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Proposed Revision of Annual Information Return/Reports; Notice

DEPARTMENT OF LABOR

Employee Benefits Security Administration

DEPARTMENT OF THE TREASURY

Internal Revenue Service

PENSION BENEFIT GUARANTY CORPORATION

RIN 1210–AB06

Proposed Revision of Annual Information Return/Reports

AGENCIES: Employee Benefits Security Administration, Labor, Internal Revenue Service, Treasury, Pension Benefit Guaranty Corporation.

ACTION: Notice of proposed forms revisions.

SUMMARY: This document contains proposed revisions to the Form 5500 Annual Return/Report forms, including a proposed new Short Form 5500, filed for employee pension and welfare benefit plans under the Employee Retirement Income Security Act of 1974 (ERISA) and the Internal Revenue Code (Code). The Form 5500 Annual Return/Report, including its schedules and attachments (Form 5500 Annual Return/Report), is an important source of financial, funding, and other information about employee benefit plans for the Department of Labor, the Pension Benefit Guaranty Corporation, and the Internal Revenue Service (the Agencies), as well as for plan sponsors, participants and beneficiaries, and the general public. The proposed revisions to the Form 5500 Annual Return/Report, contained in this document, including a new Form 5500–SF short form annual return/report for certain types of small pension plans, are intended to reduce and streamline annual reporting burdens, especially for small businesses, update the annual reporting forms to reflect current issues and agency priorities, and facilitate the establishment of a wholly electronic filing system for receipt of the Form 5500 Annual Returns/Reports. The form revisions thus would, upon adoption, apply for the reporting year for which the electronic filing requirement is implemented. The proposed revisions would affect employee pension and welfare benefit plans, plan sponsors, administrators, and service providers to plans subject to annual reporting requirements under ERISA and the Code.

DATES: Written comments must be received by the Department of Labor on or before September 19, 2006.

ADDRESSES: Comments should be addressed to the Office of Regulations and Interpretations, Employee Benefits Security Administration (EBSA), Room N–5669, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Attn: Revision of Form 5500 (RIN 1210–AB06). Comments also may be submitted electronically to *e-ori@dol.gov* or by using the Federal eRulingmaking Portal: *www.regulations.gov* (follow instructions provided for submission of comments). EBSA will make all comments available to the public on its Web site at *http://www.dol.gov/ebsa.* The comments also will be available for public inspection at the Public Disclosure Room, N–1513, EBSA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Goodman or Michael Baird, Employee Benefits Security Administration (EBSA), U.S. Department of Labor, (202) 693–8523, for questions relating to the Form 5500, and its Schedules A, C, D, G, H, and I, and lines 1 through 11 of the proposed Form 5500–SF (Short Form 5500), as well as the general reporting requirements under Title I of ERISA; Ann Junkins, Internal Revenue Service (IRS), (202) 283–0722, for questions relating to Schedules B and R of the Form 5500, lines 12 and 13 of the proposed Short Form 5500, and the filing of Short Form 5500 instead of the Form 5500–EZ for plans that are not subject to Title I of ERISA, as well as questions relating to the general reporting requirements under the Internal Revenue Code; and Michael Packard, Pension Benefit Guaranty Corporation (PBGC), (202) 326–4080 for questions relating to Schedule B of the Form 5500, and line 13 of Schedule R, as well as questions relating to the general reporting requirements under Title IV of ERISA. For further information on an item not mentioned above, contact Mr. Baird. The telephone numbers referenced above are not toll-free numbers.

SUPPLEMENTARY INFORMATION: Sections 101 and 104 of Title I and section 4065 of Title IV of the Employee Retirement Income Security Act of 1974 (ERISA), as amended, sections 6058(a) and 6059(a) of the Internal Revenue Code of 1986 (Code), as amended, and the regulations issued under those sections, impose certain annual reporting and filing obligations on pension and welfare benefit plans, as well as on certain other entities.[1] Plan administrators, employers, and others generally satisfy these annual reporting obligations by the filing of the Form 5500 Annual Return/Report, in accordance with the instructions and related regulations.

The Form 5500 Annual Return/Report is the principal source of information and data available to the Department of Labor (Department), the IRS, and the PBGC concerning the operations, funding, and investments of more than 800,000 pension and welfare benefit plans. These plans cover an estimated 150 million participants and hold an estimated $4.3 trillion in assets. Accordingly, the Form 5500 Annual Return/Report necessarily constitutes an integral part of each Agency's enforcement, research, and policy formulation programs, and is a source of information and data for use by other federal agencies, Congress, and the private sector in assessing employee benefit, tax, and economic trends and policies. The Form 5500 Annual Return/Report also serves as the primary means by which plan operations can be monitored by participants and beneficiaries and by the general public.

I. EFAST and Electronic Filing

The Agencies currently use an automated processing system, the ERISA Filing Acceptance System (EFAST) to process the Form 5500 Annual Return/Report. As part of the Department's efforts to update and streamline EFAST's current paper-based processing system, the Department published in the **Federal Register** today, a notice of final rulemaking establishing an electronic filing requirement for the Form 5500 Annual Return/Report for plan years or, for direct filing entities' reporting years, beginning on or after January 1, 2008 (Electronic Filing Rule).[2] The rule establishes an electronic filing requirement for the Form 5500 Annual Return/Report and the proposed Form 5500–SF (Short Form 5500) under Title I of ERISA. The Electronic Filing Rule provides that any Form 5500 Annual Return/Report (including any Short Form 5500) to be filed with the Secretary of Labor

[1] Other filing requirements may apply to certain employee benefit plans and to multiple employer welfare arrangements under ERISA or to other benefit arrangements under the Code, and such other filing requirements are not within the scope of this proposal. For example, Code sec. 6033(a) imposes an additional reporting and filing obligation on organizations exempt from tax under Code sec. 501(a), which may be related to retirement trusts that are qualified under sec. 401(a) of the Code.

[2] The notice of proposed rulemaking to mandate electronic filing was published in the **Federal Register** on August 30, 2005 (70 FR 51542).

