA financial audit changes
- Our most frequently asked questions
- Reference information

Some Statistics

- DB Plans—44,869
- DC Plan—640,334

- Plans with fewer than 100 participants—598,094
- Plans with 100 or more participants—87,109

- DB Contributions—\$97.9 billion
- DC Contributions—\$403.5 billion

- Total participants—132.4 million
- Active participants—89.9 million

More Statistics

- Health and welfare plans
 - Number of plans 56,643
 - Total participants 70,812
- Self-insured
 - Number of plans 21,191
 - Total participants 32,846

Types of Filers

- Pension plans
- Health and welfare plans
- Direct filing entities (DFEs)

Pension Plans

- Familiar pension plans
 - Defined benefit plans
 - Defined contribution plans
 - Profit sharing plans
 - 401(k) plans
 - Money purchase plans
 - ESOPs
 - Etc.
 - 403(b) plans


Pension Plans

- Less familiar pension plans
 - Severance pay plans
 - Supplemental payment plans
 - Top-hat plans

Pension Plans—Who Must File?

- Large plans (100 or more participants)
 - Must complete Form 5500 and attach audited financial statements and longer financial schedule in addition to relevant pension schedules
- Small plans (fewer than 100 participants)
 - Must complete Form 5500-SF and shorter financial schedule in addition to relevant pension schedules
- 80 to 120 rule

Welfare Plans—Who Must File?

- Large welfare plans
 - Funded plans must attach audited financial statements
- Small funded welfare plans must complete Form 5500
- No filing for unfunded or fully insured with less than 100 participants
 -  Note: less than 100 exemption goes away in Form 5500 modernization proposal
- 80 to 120 rule
 - If no filing last year because less than 100 participants and either unfunded or fully insured, but
 - This year there are 100 participants, must file. The 80 to 120 rule won't let you escape filing.

Welfare Plans

- **Unfunded**
 - Benefits paid as needed from general assets
- **Funded**
 - Receive employee/former employee contributions, and/or
 - Use a trust or separately maintained fund to hold plan assets or as a conduit
- **Insured**
 - Benefits provided exclusively through insurance
 - Premiums paid directly to insurance carrier
 - Insurance company qualified to do business in state

Welfare Plans

- Familiar welfare plans
 - Health or medical
 - Dental
 - Vision
 - Life
 - Long-term disability
 - Short-term disability
 - Cafeteria plans with welfare benefit features
e.g., medical reimbursement account

Welfare Plans

- Less familiar welfare plans
 - Funded vacation benefit
 - Funded scholarship
 - Severance pay plans (not pension)
 - Supplemental pay plan
 - Apprenticeship and training
 - Employee assistance programs (EAP)

Form 5500 Filing Tip

- An EAP which provides referrals only is not considered an ERISA welfare plan
- An EAP which provides more than referrals, e.g., counselling sessions, is considered an ERISA welfare plan
- Use 4Q on line 8b if you don't already use 4Q

Plans Excluded

- Fringe benefit plans (Notice 2002-24)
- Welfare plans with less than 100 participants that are unfunded or fully insured or a combination of both
- Unfunded excess benefit plan
- Plans maintained to comply with WC, UC or disability insurance law
- Government and church plans

Fringe Benefit Plans

- IRS Notice 2002-24
 - Eliminated need to file Schedule F
 - Didn't eliminate DOL filing
- DOL Technical Release 92-01
 - Exempts certain contributory welfare plans from trust and ERISA reporting requirements
 - Impact on plans with after tax employee contributions
 - No trust requirement if contributions applied only to payment of premiums and forwarded within three months
 - Impact on 125 plans
 - No trust requirement
 - Treated as unfunded

A Word About Voluntary Plans

- Voluntary Plan = ERISA Welfare Plan? (2510.3-1(j))
- Not an ERISA welfare plan if:
 - No contributions made by employer
 - Employee contributions do not flow through 125 plan
 - Participation completely voluntary
 - Employer doesn't endorse
 - Employer sole function is collect premiums and forward to insurance company; permit insurance company to publicize program

