5500 Update

S. Derrin Watson, JD, APM
Your Presenters Today

• S. Derrin Watson, JD, APM

• Tim McCutcheon, JD, CPA, MBA
• Facilitator: Chuck Gouge

• Question Board Moderator Joanne Pecina
During the Webinar

• All attendees’ lines are muted
• Question board available and monitored
  – Please send in questions
  – We will answer as many submitted questions as possible
• Follow up questions and comments can be sent to:
  • support@erisapedia.com
Agenda

• 2016 Changes
• Proposal for next generation of 5500
• *Voluntary* demo after presentation
2016 Changes

- DOL late filing penalty up to $2063/day
  - DFVC fees unchanged
- Plans covered by PBGC must enter My PAA confirmation number
- Schedule SB – CSEC changes

<table>
<thead>
<tr>
<th>5b(1) Name of plan(s)</th>
<th>5b(2) EIN(s)</th>
<th>5b(3) PN(s)</th>
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<tbody>
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</table>

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.)
5500-EZ Change

- New Box D for IRS late filer relief
Don’t Answer Compliance Questions; Gone on 2017 forms

- **Form 5500**
  Preparer Information (page 1 bottom)

- **Schedule H**
  - 2015 plan year: Lines 4o-p, 6a-d
  - 2016 plan year: Lines 4o, 6a-d

- **Schedule I**
  - 2015 plan year: Lines 4o-p, 6a-d
  - 2016 plan year: Lines 4o, 6a-d

- **Schedule R**
  - 2015 plan year: New Part VII (Lines 20a-c, 21a-b, 22a-d, and 23)
  - 2016 plan year: Part VII (Lines 20a-b, 21a-b, and 22a-b)

- **Form 5500-SF**
  - 2015 plan year: Preparer Information (page 1 bottom), Lines 10j, 14a-d, and New Part IX (Lines 15a-c, 16a-b, 17a-d, 18, 19, and 20)
  - 2016 plan year: Preparer Information (page 1 bottom), Lines 14a-d, and Part IX (Lines 15a-b, 16a-b, 17a-b, 18, and 19)

- **Clarification**

- **Form 5500-EZ**
  - 2015 plan year: Preparer Information (page 2 bottom), Lines 4a-d, 13a-d, 14, 15, and 16
  - 2016 plan year: Preparer Information (page 2 bottom), Lines 4a-d, 13a-b, 14, and 15
## Have to Admit Things Are Getting Better

2015 (top) versus 2016 (bottom)

### 15b
If “Yes,” how does the 401(k) plan satisfy the nondiscrimination requirements for employee deferrals and employer matching contributions (as applicable) under sections 401(k)(3) and 401(m)(2)?

- Design-based safe harbor method
- ADP/ACP test

### 15c
If the ADP/ACP test is used, did the 401(k) plan perform ADP/ACP testing for the plan year using the "current year testing method" for nonhighly compensated employees (Treas. Reg sections 1.401(k)-2(a)(2)(ii) and 1.401(m)-2(a)(2)(ii))?

- Yes
- No

### 16a
Check the box to indicate the method used by the plan to satisfy the coverage requirements under section 410(b):

- Ratio percentage test
- Average benefit test

### 15b
How did the plan satisfy the nondiscrimination requirements for employee deferrals under section 401(k)(3) for the plan year? Check all that apply:

- Design-based safe harbor
- “Current year” ADP test
- N/A

### 16a
What testing method was used to satisfy the coverage requirements under section 410(b) for the plan year? Check all that apply:

- Ratio percentage test
- Average benefit test
- N/A
DOL/IRS/PBGC PROPOSAL FOR 2019 RETURNS

Likely later
It’s That Time Again

• 777 pages: Proposed revision of 5500
  – Shows the proposed questions, not the format

• 123 pages: Proposed regulations to implement changes

• Download from www.dol.gov/ebsa
  – Look for Form 5500 Improvement and Modernization Proposal

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<thead>
<tr>
<th>First plan year</th>
<th>Year filed</th>
<th>Event</th>
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<tbody>
<tr>
<td>1999</td>
<td>2000</td>
<td>EFAST</td>
</tr>
<tr>
<td>2009</td>
<td>2010</td>
<td>EFAST 2</td>
</tr>
<tr>
<td>2019</td>
<td>2020</td>
<td>Next generation</td>
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</tbody>
</table>
Former Assistant Secretary Phyllis Borzi

- The 5500 is in serious need of updates to continue to keep pace with changing conditions in the employee benefit plan and financial market sectors.
Where They Hope They Are Going

- Modernize the financial statements and investment information filed about employee benefit plans
- Update the reporting requirements for service provider fee and expense information
- Enhance accessibility and usability of data filed on the forms
- Require reporting by all group health plans covered by Title I of ERISA (including new schedule J)
- Improve compliance under ERISA and the Internal Revenue Code through new questions regarding plan operations, service provider relationships, and financial management of the plan
Big Changes for Small Plans