(Secretary) for any plan year or reporting year beginning on or after January 1, 2008, must be filed electronically in accordance with instructions and such other guidance as the Secretary may provide, applicable to such annual report. The Electronic Filing Rule explains that such electronic filing by the administrator of a pension or welfare benefit plan would constitute compliance with the applicable limited exemption, alternative method of compliance, and/or simplified reporting requirements, as applicable, prescribed in 29 CFR 2520.103–1 et seq. and promulgated in accordance with the authority granted by the Secretary under sections 104(a) and 110 of Title I of ERISA. For purposes of the PBGC's annual filing and reporting requirements under section 4065 of Title IV of ERISA, a plan administrator's electronic filing of a Form 5500 Annual Return/Report or the proposed Short Form 5500, in accordance with the instructions, will be treated as satisfying the administrator's annual reporting obligation under section 4065 of Title IV of ERISA.[3] Similarly, for purposes of the annual filing and reporting requirements of the Code, the IRS has advised the Department that, although there are no mandatory electronic filing requirements for a Form 5500 Annual Return/Report or the proposed Short Form 5500 under the Code or the regulations issued thereunder, the electronic filing of a Form 5500 Annual Return/Report or the proposed Short Form 5500 (described below), in accordance with the instructions and such other guidance as the Secretary of Treasury may provide, will be treated as satisfying the annual filing and reporting requirements under Code sections 6058(a) and 6059(a).[4]

The Form 5500–EZ is used by certain plans that are not subject to the requirements of section 104(a) of ERISA to satisfy the annual reporting and filing obligations imposed by the Code. To ease the burdens on these filers, the IRS has also advised the Department that certain Form 5500–EZ filers will be permitted to satisfy the requirement to file the Form 5500–EZ with the IRS by filing the proposed Short Form 5500 electronically through the EFAST processing system. Information regarding the Form 5500–EZ filers who would be eligible for this proposed electronic filing option is included in the proposed instruction for the Short Form 5500 attached as Appendix B. Therefore, under the IRS' proposal, certain Form 5500–EZ filers will be provided both electronic and paper filing options. The electronic option will allow Form 5500–EZ filers to complete and electronically file selected information on the Short Form 5500. Form 5500–EZ filers will also have the option to file a paper Form 5500–EZ.[5]

At the same time as the Electronic Filing Rule was being developed, the Agencies undertook a comprehensive review of the current forms and instructions in an effort to improve the data collected and to determine what, if any, design or data changes should be made in anticipation of the new processing system. This proposed revision of the forms and instructions, in conjunction with the Electronic Filing Rule, is intended to streamline the return/report, facilitate the electronic filing requirement, and reduce the burden on plans that file the Form 5500 Annual Return/Report.

Public comments submitted in response to the notice of proposed rulemaking on the electronic filing requirement (Electronic Filing Proposal) generally recognized the value of electronic filing over paper filing and expressed support for increasing the use of electronic filing. In response to the concerns of some commenters about whether the proposed 2007 reporting year implementation date would give plans, plan administrators, plan sponsors, and service providers enough time to make adjustments necessary to migrate to an e-filing environment, especially in the absence of specific information on the characteristics and technical specifications of the new e-filing system, the Electronic Filing Rule is now effective for plan years, or for direct filing entities reporting years, beginning on or after January 1, 2008. Further, in response to commenters' concerns, the preamble to the final rule states the Department, in deciding whether to assess annual reporting civil penalties, will take into account technical and logistical obstacles experienced by plan administrators who acted prudently and in good faith in attempting to timely file a complete annual report in the first year of the wholly electronic filing system. The revised and streamlined data requirements for the Form 5500 Annual Return/Report being proposed in this document are intended to be applicable for the reporting year for which the new e-filing system is implemented.

II. Overview of Form Revisions

The proposed revisions to the annual return/report forms involve the following major categories of changes, along with other technical revisions and updates, to the current structure and content of the Form 5500 Annual Return/Report:

- Establishment of the Form 5500–SF Annual Return/Report (Short Form or Short Form 5500) as a new simplified report for certain small plans;
- Removal of the IRS-only schedules from the Form 5500 Annual Return/Report as part of the move to a wholly electronic filing system;
- Elimination of the special limited financial reporting rules for Code section 403(b) plans;
- Revision of the Schedule C (Service Provider Information) to clarify the reporting requirements and improve the information plan officials receive regarding amounts being received by plan service providers; and
- Addition of new questions to improve information on pension plan funding and compliance with minimum funding requirements.

In addition to the description of the proposed form changes contained in this Notice, the Agencies have included the following appendices: (1) Appendix A—a facsimile of the proposed Form 5500–SF; (2) Appendix B—a facsimile of the proposed Instructions to the Form 5500–SF; (3) Appendix C—detailed description of the proposed changes to the Form 5500 and Schedules; and (4) Appendix D—detailed description of the proposed changes to the instructions for the Form 5500 and Schedules. The Agencies are also making available on the Department's Web site mark-ups of the Form 5500, Schedules, and related instructions showing the proposed form and instruction changes. The facsimiles and mark-ups are provided to show the data proposed to be collected electronically beginning with the first reporting year for which the new e-filing system is implemented. Because of the electronic filing requirement for the revised Form 5500 Annual Return/Report, including the proposed Short Form 5500, copies of facsimile forms and schedules, will not be acceptable for filing under ERISA. Rather, the facsimile forms and schedules the

[3] Administrators of plans required to file reports under ERISA section 4065 also are required to file annual reports for purposes of section 104(a) of ERISA.

[4] The IRS intends that plan administrators, employers, and certain other entities that are subject to various other filing and reporting requirements under Code sections 6033(a), 6047(e), 6057 and 6058(a) must continue to satisfy these requirements in accordance with IRS revenue procedures, regulations, publications, forms, and instructions.

[5] Under the voluntary electronic filing option, 5500–EZ filers filing an amended return for a plan year must file the amended return electronically using the Form 5500–SF if they initially filed electronically for the plan year and must file with the IRS using the paper Form 5500–EZ if they filed for plan year with the IRS on a paper Form 5500–EZ.

Agencies anticipate publishing in conjunction with the final regulation will show the required format for satisfying disclosure obligations under ERISA, including the plan administrator's obligation to furnish copies of the annual report to participants and beneficiaries on request pursuant to section 104(b) of ERISA, but paper versions will not be able to be used for filing.

A. Short Form 5500 as New Simplified Report for Certain Small Plans

As part of continuing efforts to streamline and simplify the annual reporting process, the Agencies are proposing a new two page form—the Short Form 5500—to be filed by certain small plans (generally, plans with fewer than 100 participants) with secure and easy to value investment portfolios. The Agencies have previously issued simplified reporting provisions and limited exemptions for small plans to ease the burdens and costs attributable to annual reporting. After careful review, the Agencies determined that certain small plans, by virtue of their assets being held by regulated financial institutions and having a readily determinable fair market value, present reduced risks for their participants and beneficiaries. In such cases, therefore, an abbreviated annual report filing (i.e., the Short Form 5500) could be established without compromising the enforcement and research needs of the Agencies or the disclosure needs of participants and beneficiaries in such plans. In establishing the criteria for such Short Form filers, the Agencies relied in part on the conditions for a waiver of the audit requirements for small plans under 29 CFR 2520.104–46.[6]

As proposed, a pension or welfare plan would be eligible to file the Short Form if the plan: (1) Covers fewer than 100 participants or would be eligible to file as a small plan under the 80 to 120 rule in 29 CFR 2520.103–1(d); (2) is eligible for the small plan audit waiver under 29 CFR 2520.104–46 (but not by virtue of enhanced bonding); (3) holds no employer securities; and (4) has 100% of its assets in investments that have a readily ascertainable fair market value. For this purpose, participant loans meeting the requirements of ERISA section 408(b)(1), whether or not they have been deemed distributed, and investment products issued by banks and licensed insurance companies that provide valuation information at least annually to the plan administrator, will be treated as having a readily ascertainable fair market value. Plans with assets that are employer securities will not be eligible to file the Short Form. The Agencies believe that the separate financial information about employer securities on the Schedule I is important for regulatory, enforcement, and disclosure purposes. The Agencies also believe that due to the importance of obtaining financial information concerning employer securities, allowing plans that hold employer securities to file the Short Form would conflict with the need to obtain such information. Similarly, because the Agencies believe that all multiemployer plans should be required to answer newly proposed questions on the Form 5500 Annual Return/Report and the Schedule R regarding contributing employers, multiemployer plans would not be eligible to file the Short Form.