Voluntary Plan—Court Cases

- *Lee v. Liberty Nat'l Life Ins. Co.*, 2009 WL 3316371 (S.D. Ga. 2009)]—voluntary plan through 125 plan was an ERISA plan
- *Ballard v. Leone*, 2012 WL 665987 (D. Md. 2012)—using 125 plan for premiums did not take the employer out of the safe harbor

Direct Filing Entities (DFEs)

- Must be filed by master trust investment accounts (MTIA)
- May be filed by:
 - Common/collective trusts (CCT)
 - Pooled separate accounts (PSA)
 - 103-12 investment entities (103-12 IE)
 - Group insurance arrangements (GIA)

5500-SF

- Plans with less than 100 participants or eligible to file under the 80-120 rule
- Secure and easy to value investment portfolios
- No employer securities
- Eligible for small plan audit waiver
- Not a multiemployer plan

Filing Due Dates for Plans

- Form 5500 series is due seven months after the end of the plan year (7/31 for calendar year plans)
- Extensions
 - If employer's tax year and the plan year coincide— automatic extension to employer's extended due date.
 - A 2½ month extension may be obtained by filing Form 5558 on or before normal due date (automatically approved)

Filing Due Dates for DFEs

- Form 5500 filed for DFEs other than GIA is due 9½ months after the DFE's fiscal year
- Form 5500 for GIA is due seven months after end of year
 - 2½ month extension by filing Form 5558

Extensions

- Form 5558
- Corporate tax return
- Special extension

EFAST2 FAQ 35a

- Exactly what time is my filing due, and what time zone does that reflect?
 - Must be received by midnight in plan administrator's time zone
 - where the filer attempts to submit a return/report on time and it is not successfully received by EFAST2 prior to the deadline, the filer should print the unsuccessful submission notice. The unsuccessful submission notice should be included with the re-submitted return/report and tagged as an "other attachment."

Filing Due Dates (Final Returns)

- Must file until
 - All assets of the plan distributed or legally transferred to the control of another person
 - When all liabilities for benefits payable under a welfare plan have been satisfied
 - If a trustee is appointed, the last filing is for the year the trustee is appointed
 - The IRS has found that over 90% of the final Forms 5500 reviewed had errors.



Penalties

- IRS
 - \$25 per day for failure to file complete 5500 (up to \$15,000)—pension plans only
 - \$1,000 for failure to file actuarial statement
 - \$1 per day per participant not reported on Schedule SSA (up to \$5,000 per plan year)
 - \$1 per day for not filing a notification of change of status of plan (up to \$1,000)
 - Plan name and address
 - Plan termination
 - Merger

Penalties *(continued)*

- DOL
 - \$2,063 (\$2,097 in 2017) for each day plan administrator fails or refuses to file a complete and accurate report.
 - Late filers
 - \$50 per day if file voluntarily
 - \$300 per day for nonfilers if caught, cap of \$30,000 per year per plan

Penalties *(continued)*

- Other
 - Not more than \$100,000 or 10 years in prison for willful violation of Part 1 of Title 1 of ERISA
 - Up to \$10,000 or five years in prison, or both, for making false statements, knowingly concealing or not disclosing any fact required by ERISA

Delinquent Filer Voluntary Compliance (DFVC) Program

- 22,070 filings DOL fiscal year 2016
- Reduced penalties
- Simplified filing procedures
- IRS/PBGC waive penalties
- Filings from 1988

Delinquent Filer Voluntary Compliance Program *(continued)*

- \$10 per day per plan
- \$750 cumulative daily cap—small
- \$2000 cumulative daily cap—large
- \$1500 per plan cap—small
- \$4000 per plan cap—large

Delinquent Filer Voluntary Compliance Program *(continued)*

- \$750 apprenticeship and training program
- \$750 top hat
- \$750 per plan cap for small 501(c)(3)

DFVC *(continued)*

- Two step process
 - File Forms electronically via EFAST2
 - Pay the fee
 - Credit card or bank account
 - Receive an email that serves as proof of using DFVC
 - Don't have to attach paper copies of the Form 5500
 - Manual check
 - Attach copy of signed 5500s
 - No receipt
 - Mailing address changed to:
 - » PO Box 71361
 - » Philadelphia, PA 19176-1361

EFAST2—Amended Returns

- Filing tip—page 6 of instructions
- Amended return
 - Check line B for amended return if you received “filing received”, “filing error” or “filing stopped”
 - DO NOT check line B if your filing wasn’t successfully received by EFAST2
- <http://www.dol.gov/ebsa/faqs/faq-EFAST2.html>

Changes

- 2016 form 5500
- 2017 Form 5500
- Form 5500 of the 21st century a.k.a. Form 5500 modernization proposal
- Potential ERISA financial audit changes

2016 Form 5500

Schedule H

- Is the plan covered by the PBGC?
 - If yes, enter the My PAA confirmation number for the plan year.