• 5500-SF will still be there
• But if you don’t qualify for that, file Schedules C and H
  – Schedule I will vanish
• Small plan definition improves:
  – For DC plan, small plan status based on number of participants with account balances
• Still immune from Schedule G, schedule of reportable transactions
Changes to 5500-SF

• New identifying information
  – Controlled group with list
  – Legal Entity ID (LEI)
  – Named fiduciary
• Additional participant data
• Group health plans can’t file
• Expanded information on terminations/transfers
• Plan benefit/funding arrangement
Lots of Checkboxes

• Replace existing codes with checkboxes
• Add many new questions:
  – Safe harbor 401(k)
  – Roth
  – Financial education/advice
  – QDIAs
  – ROBS
  – Combined plan 414(x)
New Participant Data Includes

g. If you are filing for defined contribution pension plan, you must complete Line 7g(1)-(4). Welfare plans complete only Line 7g(3). Defined benefit pension plans skip to Line 7h.

1) Number of participants with account balances as of the beginning of the plan year
2) Number of participants with account balances as of the end of the plan year
3) Number of participants that made contributions during the plan year
4) Number of participants that terminated employment during the plan year that had their entire account balance distributed as of the end of the plan year
New Question 11 on Specific Assets

a) Cash/cash equivalents
b) Securities, except employer securities, traded on a public exchange
   (1) stocks (2) bonds (3) other
c) Government securities issued by the United States or a state
d) Interests in registered investment companies (mutual funds, unit
   investment trusts, closed end funds)
e) Interests in insurance company pooled separate accounts (PSAs)
f) Interests in insurance investment and annuity contracts (other than
   PSAs)
g) Interests in bank common collective trusts (CCTs)
h) Interests in bank investment contracts (other than CCTs)
i) Participant loans
New SF Compliance Questions

i) Is this a participant-directed individual account plan (e.g., a 401(k)-type or 403(b) defined contribution pension plan), subject to the requirements in 29 CFR 2550.404a-5 to disclose plan and investment related information to participants and beneficiaries?  

[ ] Yes  [ ] No

j) If you answered “Yes” to Line 14i, did the plan provide participants and beneficiaries the plan and investment disclosures required under 29 CFR 2550.404a-5?  

[ ] Yes  [ ] No

If you answered “Yes,” you must attach the investment option comparative chart or charts that were used to satisfy the disclosure requirement in 29 CFR 2550.404a-5(d)(2).
k) If you answered “Yes,” to Line 14i, enter the number of designated investment alternatives (DIAs) available under the plan and indicate the number of DIAs that are index funds. Also, check all that apply to indicate the types of DIAs available under the plan:

- [] Domestic Stock/Equity   [] Bond/income   [] Balanced/target allocation   [] Money Market
- [] Target date/Lifecycle   [] International/Global Stock/Equity [] Sector/economy segment
- [] Other funds (Describe)

l) If you answered “Yes,” to Line 14j, did the plan make available to participants and beneficiaries a designated investment manager (DIM)? [] Yes [] No  If “Yes,” enter name of DIM.
m) If you answered “Yes,” to Line 14j, did the plan make available to participants and beneficiaries any brokerage window, self-directed brokerage account or similar plan arrangements that enabled participants to select investments beyond those designated by the plan?

– If you answered “Yes” to Line 14m, enter the number of participants that utilized the account or arrangement and the total amount held in such account(s):
Other Compliance Questions

• Did the plan have UBTI?
• Did employer pay plan expenses?
• Did ERISA 411 disqualified person serve plan?
• Did sponsor serve plan for direct or indirect compensation?
• Have service providers been fired for failure to comply with ERISA?
• Does SPD comply with regulations?
• Were there uncashed checks?
• Amount of hardship distributions in 401(k) plan
• Is the plan frozen?
Terminations and Transactions

• Perpetual questions on transfer in and out
• Information on transfers to federally insured bank accounts in participant names on DC plan termination
Major Revisions to Schedule H

• Complete overhaul of line 1 assets
  – Hasn’t been truly updated since 1975
• Move assets out of “other” line
• Line 4(i) schedules will include assets in CCTs and PSAs that don’t file
• Supporting schedules will be part of electronic form, searchable
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<tr>
<th>Receivables</th>
<th>Employer contributions</th>
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<tr>
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<td>Participant contributions</td>
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<td></td>
<td>Participant loans</td>
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<td>Other</td>
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<td>General Investments</td>
<td>Total noninterest-bearing cash</td>
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<td>Money market accounts</td>
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<td>Debt interests/obligations</td>
<td>US Govt securities</td>
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<td>Other Govt securities</td>
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<td>Corporate debt instruments</td>
<td>Investment grade</td>
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<td>Asset backed securities (other</td>
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<td>Other debt interests</td>
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<td>Common</td>
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<td>Non-publicly traded</td>
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<td>Common</td>
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<tr>
<td>Mutual funds, etc.</td>
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## Bold Are New Questions