In brief, Short Form filers would be required to provide: (1) Basic plan and plan sponsor identifying information; (2) abbreviated participant count data, with defined contribution plan filers providing the number of participants with account balances at the end of the plan year; (3) information on features of the plan (e.g., plan type, manner of providing benefits) using delineated codes; (4) an abbreviated statement of assets and liabilities and income and expenses; and (5) responses to a series of ''yes/no/amount'' compliance questions, such as identification of any delinquent participant contributions, non-exempt party-in-interest transactions, fidelity bonding coverage, losses caused by fraud or dishonesty, and total participant loan balances at the end of the plan year. Like other filers, Short Form filers would be required to answer new questions on whether during the plan year the plan reduced or failed to provide any benefit under the plan, whether there was a blackout period during the plan year, and whether the blackout notice requirements were met. Short Form pension plan filers also would be required to provide certain basic pension coverage and pension funding compliance information. Short Form defined benefit pension plan filers still would have to file a Schedule B and its attachments. Plans filing the Short Form on an extension of time or in connection with the Department's Delinquent Filer Voluntary Compliance Program would have to include attachments relevant to the extension or participation in the program.

Because eligible plans can only hold certain types of investments, several compliance questions have been eliminated for Short Form filers (e.g., Schedule I questions relating to leases in default or uncollectible, non-cash contributions, and assets whose current value was not readily determinable).

Instead of filing Schedule A, Short Form 5500 filers would be required to provide a total of all fees or commissions paid to any brokers, agents, or other persons by an insurance carrier, insurance service, or other organization that provides some or all of the benefits under the plan. Short Form filers will still need to receive, and insurers will still be required to provide, Schedule A fee and commission information with respect to each contract necessary to complete the Short Form 5500. Plan administrators will be required to retain this information to meet the recordkeeping requirements of section 107 of ERISA.

Under this proposal, most Short Form filers would not be required to file any schedules, although defined benefit pension plans would continue to be

[6] In additional to meeting the small plan size requirement applicable to both pension and welfare plans, for pension plans the eligibility requirements for the audit waiver under 29 CFR 2520.104–46 are: (1) as of the last day of the preceding plan year at least 95% of a small pension plan's assets were ''qualifying plan assets;'' (2) the plan must include certain information in the Summary Annual Report (SAR) furnished to participants and beneficiaries regarding its compliance with the audit waiver conditions in addition to the information ordinarily required (see 29 CFR 2520.104b–10(d)(3) for a model SAR and the Notice of Proposed Rulemaking published today for model language for the enhanced notice requirement); and (3) in response to a request from any participant or beneficiary, the plan administrator must furnish without change copies of statements from the regulated financial institutions holding or issuing the plan's ''qualifying plan assets'' describing the assets and the amount of the assets as of the end of the plan year. ''Qualifying plan assets, '' for this purpose include: shares issued by an investment company registered under the Investment Company Act of 1940 (e.g., mutual fund shares); investment and annuity contracts issued by any insurance company qualified to do business under the laws of a state; participant loans meeting the requirements of ERISA section 408(b)(1), whether or not they have been deemed distributed; and any asset held by banks or similar financial institutions, including trust companies, savings and loan associations, domestic building and loan associations, and credit unions, insurance companies qualified to do business under the laws of a state, organizations registered as broker-dealers under the Securities Exchange Act of 1934, investment companies registered under the Investment Company Act of 1940, or any other organization authorized to act as a trustee for individual retirement accounts under Code section 408. In the case of an individual account plan, qualifying plan assets also include any assets in the individual account of a participant or beneficiary over which the participant or beneficiary had the opportunity to exercise control and with respect to which the participant or beneficiary has been furnished, at least annually, a statement from one of the above regulated financial institutions describing the plan assets held or issued by the institution and the amount of such assets.

required to file Schedule B, where applicable.[7]

The Agencies believe that the eligibility conditions for Short Form filers, especially the requirements relating to security and valuation of the plan's investments, ensure that the Short Form 5500 will provide adequate disclosure to the participants and beneficiaries in the plan and adequate annual reporting to the Agencies.

Small plans that are not eligible to file the Short Form would continue to be able to file simplified reports as under the current system. Specifically, small plan Form 5500 filers would file the Form 5500, Schedules A, B, D, I, and R, where applicable. This proposal also would not change the conditions for the small pension plan audit waiver in 29 CFR 2520.104–46. Small pension plans will still be able to claim the audit waiver even if they are not eligible to file the Short Form. Conversely, small pension plans filing the Short Form would continue to be required to meet all applicable requirements for the audit waiver, including the enhanced Summary Annual Report (SAR) and other disclosure requirements of that regulation. Similarly, all welfare plans that file the Form 5500 Annual Return/Report and have fewer than 100 participants are currently exempt from the audit requirement without regard to how their assets are invested. *See* 29 CFR 2520.104–46(b)(2). The proposed Short Form would not change the welfare plan audit waiver conditions. For a funded welfare plan to be eligible to file the Short Form, however, the plan would have to meet the Short Form requirements regarding investment assets.