5c If the plan is a defined benefit plan, is it covered under the PBGC insurance program (See ERISA section 4021.)? Yes No Not determined
If "Yes" is checked, enter the My PAA confirmation number from the PBGC premium filing for this plan year _____ . (See instructions.)

2016 Form 5500

Schedule SB

- For CSEC plans, instructions for Line 27, Code 1, have been updated to reflect guidance on certain issues relating to the application of the Cooperative and Small Employer Charity Pension Flexibility Act, Pub. L. No.113-97 (CSEC Act).

2016 Form 5500

Trust Information—Skip for 2016

Part V Trust Information	
6a Name of trust	6b Trust's EIN
6c Name of trustee or custodian	6d Trustee's or custodian's telephone number

- Lines 6a-6c for Schedules H and I
- Lines 14a-14d for Form 5500-SF

2016 Form 5500

Do not answer—Schedule H and I

Defined Benefit Plan or Money Purchase Pension Plan Only:

Were any distributions made during the plan year to an employee who attained age 62 and had not separated from service?

40			

2016 Form 5500

Compliance Questions— Skip for 2016 (Schedules H, I, R, 5500-SF)

Part VII IRS Compliance Questions	
20a Is the plan a 401(k) plan? If "No," skip b	<input type="checkbox"/> Yes <input type="checkbox"/> No
20b How did the plan satisfy the nondiscrimination requirements for employee deferrals under section 401(k)(3) for the plan year? Check all that apply:	<input type="checkbox"/> Design-based safe harbor <input type="checkbox"/> "Prior year" ADP test <input type="checkbox"/> "Current year" ADP test <input type="checkbox"/> N/A
21a What testing method was used to satisfy the coverage requirements under section 410(b) for the plan year? Check all that apply:	<input type="checkbox"/> Ratio percentage test <input type="checkbox"/> Average benefit test <input type="checkbox"/> N/A
21b Did the plan satisfy the coverage and nondiscrimination requirements of sections 410(b) and 401(a)(4) for the plan year by combining this plan with any other plan under the permissive aggregation rules?	<input type="checkbox"/> Yes <input type="checkbox"/> No
22a If the plan is a master and prototype plan (M&P) or volume submitter plan that received a favorable IRS opinion letter or advisory letter, enter the date of the letter _____ and the serial number _____.	
22b If the plan is an individually-designed plan that received a favorable determination letter from the IRS, enter the date of the most recent determination letter _____.	

Note: these questions have been removed from the 2017 Form 5500

2016 Form 5500

Preparer Information: no longer required

Preparer's name (including firm name, if applicable) and address (include room or suite number)	Preparer's telephone number
For Paperwork Reduction Act Notice, see the Instructions for Form 5500.	Form 5500 (2016)

Note: this has been removed from the 2017 Form 5500

2016 Form 5500

Administrative Penalties

One or more of the following penalties may be assessed in the event of incomplete or late filings unless it is determined that failure to file properly has a reasonable cause:

1. Increased to \$2,063 (Eff. 2017—\$2,097) per day for each day a plan administrator fails or refuses to file a complete and accurate report.) The DOL is expected to adjust this ERISA Title I penalty amount annually for inflation no later than January 15 of each year
2. \$25 a day (up to \$15,000) for not filing returns for certain plans of deferred compensation, trusts and annuities, and bond purchase plans by the due date(s).
3. \$1,000 for not filing an actuarial statement (Schedule MB (Form 5500) or Schedule SB (Form 5500)) as required.