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<th>Eligible pooled investment vehicles</th>
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<td>Common collective trusts</td>
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<td>103-12 investment entities</td>
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<td>Master trusts</td>
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<th>Interest in funds in insurance general account</th>
<th>Deposit Administration</th>
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<td>Immediate participation guarantee</td>
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<td>Guaranteed investment contracts</td>
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<td>Venture capital operating companies</td>
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<td>Private equity</td>
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<td>Hedge funds</td>
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<td>Other partnerships/joint ventures</td>
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# Bold Are New Questions

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<th>New? Not part of sum</th>
<th>Partnerships that don't hold plan assets</th>
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<td>Partnerships that do hold plan assets</td>
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<td>Other</td>
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<td>Tangible personal property (including collectibles)</td>
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<tr>
<td>Tangible personal property (including collectibles)</td>
<td>Equities</td>
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<td>Loans</td>
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<td>Partnership/joint venture</td>
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<td>Real property</td>
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<td>Employer securities</td>
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<td>Investments that could result in a loss in excess of the account balance including derivatives</td>
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<td>Other</td>
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<td>Employer-related investments</td>
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<td>Non-publicly traded stock</td>
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<td>Non-publicly traded debt</td>
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<td>Employer real property</td>
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<td>Buildings and property used in plan operations</td>
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<td>Other <em>(describe)</em></td>
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</table>
More Information on Income and Expense

• Income and expense items related to the new categories on line 1
• Direct rollovers
• Hardship distributions made from a section 401(k) plan
• Distributions to employees who have attained age 62 and who were not separated from service when the distributions were made for a defined benefit plan or a money purchase pension plan
Administrative Expenses

- New categories
- Paid by plan or participant
- How participant charges allocated
Audit Questions

• Where issued?
• Did you review it with auditor?
• Did auditor inform you of specific problems?
  – Including qualification defects
• Was it peer-reviewed?
• Opinion not attached because:
  – CCT, PSA, or MTIA
  – Short plan year
  – Not completed on time
  – Small plan audit exemption
More New Questions

• Were all plan assets valued at least annually at fair market value?
• Does the plan have investment acquisitions that are leveraged, including assets subject to collateralized lending activities (e.g., securities lending arrangements, repurchase agreements (repos), etc.)?
• Question on termination of service providers moved from Schedule C
More on Schedule H

• More information on transfers out
• New questions on transfer in
• Identify trusts holding plan assets including name, EIN, trustee, and phone number
• Date and signature of trustee/custodian
New Schedule R Questions (Besides 2015 compliance and SF)

- DB compliance with 401(a)(26)
- DC participation information
- Nonelective and matching contributions
  - Formulas
  - Number of participants getting maximum match
- Automatic enrollment
  - Default deferral
  - Auto escalation
- Participants defaulted into QDIAs
- Participants making catch-ups
Revised Schedule C: Service Provider Information

• Harmonize better with service provider fee disclosure regulations
• Would be for small plans as well
• No reporting exemption for eligible indirect compensation
• Reporting indirect compensation limited to covered service providers
• Separate schedule C for each
  – Covered service provider with $1,000 of indirect compensation
  – Other service provider with $5,000 of direct compensation
• New question on related-party compensation
New Yes/No and Recordkeeper Questions

• 3(21) fiduciary
• Listed on Schedule A as received insurance commissions
• ERISA recapture, ERISA budget, or similar account during the plan year
• Recordkeeping services without explicit compensation or with compensation offset or rebated in whole or in part based on other compensation
  – If you answered “Yes” to line 1g(1), using the same methodology used in the service provider’s estimate of the cost to the plan of recordkeeping services, enter as a dollar figure the amount of compensation the service provider received for recordkeeping services
More on Schedules

• Schedule D limited to DFEs
• Schedule E returns for ESOPs
New Electronic Forms

• 5500-EZ
  – Paper version will still be available
  – Only 15 percent of EZ eligible plans use SF

• 5558 extension request!!!!!!
  – Paper form will still be available
  – IRS will need new extension request for 5330
New Rules for Health Plans

- Beginning for 2019, health plans must always file 5500
  - No exemption for small plans
  - No 5500-EZ
- New Schedule J
- Small fully insured plans would be exempt from many 5500 questions
- Health plans, regardless of size, that are unfunded, fully insured or both would be exempt from filing Schedules:
  - C
  - G
More Form 5500 Changes

• If an offset plan, identify plan being offset
• New welfare benefit: long-term care insurance
• Breakout on health benefits offered:
  – Medical/surgical benefits
  – Pharmacy or prescription drug benefits
  – Mental health/substance use disorder benefits
  – Wellness program  Preventive care services
  – Emergency services  Pregnancy benefits
  – Vision  Dental
Questions?
CE Credit

• ERPA/ASPPA/NIPA
  – Will receive certificate by email in several days
  – ERPA will take longer (please be patient)
  – Please check spam folder

• Any questions, email: support@erisapedia.com
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