B. Removal of IRS-Only Components From the Form 5500 Annual Return/Report

The second category of changes involves the removal of schedules and information that were filed as part of the Form 5500 Annual Return/Report to meet various annual reporting requirements under the Code. The IRS has advised that there are currently no mandatory electronic filing requirements for a Form 5500 Annual Return/Report under the Code or the regulations issued thereunder. As described more fully in the Electronic Filing Rule, the Department has concluded that, taking into account the costs and inefficiencies inherent in the maintenance of any form of a paper filing system, it is not in the overall interest of plan participants and beneficiaries, the Department, and taxpayers generally to continue to accept and process paper Form 5500 Annual Returns/Reports filings as part of a new processing system. To effectuate the electronic filing requirement, the portions of the Form 5500 Annual Return/Report required to satisfy filing obligations imposed by the Code, but not required under ERISA, had to be removed. Accordingly, under this proposal, the following schedules will no longer be required to be filed as part of the Form 5500 Annual Return/Report: Schedule E (ESOP Annual Information), Schedule P (Annual Return of Fiduciary of Employee Benefit Trust), and Schedule SSA (Annual Registration Statement Identifying Separated Participants With Deferred Vested Benefits). In that regard, the IRS has independently eliminated the Schedule P (which served as the Trust's information return that is filed under Code section 6033(a)) from the 2006 Form 5500 in anticipation of the transition to a wholly electronic filing environment. Further, as described elsewhere in this document, the Department is proposing to move to the Schedule R three questions on ESOP information formerly on the Schedule E, and the IRS has advised the Department that it does not anticipate requiring separate filings by ESOPs on the remaining questions from the Schedule E. The IRS is evaluating the information collected on Schedule SSA, and considering whether other existing information collections could be used in place of the Form 5500 Annual Return/Report.

The IRS, however, also advised the Department that it intends that plan administrators, employers, and certain other entities that are subject to filing and reporting requirements under the Code will have to continue to satisfy any applicable requirements in accordance with IRS revenue procedures, regulations, publications, forms, and instructions.

The Form 5500 Annual Return/Report would thus be comprised of the Form 5500, and Schedule A (Insurance Information), Schedule B (Actuarial Information), Schedule C (Service Provider Information), Schedule D (DFE/Participating Plan Information), Schedule G (Financial Transaction Schedules), Schedule H (Financial Information), Schedule I (Financial Information Small Plan), and Schedule R (Retirement Plan Information).

C. Elimination of Limited Reporting Option for Code Section 403(b) Pension Plans

Code section 403(b) pension plans that are subject to Title I of ERISA generally have had limited reporting obligations under the Form 5500 Annual Return/Report. A pension plan or arrangement using an annuity contract under Code section 403(b)(1) and/or a custodial account for regulated investment company stock under Code section 403(b)(7) as the sole funding vehicle for providing pension benefits currently files only a Form 5500, containing basic plan identification information. The administrator currently is not required to engage an independent qualified public accountant (IQPA) to conduct an annual audit of the plan, attach an accountant's opinion to the Form 5500, or attach any schedules to the Form 5500. Over the years, the Code has been amended to give favorable tax treatment to Code section 403(b) plans similar to that for Code section 401(k) plans, and these arrangements have grown both in size and number during this time. In this regard, the IRS promulgated regulations to update the current regulations under section 403(b) generally to reflect the numerous legal changes that have been made in section 403(b) since 1964 when the IRS originally promulgated its section 403(b) regulations. 69 FR 67075, 67076 (Nov. 16, 2004). The IRS's proposed regulations note the increasing similarity among arrangements that include salary reduction contributions, i.e., section 401(k), section 403(b), and governmental section 457(b) plans.

The Department understands that the IRS has found a number of Code compliance issues with section 403(b) plans. The Department, in its own reviews, has detected violations of Title I in a high percentage of its Code section 403(b) plan investigations. The predominant issue has been the improper handling of employee contributions.

The Department concluded that these developments warrant a reexamination of the continued reporting exemptions for Code section 403(b) plans. Amending the annual reporting requirements to put Code section 403(b) plans on par with other pension plans covered by Title I of ERISA would enhance the Department's oversight capabilities and improve compliance in this area without substantial additional burden. For example, the reporting in the proposed Short Form, or on Schedules H and I, for delinquent participant contributions may help to ensure that participant contributions are

[7] Short Form 5500 filers would not be required to file Schedule D, but Direct Filing Entities (DFEs) in which such plans invest would still be required to list the plan name and Employer Identification Number (EIN) on Part II of the DFE's Schedule D.

transferred to individual investment accounts on a timely basis.

Under the proposal, Code section 403(b) plans that are subject to Title I of ERISA would be subject to the same annual reporting rules that apply to other ERISA-covered pension plans, including eligibility for the proposed Short Form 5500. In this regard, the Department notes that because Code section 403(b) plans are generally required to be invested exclusively in annuity contracts or mutual funds, they generally would be eligible to file the proposed Short Form 5500. Moreover, under section 107 of ERISA, every person who is required to file a report under Title I of ERISA, but for an exemption or simplified reporting requirement under section 104(a)(2) or (3), already is required to maintain records on which disclosure would be required but for the simplified reporting requirement.

D. Addition of New Questions to Schedules on Title I Compliance, Service Provider Compensation, and Pension Plan Funding

Schedule A: Identify Insurers That Fail To Supply Information

It is the view of the Department that compliance with annual reporting requirements consists both of filing complete, accurate, and timely annual returns/reports, including disclosing the information required to be reported on the Schedule A, and maintaining records regarding the information required to be provided under section 103 of ERISA. Plan administrators, thus, are required to take reasonable and prudent steps to secure the necessary Schedule A information. In this regard, section 103(a)(2) of ERISA provides that, if some or all of the information necessary to enable the administrator to comply with the requirements of Title I of ERISA is maintained by an insurance carrier or other organization that provides some or all of the benefits under a plan or holds assets of the plan in a separate account, such carrier or other organization is required to transmit and certify the accuracy of such information to the administrator within 120 days after the end of the plan year. The current instructions for the Schedule A state that, if necessary information is missing because of an insurer's refusal to provide the information, administrators should, to the extent possible, complete the Schedule A and file a timely return/report noting the refusal and any deficiencies in the Schedule A.

The 2004 ERISA Advisory Council Working Group on Health and Welfare Plan Reporting concluded that many employers have difficulty obtaining timely Schedule A information from insurers. *See* 2004 ERISA Advisory Council Working Group Reports at *http://www.dol.gov/ebsa*. When the Form 5500 Annual Return/Report was revised in 1988 and 1999, public commenters had complained about the difficulties administrators confronted in obtaining timely and complete Schedule A information from their insurers. *See* 65 FR 5026 (Feb. 2, 2000) and 54 FR 8631 (Mar. 1, 1989). In light of these continuing difficulties for plan administrators, the Department proposes to add a check box to the Schedule A to permit plans to identify situations in which the insurance company or other organization that provides some or all of the benefits under a plan has failed to provide Schedule A information. Space would also be provided for the administrator to indicate the type of information that was not provided. As a separate Schedule A is required for each insurance contract, the identity of the insurance company or organization will be self-evident. This would give the Department more usable data on insurers that fail to satisfy their disclosure obligations under section 103(a)(2) of ERISA and the Department's regulations.

Schedule B: Asset Allocations in Very Large Defined Benefit Pension Plans

The PBGC believes that it is important to obtain more detailed information regarding the asset allocations of very large defined benefit plans in order to help the PBGC assess the financial viability of those plans. Although the Schedule H collects certain investment information, the PBGC has found that it needs additional information on the breakdown of assets held by defined benefit plans. The funding status of these plans is highly dependent on the level and types of assets in the plan and the sensitivity of these assets to changes in market conditions. Readily ascertainable information on asset distribution information would improve the PBGC's ability to estimate the impact of economic changes on the financial status of the plans it insures, and, by extension, on the future financial status of the PBGC.