2017 Form 5500

- All IRS-only compliance questions are removed from the Form 5500 and Schedules H, I, R, including preparer information.
- The instructions for Authorized Service Provider Signatures have been updated to reflect the ability for service providers to sign electronic filings.
- Line 4 of the Form 5500 has been expanded to require plan name when any Line 4 information changed from prior year.
- Schedule MB instructions for line 6c have been updated to add mortality codes for several variants of the RP-2014 mortality table and to add a description of the mortality projection technique and scale.
- The instructions will be updated to reflect that the new maximum penalty for a plan administrator who fails or refuses to file a complete or accurate Form 5500 report has been increased.

2017 Form 5500—Line 4

2017

4 If the name and/or EIN of the plan sponsor or the plan name has changed since the last return/report filed for this plan, enter the plan sponsor's name, EIN, the plan name and the plan number from the last return/report: a Sponsor's name c Plan Name	4b EIN
	4d PN

VS.

2016

4 If the name and/or EIN of the plan sponsor has changed since the last return/report filed for this plan, enter the name, EIN and the plan number from the last return/report: a Sponsor's name	4b EIN
	4c PN

Form 5500 of the 21st Century a.k.a. Form 5500 Modernization Proposal

- Why?
 - EFAST 2 contract expiring soon
 - Help with ACA compliance
 - Modernize financial reporting
- Schedule C
 - Look to align with the 408(b)(2) disclosures
 - Clarify—what is compensation
- Schedule H—a lot goes into “other”; want to granulize as much as possible
- Would like to see unrealized gain/loss broken out by asset class
- A new Schedule J for health and welfare plans
- Health and welfare plan 100 participant threshold removed

Potential ERISA Audit Changes

- Exposure Draft—Forming an opinion and reporting on financial statements
- Would be effective for audits of financial statements for periods ending on or after December 15, 2018
- Plan sponsor would have to acknowledge its responsibility in writing
- Auditors would have to test more and include results in the report or a separate document



Red Flags



- Large unreasonable questionable
- Inconsistencies or blanks
- Sharp reduction in participant counts
- Large amount in other assets
 - ⚠ Note: Form 5500 modernization proposal addresses this by asking for more information
- Late contributions
- The usual suspects e.g.,
 - Missing attachments

Audit Triggers



- Large % of "other assets"
- Large % of distributions
- Large % of terminations
- Large % of loans as compared to assets
- Terminated plan but no distributions
- Large expenses
- Large gains/losses
- Certain industries

Common Errors



- Entering incorrect information on the return or report, or leaving a field blank when there should be an entry increases the likelihood that you'll be selected for an IRS compliance check.

Common Errors



- Filing a final Form 5500 when the plan still has assets at the end of the plan year
- Filing more than one Form 5500 marked as the final return/report
- Not marking the filing as a short plan year when filing for a period of less than twelve months
- Not entering the plan year on the filing (it will be deemed to be a calendar year if nothing is entered)

More Common Errors



- Not filing a health and welfare Form 5500 when the participant exceeds 100
- Missing plan feature codes
- Use incorrect code
- Not carefully reviewing entries that are carried forward from year to year

Completing the Form 5500— Selected Items

- Who signs it?
- What about extensions
- How do you count participants?

Who Signs the Form 5500

Caution: A penalty for the late or incomplete filing of this return/report will be assessed unless reasonable cause is established.

Under penalties of perjury and other penalties set forth in the instructions, I declare that I have examined this return/report, including accompanying schedules, statements and attachments, as well as the electronic version of this return/report, and to the best of my knowledge and belief, it is true, correct, and complete.

SIGN HERE			
	Signature of plan administrator	Date	Enter name of individual signing as plan administrator
SIGN HERE			
	Signature of employer/plan sponsor	Date	Enter name of individual signing as employer or plan sponsor
SIGN HERE			
	Signature of DFE	Date	Enter name of individual signing as DFE

- If plan administrator and plan sponsor are the same, one signature on the plan administrator line

What About Extensions?