Under this proposal, new questions would be added to the Schedule B that are designed to obtain a ''look-through'' allocation of plan investments in certain pooled investment funds for defined benefit plans with 1,000 or more participants. The new questions would obtain the percentage of assets held in each of four categories—Stocks, Debt Instruments (Bonds), Real Estate, and Other. The debt instrument data would be further disaggregated into three categories—governmental debt, investment-grade corporate debt, and high-yield corporate debt. The new Schedule B questions would also require plans to provide a measure of the duration of the aggregate debt instruments (''Macaulay duration'') in order to provide the PBGC with a more accurate basis for reflecting bond duration for modeling purposes. For this purpose, the Macaulay duration is a weighted average of the number of years until each interest payment and the principal are received. The weights are the amounts of the payments discounted by the yield-to-maturity of the bond. When calculating the distribution of debt securities, any corporate debt that has not been rated will have to be included in the High-Yield Corporate Debt category. Foreign debt will be expected to be allocated to the appropriate category as if it were debt issued by United States corporations or governmental entities.

The asset distribution information, other than the Macaulay duration, should be readily available to single-employer plans because the Financial Accounting Standards Board (FASB) requires that the aggregate asset distribution for all employer plans be included as a part of the sponsor's 10–k filings with the Securities and Exchange Commission. Multiemployer plans are not currently required to calculate these distributions, but the data should be readily available from the plan's investment committee. In addition, data from Section C of EBSA's Private Pension Plan Bulletin [8] indicates that multiemployer plans tend to have a much smaller percentage of assets invested in assets whose type is difficult to ascertain. Obtaining the overall distribution of assets should not be overly burdensome for the administrators of multiemployer plans. The Macaulay duration should be a simple computation for managers of bond portfolios. Only in rare instances would this computation be time consuming. For instance, combining these durations into an aggregate duration could be time consuming if the plan has several bond portfolio managers.

Schedule C: Compensation Received by Plan Service Providers

The Department has been examining issues regarding service provider

[8] The Private Pension Bulletin is available on-line at *http://www.dol.gov/ebsa/PDF/2000pensionplanbulletin.PDF*.

compensation from a number of perspectives.[9] Questions and issues relating to the appropriate manner and scope of the reporting of service provider compensation on the Schedule C have been raised by the ERISA Advisory Council. *See ERISA Advisory Council Report of the Working Group on Plan Fees and Reporting on Form 5500* (Nov. 10, 2004) and the Government Accountability Office (*See Private Pensions: Government Actions Could Improve the Timeliness and Content of Form 5500 Pension Information*, GAO–05–491) (discussing fee disclosure generally), as well as by Form 5500 Annual Return/Report filers and service providers. The Department has determined it is appropriate to modify the Schedule C reporting requirements in an effort both to clarify the reporting requirements and to ensure that plan officials obtain the information they need to assess the reasonableness of the compensation paid for services rendered to the plan, taking into account revenue sharing and other financial relationships or arrangements and potential conflicts of interest that might affect the quality of those services.[10]

As proposed, the Schedule C would consist of three parts. Part I of the Schedule C would require the identification of each person who received, directly or indirectly, $5,000 or more in total compensation (i.e., money or anything else of value) in connection with services rendered to the plan or their position with the plan during the plan year. This requirement would no longer be limited to the 40 highest paid service providers. Filers also would have to indicate for all service providers whether the service provider received any compensation attributable to the person's relationship with or services provided to the plan from a party other than the plan or plan sponsor. If a fiduciary to the plan or any of an enumerated list of service providers received, directly or indirectly, $5,000 or more in total compensation and also received more than $1,000 in compensation from a person other than the plan or plan sponsor, then the Schedule C would have to provide information identifying the payor of the compensation, the relationship or services provided to the plan by the payor, the amount paid, and the nature of the compensation. The enumerated service providers are contract administrator, securities brokerage (stock, bonds, commodities), insurance brokerage or agent, custodial, consulting, investment advisory (plan or participants), investment or money management, recordkeeping, trustee, appraisal, or investment evaluation.

A new Part II for Schedule C would provide a place for plan administrators to identify each fiduciary or service provider that failed or refused to provide the information necessary to complete Part I of the Schedule C.

The proposed Schedule C requirements would raise the threshold for reporting on non-fiduciary employees of the plan from the current $1,000 per month to $25,000 per year. It would also revise the current instructions to make clear that the exception for reporting employees of the plan sponsor or institutional service providers does not apply if those employees receive compensation in connection with the plan or services provided to the plan other than salary from the plan sponsor or institutional service provider.

The Department is also proposing to update the ''codes'' for identifying services. It is expanding certain codes and modifying others to reflect changes in the plan services industry and to provide greater clarity. It is also eliminating the codes for medical and legal benefit providers to make clear that self-insured plans need not report payments to persons who provide medical services or legal services to participants and beneficiaries. Unlike payments to other service providers required to be reported on the Schedule C, such payments by self-insured plans to medical and legal service providers constitute benefit payments under the plan. The Department notes that insured plans are not required to report on the Schedule C individual providers who are paid by the insurance company for medical and legal services provided to participants and beneficiaries. In the Department's view, the Schedule C was intended to capture information regarding payment of plan assets to persons rendering services to plans, and not information on benefit payments by the plan to participants and beneficiaries.

The proposal would change the Schedule C instructions to make explicit that, except to the extent not otherwise excluded (e.g., non-employee compensation of less than $5,000 and plan employee compensation of less than $25,000 a year), compensation in connection with services rendered to the plan or their position with the plan includes ''float'' or similar earnings on plan assets or plan deposits that are retained by a service provider as part of its compensation package.

Under the proposal, reportable compensation would include brokerage commissions and fees charged to the plan on purchase, sale, and exchange transactions regardless of whether the broker is granted discretion. As brokerage fees and commissions may constitute a significant part of a plan's annual expenses, the Department does not believe that continuing the current exemption from the Schedule C reporting for such expenses is appropriate. The Department believes that an annual review of such expenses is part of a plan fiduciary's on-going obligation to monitor service provider arrangements with the plan. Requiring the reporting of such information should emphasize that monitoring obligation.

When a plan acquires a unified package or bundle of services from a provider, and the amount paid for the package or bundle reflects the amount paid for all services included within the package or bundle, direct compensation would include only the aggregate amount paid by the plan to the provider of the package or bundle of services. In such cases, it would not be necessary to break out or report amounts on a service-by-service basis. Similarly, amounts paid by the provider of the bundled services to other service providers to the plan would not be reported on Schedule C unless (1) the plan is also paying the provider directly for services in addition to those included in the package or bundle, or (2) the recipient of such compensation is a fiduciary to the plan or one of the other listed service providers from whom additional information is required to be reported where the provider receives compensation in excess of $1,000 from a person other than the plan or plan sponsor.