- Form 5558
- Automatic extension
- Special extensions

Form 5558

- Do not list more than one plan per Form!
- A single 5558 can be used for Form 5500 and Form 8955-SSA for the same plan
- Form 5558 doesn't need to be signed
- Form must be mailed

Automatic Extensions

- The due date for Form 5500 is automatically extended to the due date of the sponsoring employer's federal income tax return if:
 - The plan year and the tax year are the same, and
 - The employer's federal income tax return was granted an extension to a date that is later than the normal due date for Form 5500, and
- The automatic extension cannot extend the Form 5500 due date beyond 9½ months after the close of the plan year (October 15 for CY plans)

Special Extensions

- Due to natural disasters or other events that prevent timely filing
- At the discretion of the DOL
- Announced through DOL press releases that can be found on the DOL website

Extensions

- Form 5500—Part I, Line D

D Check box if filing under: Form 5558; automatic extension; the DFVC program;
 special extension (enter description)

- Check website for special extensions

<https://www.irs.gov/uac/tax-relief-in-disaster-situations>

- Taxpayers not in the covered disaster area, but whose records necessary to meet a deadline are in the covered disaster area, are also entitled to relief.

Do You Participate in a Multiple Employer Plan?

- Multiple Employer Welfare Arrangements are subject to special reporting requirements, regardless of size or funding
- Form M-1

Form 5500 (2016) Page 3

Part III Form M-1 Compliance Information (to be completed by welfare benefit plans)

11a If the plan provides welfare benefits, was the plan subject to the Form M-1 filing requirements during the plan year? (See instructions and 29 CFR 2520.101-2.) Yes No

If "Yes" is checked, complete lines 11b and 11c.

11b Is the plan currently in compliance with the Form M-1 filing requirements? (See instructions and 29 CFR 2520.101-2.) Yes No

11c Enter the Receipt Confirmation Code for the 2016 Form M-1 annual report. If the plan was not required to file the 2016 Form M-1 annual report, enter the Receipt Confirmation Code for the most recent Form M-1 that was required to be filed under the Form M-1 filing requirements. (Failure to enter a valid Receipt Confirmation Code will subject the Form 5500 filing to rejection as incomplete.)

Receipt Confirmation Code _____

- Failure to complete Form M-1 will cause the Form 5500 to be rejected

What if There Are Plan Sponsor Name Changes?

See Line 4 on the Form 5500 to indicate changes to the plan sponsor name or EIN

2016

4 If the name and/or EIN of the plan sponsor has changed since the last return/report filed for this plan, enter the name, EIN and the plan number from the last return/report:

a Sponsor's name

4b EIN

4c PN

2017

4 If the name and/or EIN of the plan sponsor or the plan name has changed since the last return/report filed for this plan, enter the plan sponsor's name, EIN, the plan name and the plan number from the last return/report:

a Sponsor's name

c Plan Name

4b EIN

4d PN

Schedule C and Welfare Plans

- Schedule C must be attached to Form 5500 for a funded welfare benefit plan that covered 100+ participants as of the beginning of the plan year
- “Funded” versus “unfunded”
 - Funded—benefits are paid from a trust or plan account, not through insurance or the general assets of the employer
 - Unfunded—benefits are paid from the general assets of the employer or sponsoring employee organization or through insurance contracts or policies or a combination of general assets and insurance

Schedule H

- Schedule H (financial information) must be attached to a Form 5500 filed for a retirement plan or a funded welfare plan that covers 100+ participants as of the first day of the plan year.

Delinquent Contributions

- If the answer to line 4 is “yes”, attach a Schedule of Delinquent Participant Contributions.

Part IV		Compliance Questions		
4	CCTs and PSAs do not complete Part IV. MTIAs, 103-12 IEs, and GIAs do not complete lines 4a, 4e, 4f, 4g, 4h, 4k, 4m, 4n, or 5. 103-12 IEs also do not complete lines 4j and 4l. MTIAs also do not complete line 4l.			
	During the plan year:	Yes	No	Amount
4a	Was there a failure to transmit to the plan any participant contributions within the time period described in 29 CFR 2510.3-102? Continue to answer "Yes" for any prior year failures until fully corrected. (See instructions and DOL's Voluntary Fiduciary Correction Program.).....	<input type="radio"/>	<input checked="" type="radio"/>	

When Are Contributions Delinquent?