To address possible burdens associated with allocating such revenue-sharing income and third-party payments to individual plans, the Schedule C would provide that

[9] In its Spring 2006 Semi-Annual Regulatory Agenda, the Department indicated that it is considering proposed rulemaking which would amend the regulation setting forth the standards applicable to the exemption under ERISA section 408(b)(2) for contracting or making reasonable arrangements with a party in interest for office spaces for services (29 CFR 2550.408b–2). The amendment would ensure that plan fiduciaries are provided or have access to that information necessary to a determination whether an arrangement for services is ''reasonable'' within the meaning of the statutory exemption, as well as the prudence requirements of ERISA section 404(a)(1)(B). This regulation is needed to eliminate the current uncertainty as to what information relating to services and fees plan fiduciaries must obtain and service providers must furnish for purposes of determining whether a contract for services to be rendered to a plan is reasonable.

[10] *See Staff Report Concerning Examinations of Select Pension Consultants*, issued on May 16, 2005, by the Office of Compliance Inspections and Examinations, U.S. Securities and Exchange Commission.

''indirect'' compensation (i.e., amounts paid by a party other than the plan or plan sponsor) could be reported as an actual amount or an estimate of the compensation received during the reporting period. If any part of the compensation is an estimate, the Schedule C will also require an explanation of the formula used for calculating the payments.

The third part of the Schedule C (Part III) would be the current Part II of the Schedule C, used for reporting termination information on accountants and enrolled actuaries. The proposal would not alter these current requirements.

Schedule H and I: Compliance With Blackout Notice Requirements

On January 24, 2003, the Department of Labor published final rules on the disclosure of blackout periods to participants and beneficiaries. 68 FR 3716. EBSA proposes adding questions to Schedules H and I regarding whether a plan has had a blackout period during the plan year, and if so, whether it has provided the notice required by statute and regulation. The proposal would require plan administrators to report on Schedule H or I, or the Short Form 5500, as appropriate, whether there has been a temporary suspension, limitation, or restriction lasting more than three consecutive business days of the rights of participants or beneficiaries to direct or diversify assets credited to their accounts, to obtain loans from the plan, or to obtain plan distributions. If so, plan administrators will have to state whether participants have been provided the required notice of this suspension period. There are an estimated 655,000 defined contribution plans, approximately 400,000 of which are wholly or partially participant-directed. EBSA believes that incorporating a line item in the fiduciary compliance sections of the Form 5500 financial schedules regarding blackout periods and compliance with the blackout notice regulation will promote awareness among the regulated community of the blackout notice requirements, and will give EBSA an objective tool to measure its enforcement activities in the area.

Schedules H and I: Failure To Pay Benefits When Due

The proposal would add to the Schedule H and Schedule I, also included on the new Short Form 5500, a compliance question that would require plan administrators to answer whether the plan has failed to pay any benefits when due during the plan year. A similar question on the Form 5500–C/R had not been carried forward to the Form 5500 Annual Return/Report as part of the restructuring of the form for the 1999 plan year. The Department has now determined that requiring filers to respond to a modified version of this question would provide the Department with important information about plans with potentially serious management or funding problems. The information would also provide participants and beneficiaries with information that could alert them to potentially serious problems with their plan.

Schedule I: Separate Disclosure of Fees Paid to Administrative Service Providers

The Department is proposing to enhance the disclosure requirements for direct compensation paid by small plans for administrative expenses, i.e., professional and administrative salary, fee, and commission payments. Small plans currently file simplified financial information on Schedule I without having to file the more detailed Schedule C information on plan service providers. As described above, the Agencies developed an even more streamlined Short Form 5500 that small plans with secure and easily valued investment portfolios may use as their annual return/report. The proposed Short Form 5500 requires filers to report administrative service fees separately from other expenses of operating the plan. The Agencies are making a parallel change to the Schedule I for those small plans that are not eligible to file the Short Form 5500. This fee information is currently required to be reported on the Schedule I as part of an aggregate plan expense line item. The Agencies believe that having a separate line item for payments to professional and administrative service providers will promote better awareness among plan fiduciaries regarding these fee payments and will provide participants, beneficiaries, and government regulatory agencies with improved disclosure of these plan expenses.

Schedule R: Contributors to Multiemployer Pension Plans

The PBGC seeks to have plan administrators identify major contributing employers to multiemployer defined benefit pension plans. The Form 5500 Annual Return/Report lacks information describing the basis for employer contributions to multiemployer plans. This information is needed by the PBGC to assess the financial risk posed to multiemployer pension plans by the financial collapse or withdrawal of one or more contributing employers. For a number of plans, one or two employers are responsible for a large portion of the funding. If these sponsors go out of business or run into severe financial difficulties, the plan's funding can deteriorate rapidly, increasing the PBGC's exposure. As a part of its single-employer monitoring activities (the Early Warning Program), the PBGC follows the business transactions and financial conditions of many companies. When certain conditions are met, the PBGC contacts the company to negotiate protections for plan participants and the PBGC. Because the PBGC is unable to identify the major contributors to multiemployer plans, it cannot establish a similar monitoring program for its multiemployer insurance program. Over the past several years, the financial condition of many multiemployer plans has been deteriorating. The PBGC believes it is prudent to monitor those companies that are major contributors to the multiemployer plans. To accomplish this, the PBGC must be able to identify these companies.

The PBGC recognizes that the multiemployer plans most at risk when a major contributing employer encounters financial difficulties are those plans that depend upon a few employers for a large portion of the plan's funding. Accordingly, the new requirement strikes a balance between the burden that would be imposed on the plan by this information collection and the benefit to the PBGC by requiring the new information on contributions by an employer only if that employer's contributions constitute at least five percent of the total contributions for the plan year. For these employers, the plan would be required to report on Schedule R: (1) The name of the contributing employer; (2) the employer's EIN; (3) the dollar amount contributed; (4) the contribution rate; (5) the type of base units for the contribution; and (6) the expiration date for the collective bargaining agreement pursuant to which contributions are required to be made to the plan.

E. Other Improvements and Clarifications of Existing Form 5500 Reporting Requirements

The last category of revisions involves proposed amendments to the Form 5500, individual schedules, and instructions to clarify and improve existing reporting requirements.