- Contributions must be transmitted as soon as they can be segregated but
 - Not later than 15th business day of the month following the month contribution is withheld
 - Seven days for small plans

The reality—the DOL could be looking for three days

Form 8955-SSA

- File electronically through IRS FIRE system
- No signature required for electronic filing

Counting Participants— Pension Plans

Participants—line 6 and 7 include

- Eligible to make contributions to a 401(k) plan
- Non-vested individuals who are earning or retaining credited service
- Former employees receiving COBRA benefits



Counting Participants— Welfare Plans

- Individual becomes a participant on the earliest of:
 - Date designated by the plan regarding when participation begins
 - Date individual becomes eligible subject only to an occurrence of an event for which the benefit is provided
 - Date on which the individual makes a contribution to the plan, whether voluntary or mandatory



Form 5500 Filing Tip

- Be mindful of carry forwards
- Last year's ending participant count may not be this year's beginning participant count

5 Total number of participants at the beginning of the plan year	5	
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Schedule A

- Schedule A
 - Required in any benefits provided by an insurance company or similar organization
 - File for insurance contract or policy year than ends in the plan year
 - Don't file for ASO contract
 - Don't file if filed as part of MTIA or 103-12IE Form 5500 filing

Schedule A

- Part IV—Questions 11 and 12 enables plan sponsors to identify insurance companies that do not provide Schedule A information.

Part IV	Provision of Information
11	Did the insurance company fail to provide any information necessary to complete Schedule A?
	<input type="checkbox"/> Yes
	<input type="checkbox"/> No
12	If the answer to line 11 is "Yes," specify the information not provided. ▶

Schedule C

- Must report each person receiving \$5,000 or more in total direct or indirect compensation in connection with services rendered to the plan
- Reportable compensation includes money and any other thing of value (e.g., gifts, awards, trips)

Schedule C *(continued)*

- DO NOT report expenses that the employer pays
- DO NOT report payments if it is on the Schedule A

Schedule C *(continued)*

- Direct compensation—payments made directly by the plan for services rendered to the plan
- Indirect compensation—compensation received from sources other than the plan sponsor is reportable as indirect compensation from the plan if received in connection with services rendered to the plan.

Schedule C *(continued)*

- Part III
 - Don't report change of accounting partner if the accounting firm remains the same
 - Do report change of actuary even if the actuarial firm remains the same

Schedule C *(continued)*

- A few years ago, DOL sent letters to large plans with mutual funds on Schedule H but nothing reported on Schedule C

Government Activity—DOL

- Audits
 - Sent approximately 1500 letters last year
 - Will be mailing a “complimentary” letter to the auditor
 - More of an outreach effort than enforcement

Government Activity—IRS

More focused exams

Additional information

- Audit requirements
- Bonding
- Fees

Audit Requirements

- Large pension plans
- Small pension plan audit waiver
- Large funded welfare plan
- Short plan year

Audit Requirements *(continued)*

- Limited scope audit
 - Plan sponsor “elects”
 - Financial statements must be “complete and accurate”
 - From the DOL 2008 Form 5500 database—64% of audits are limited scope

Audit Requirements *(continued)*

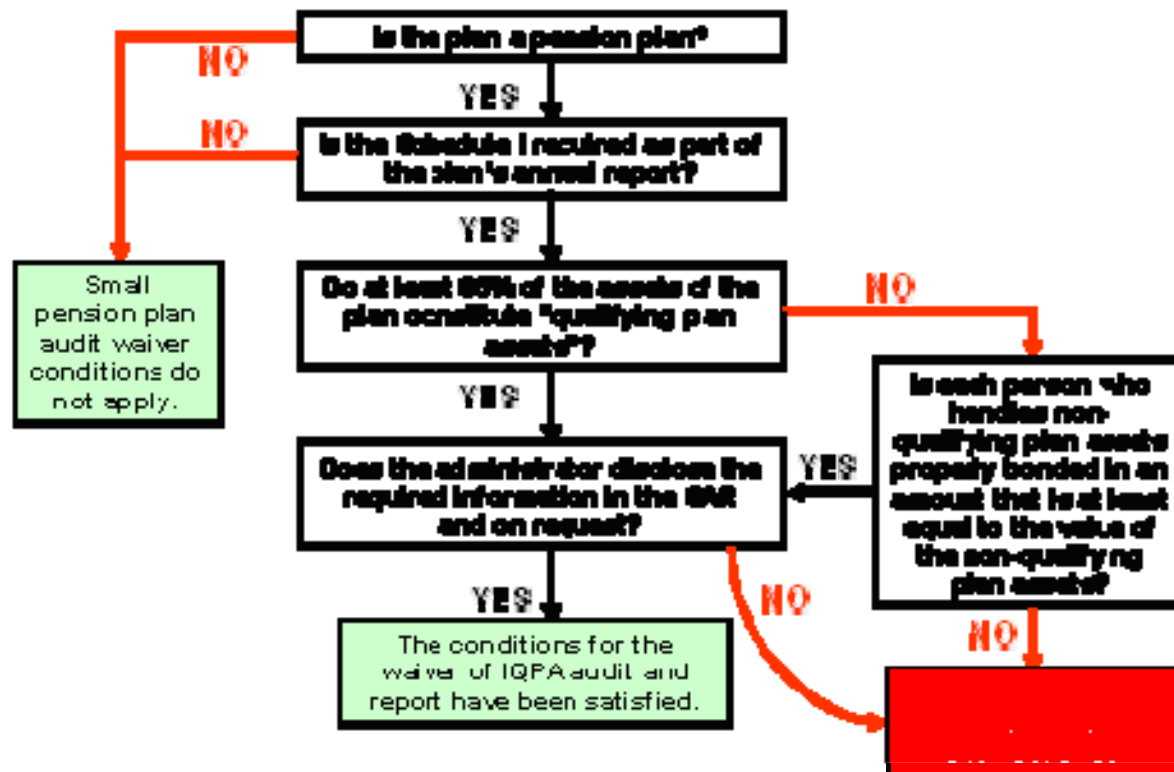
- Small plan audit waiver
 - At least 95% of the plan assets are qualifying plan assets *or*
 - Person handling non-qualifying plan assets appropriately bonded
 - Enhanced disclosure in the SAR
 - Disclosures upon request of participant/beneficiary

Audit Requirements *(continued)*

- Qualifying assets include
 - Bank
 - Insurance company
 - Mutual fund company
 - Trust Company, etc.
- Non-qualifying assets include
 - Art
 - Coin collections
 - Antique cars, etc.

Small plan audit

Small Pension Plan Audit Waiver (SPPAW) Summary



Audit Requirements

- AICPA audit risk alert
 - Revenue sharing
 - Fraud risk
 - Fair value measurement—plan sponsor responsible for valuation of investments and preparing financials for auditors
 - Auditors will try to obtain an understanding of the plan sponsor's process for determining fair value measurement

Bonding

- Fidelity Bond
 - Generally, minimum of \$1,000 or 10% of plan assets up to \$500,000 (for plan years beginning after 12/31/2007—\$1,000,000 if employer stock)
 - Small plan audit waiver—bond amount is greater of \$500,000 or amount of non-qualifying assets
 - [FAB 2008-04](#)
- Plan is the named insured
- Select surety company from approved list

Bonding *(continued)*

- Who must be bonded? (Q&A 5)
- Any person who “handles funds” except
 - Certain banks
 - Insurance companies
 - Registered broker/dealers
 - Unfunded plans

Bonding *(continued)*

- “Handling funds” (Q&A 18)
- General criteria
 - Physical contact with cash, checks or similar property
 - Power to transfer funds from plan to oneself or a third party
 - Disbursement authority
 - Authority to sign checks
 - Supervisory or decision making authority