Form 5500: Addition of Question Seeking Total Number of Contributing Employers to Multiemployer Plans

Currently, the Form 5500 Annual Return/Report does not collect any

information that identifies the employers participating in the approximately 10,000 multiemployer plans currently in existence. The Agencies do not have any information as to the number of individual employers who provide benefits to their employees through such plans. Multiemployer plans are currently required by the Department's regulations to keep information on participating employers on file and to make such information available to participants on request. *See* 29 CFR 2520.102–3(b)(4). Accordingly, adding a question to the Form 5500 asking the number of participating employers in a multiemployer plan would not create new record-keeping requirements. The Agencies believe this information would be useful to other governmental entities and private firms that use the Form 5500 data for policy and research purposes.

Form 5500: Improved Schedule Checklist

The Form 5500 includes a checklist of the various schedules that may be required to be attached. In addition to revising the checklist to eliminate the IRS-only Schedules, the Agencies have also made other cosmetic changes to the presentation of the schedule checklist to improve it as a disclosure document for participants, beneficiaries, and others. The Agencies solicit comment on whether and how the clarity and readability of the schedule checklist or other presentation on the face of the Form 5500 could be improved.

Form 5500: New Plan Characteristics Code for Pension Plans

Under the current filing requirements, plans must include on the Form 5500 all of the plan characteristics that apply to the plan from a list of codes included in the instructions. These ''feature'' codes allow the Agencies to identify and classify the universe of filers by their major characteristics. The Agencies do not currently collect any information as to the number of plans that provide for automatic enrollment or the number of plans that provide default investments in the event participants with the ability to direct investments in their individual accounts fail to provide directions. The Department has decided to add new plan feature codes for defined contribution pension plans with automatic enrollment features and default investment provisions. The Department believes this information would be useful both to the Department and to other governmental and non-governmental organizations for policy and research purposes. The Department added these new feature codes partly in response to the Reports of the ERISA Advisory Council and the GAO, discussed previously, that noted that the Form 5500 Annual Return/Report could be updated to better reflect the current plan and financial universe. The Department seeks comments as to whether any additional feature codes should be added to better describe the types of benefit and funding arrangements used for defined benefit pension plans, defined contribution pension plans, and welfare benefit plans. The Agencies also have eliminated the feature codes for certain types of plans that are not subject to Title I of ERISA because they will not be filing the Form 5500 with EFAST under the proposed electronic filing system.

Schedules H and I: New Supplemental Schedule for Line 4a of the Schedule H for Reporting Delinquent Participant Contributions

Beginning with the 2003 Form 5500 Annual Return/Report, information on delinquent participant contributions must be reported only on Schedule H, Line 4a, or on Schedule I, Line 4a, and should not be reported on Schedule H, Line 4d, on Schedule G, Part III, Nonexempt Transactions, or on Schedule I, Line 4d. This change was made to avoid double reporting of information on delinquent participant contributions and otherwise to simplify the reporting requirements. In the case of employee benefit plans subject to an ERISA audit requirement, the supplemental schedules referenced in ERISA section 103(a)(3)(A) and 29 CFR 2520.103–1(b) and 2520.103–2(b), including information on nonexempt prohibited transactions, are subject to the IQPA audit. The IQPA must express an opinion on whether the scheduled information is presented fairly in all material respects in relation to the basic financial statements taken as a whole. In that regard, the instructions state that delinquent participant contributions reported on Schedule H, Line 4a, should be treated as part of the supplemental schedules for purposes of the required IQPA audit and opinion. The instructions also provide that, if the information contained on Schedule H, Line 4a is not presented in accordance with the Department's regulatory requirements, the IQPA report must make the appropriate disclosures in accordance with Generally Accepted Auditing Standards (GAAS). In response to requests for guidance from some in the accounting profession, the Department posted on its Web site FAQs about reporting delinquent participant contributions, including examples of formats for supplemental schedules that plan administrators and IQPAs could use to meet those reporting and disclosure obligations.

The Department proposes modifying the Instructions to Schedule H, Line 4a to require delinquent participant contributions to be presented on a standardized supplemental schedule. The proposed Schedule H, Line 4a—Schedule of Delinquent Participant Contributions would identify the total participant contributions transferred late to the plan, the total that are nonexempt prohibited transactions, and the total contributions fully corrected under the Voluntary Fiduciary Correction Program (VFCP) 71 FR 20261 and 20135 (Apr. 19, 2006). Those that constitute nonexempt prohibited transactions would be broken down into contributions not corrected, contributions corrected outside of the VFCP, and contributions pending correction in the VFCP. This supplemental schedule is one of those already published on the Department's Web site at *http://www.dol.gov/ebsa/faqs/faq_compliance_5500.html* and can be viewed as part of the proposed forms mark-ups displayed on the Department's Web site.[11] The Department specifically seeks comments from the accounting profession as to whether this supplemental schedule should in fact be made mandatory, whether the Department should continue to allow filers to choose the format in which to present the required information, or whether a different version of the supplemental schedule should be made mandatory.

The Schedule H and I instructions for Line 4a would also be revised to incorporate guidance included in FAQs on the Department's website on including delinquent forwarding of participant loan repayments on line 4a. In Advisory Opinion 2002–02A (May 17, 2002), the Department stated that participant loan repayments paid to or withheld by an employer for purposes of transmittal to an employee benefit plan are sufficiently similar to participant contributions to justify, in the absence of regulations providing otherwise, the application of principles similar to those underlying the participant contribution regulation for purposes of determining when such repayments become assets of the plan. Delinquent forwarding of participant loan repayments is eligible for

[11] A similar addition would be made to the instructions for Line 4a of the Schedule I applicable to small plans filers who are not eligible for the audit waiver.

correction under the VFCP and PTE 2002–51 on terms similar to those that apply to delinquent participant contributions. The Department advised filers in its FAQs that the Department would not reject a Form 5500 Annual Return/Report based solely on the fact that delinquent forwarding of participant loan repayments are included on Line 4a of the Schedule H or Schedule I, provided that filers that choose to include such participant loan repayments on Line 4a use the same supplemental schedule and IQPA disclosure requirements for the loan repayments as for delinquent transmittals of participant contributions.

Schedule R: ESOP Questions Moved From Schedule E

In evaluating the consequences of removing the IRS-only schedules from the Form 5500 Return/Report, the Department determined that ESOP-filers should continue to be asked the following questions regarding the operations and investments of the ESOP: (1) Whether any unallocated employer securities or proceeds from the sale of unallocated securities were used to repay any exempt loan; (2) whether the ESOP holds any preferred stock, and if so, whether the ESOP has an exempt loan with the employer as lender that is part of a ''back-to-back'' loan—the repayment terms of the employer loan to the ESOP are substantially similar to the repayment terms of a loan to the employer from a commercial lender; and (3) whether the ESOP holds any stock that is not readily tradable on an established securities market. The Department believes these questions provide important information for investigators in reviewing the operations and activities of ESOPs and identifying potential violations of the statute and regulations. Public disclosure of this information would also serve as a deterrent to non-compliance with ESOP statutory duties.