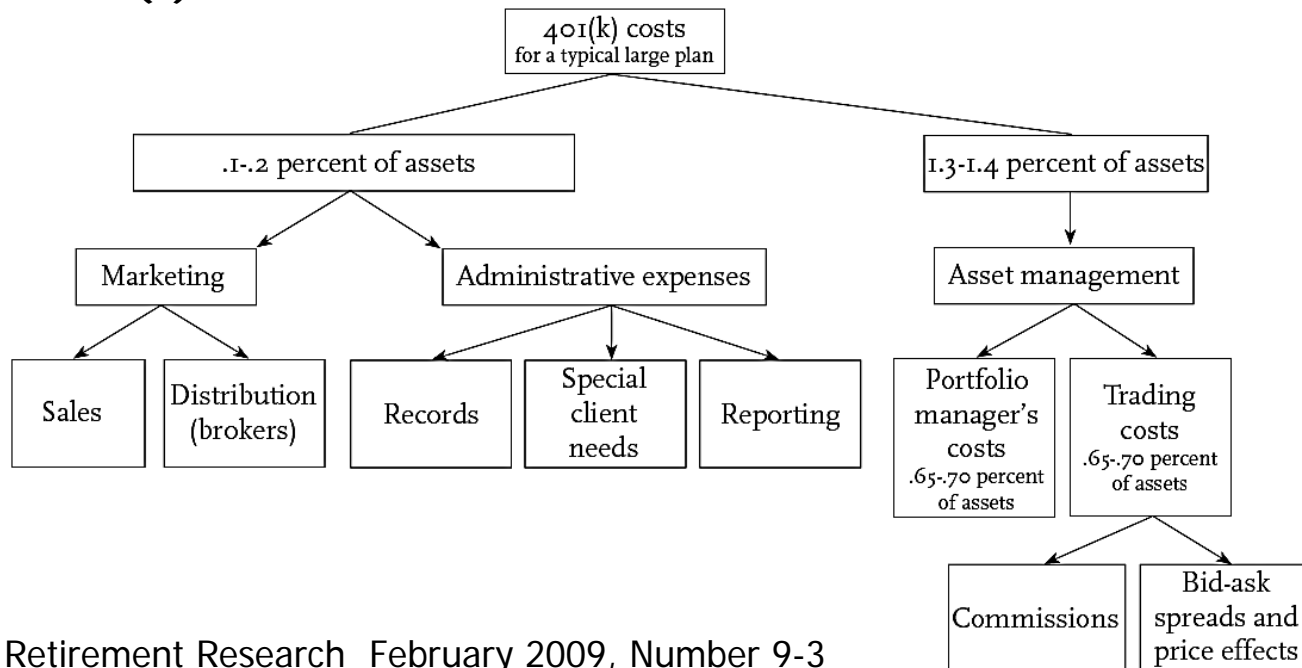
Bonding

- “Handling funds”
 - Doesn’t occur where risk of loss to the plan through fraud or dishonesty is negligible (Q&A 19)

Schedule C—It's About Fees

The Structure of 401(k) Fees*

Figure 1. 401(k) Plan Costs



*Center for Retirement Research February 2009, Number 9-3

Fees, Fees, Fees

- Schedule C—fees already paid (started in 2009)
- 408(b)(2)—prospective (started July 1, 2012)
- 404(a)(5)—participant disclosure
 - Initial disclosure—60 days after service provider initial disclosure
 - Quarterly disclosure—45 days following end of quarter in which initial disclosure made

Fees, Fees, Fees *(continued)*

- The auditor will be looking at Schedule C and inquiring about the 408(b)(2) disclosures
- For preparers—the 408(b)(2) and participant disclosures should give you an idea of what you should be expecting for Schedule C
- Service provider disclosures will provide direct/indirect but not eligible

Fees, Fees, Fees *(continued)*

- Do the best you can in completing the C
- Retain source documentation
- Hope for simplification and meaningfulness



Note: The proposed modernization effort would require a separate Schedule C for each service provider required to be reported.

Fees, Fees, Fees *(continued)*

- 408(b)(2)
 - Any size plan
 - Prospective fees
 - Delivered by covered service provider (CSP) to responsible plan fiduciary
 - CSP expects to receive \$1,000; \$250 exception;
 - Failure to comply—prohibited transaction
- Schedule C
 - Large plans—fees already paid
 - Plan sponsor responsibility
 - Service providers who receive \$5,000 or more in direct/indirect compensation
 - \$50/\$100 aggregate from one source; if less than \$10 not counted toward \$100
 - Failure to comply—report on Schedule C

Information Sources

- Form 5500 instructions
<http://www.dol.gov/ebsa/forms.html>
- www.efast.dol.gov
- www.irs.gov
- www.dol.gov/ebsa
- www.pbgc.gov
- [IRS Form 5500 corner](#)
- EFAST help line—866-463-3278
- [Trouble shooters guide to Form 5500](#)

Questions?