Technical and Conforming Changes for Forms and Instructions

Various technical and conforming changes are being proposed to the forms and instructions. For example, the proposal would delete the optional line for identifying the principal preparer of the Form 5500. The Agencies added this line item in 1999. Only a very small number of filers have provided this optional information, and the Agencies have not been able to make systematic use of the data. Similarly, Schedule R currently contains questions regarding minimum required contributions for the plan year, and the proposal would add a question on whether the minimum funding amount reported will be met by the funding deadline. The Agencies generally seek input from the public as to whether other technical or conforming changes would further clarify or improve required reporting obligations for the Form 5500 Annual Return/Report.

F. Other Welfare Plan Issues

In developing these proposed revisions, the Department also considered the ERISA Advisory Council's, *Report of the Working Group on Health and Welfare Form 5500 Requirements* (Nov. 10, 2004). The Department already has addressed several of this Report's recommendations through improvements in the instructions for the 2005 Form 5500 Annual/Return Report. Others are addressed by the proposed form and instruction changes discussed above.

While the Department recognizes that the current reporting framework does not capture information on the entire universe of welfare plans, the Department believes that generally retaining the current reporting requirements is important for disclosure purposes for both the Department and for participants and beneficiaries in the welfare plans that currently report. One suggestion of this Working Group was for the Department to consider developing a separate Form 5500 Annual Return/Report just for welfare plans. The Department, through its restructuring of the Form 5500 Annual Return/Report in 1999, and by providing separate instructions for pension and welfare plans, already has limited the need to examine the form and schedules to determine which questions and instructions are required for the type of plan filing. The Department also believes that considerations for having a separate form for welfare plans will be less significant in a system where all filing is electronic. What will be significant in that type of system is the instructions as they relate to the data appropriate to each type of plan. In this regard, it should be noted, as discussed above, that the Department has published the Electronic Filing Rule requiring that all Form 5500 Annual Return/Reports be filed electronically. Under any type of electronic system, we anticipate that filers would need to access the instructions relevant only to their type of plan, eliminating any potential confusion from determining in a unified form package which instructions are relevant to the filer.

The Working Group also suggested that the Department consider limiting certain reporting currently required of welfare plans. The Department believes that retaining the current requirements as they relate to funded welfare plans (i.e., those with assets held in trust) and large fully insured plans, without imposing new reporting burdens on all welfare plans, best serves to balance the needs of the Department and participants and beneficiaries and the burden associated with the reporting requirements. Similarly, the Department believes that continuing the audit requirement for large funded welfare plans provides important protections to participants and beneficiaries of those plans, even when the trust principally serves as a conduit for the payment of benefits. Accordingly, the Department is not proposing to change the application of the audit requirement to such plans.

As noted above, the Department already has taken steps to address some of the issues raised by the Working Groups. It modified the 2005 Form 5500 Annual Return/Report instructions by adding language regarding how to count participants in a welfare plan, by providing guidance on how to determine the number of welfare plans a sponsor has for annual reporting purposes, and by including new language reflecting a recent advisory opinion on fee and commission reporting by insurance companies for purposes of Schedule A. The Department invites comments and suggestions on what, if any, additional steps the Department could take to clarify reporting rules for welfare plans.

III. Regulations Relating to the Proposed Form

As noted above, certain amendments to the annual reporting regulations are necessary to accommodate some of the proposed revisions to the forms. The Department is publishing separately today in the **Federal Register** proposed amendments to the Department's annual reporting regulations. That document includes a discussion of the findings required under sections 104 and 110 of ERISA that are necessary for the Department to adopt the Form 5500 Annual Return/Report, if revised as proposed herein, and the proposed Short Form 5500, as an alternative method of compliance, limited exemption, and/or simplified report under the reporting and disclosure requirements of Part 1 of Subtitle B of Title I of ERISA.

Paperwork Reduction Act Statement

As part of continuing efforts to reduce paperwork and respondent burden, the general public and Federal agencies are invited to comment on proposed and/or

continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA 95) (44 U.S.C. 3506(c)(2)(A)). This helps to ensure that requested data will be provided in the desired format, reporting burden (time and financial resources) will be minimized, collection instruments will be clearly understood, and the impact of collection requirements on respondents is properly assessed. Currently, comments concerning the proposed revision of the Form 5500 Annual Return/Report, pursuant to Part 1 of Subtitle B of Title I and Title IV of ERISA and the Internal Revenue Code are being solicited. A copy of the Information Collection Request (ICR) may be obtained by contacting the person listed in the PRA Addressee section below.

The Department has submitted a copy of the proposed forms revisions to the Office of Management and Budget (OMB) in accordance with 44 U.S.C. 3507(d) for its review of the Department's information collection. The IRS and the PBGC intend to submit separate requests for OMB review and approval based upon the final forms revisions. Of particular interest are comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agencies, including whether the information will have practical utility;
- Evaluate the accuracy of the estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Comments should be sent to the Office of Information and Regulatory Affairs, OMB, Room 10235, New Executive Office Building, Washington, DC 20503; Attention: Desk Officer for the Employee Benefits Security Administration, Department of Labor. Although comments may be submitted through September 19, 2006, OMB requests that comments be received within 30 days of publication of the Notice of Proposed Forms Revision to ensure their consideration.

PRA Addressee: Address requests for copies of the ICR to Gerald B. Lindrew, Office of Policy and Research, U.S. Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue, NW., Room N–5718, Washington, DC 20210. Telephone: (202) 693–8410; Fax: (202) 219–4745. These are not toll-free numbers.

Type of Review: Revision of a currently approved collection.

Agencies: Employee Benefits Security Administration (OMB Control No. 1210–0110); Internal Revenue Service (OMB Control No. 1545–0710); Pension Benefit Guaranty Corporation (OMB Control No. 1212–0057).

Title: Form 5500 Series.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Form Number: DOL/IRS/PBGC Form 5500 and Schedules.

Total Respondents: The total number of annual Form 5500 filers will be approximately 833,000.

Total Responses: See ''Total Respondents'' Above.

Frequency of Response: Annually.

Estimated Total Burden Hours: 2.3 million.

Estimated Time per Response, Estimated Burden Hours, Total Annual Burden: See below for each Agency.

Total Annualized Capital/Startup Costs: $0.

Total Burden Cost (Operating and Maintenance): $754 million.

Total Annualized Costs: $754 million.

The Agencies' burden estimation methodology excludes certain activities from the calculation of ''burden.'' If the activity is performed for any reason other than compliance with the applicable federal tax administration system or the Title I annual reporting requirements, it was not counted as part of the paperwork burden. For example, most businesses or financial entities maintain, in the ordinary course of business, detailed accounts of assets and liabilities, and income and expenses for the purposes of operating the business or entity. These recordkeeping activities were not included in the calculation of burden because prudent business or financial entities normally have that information available for reasons other than federal tax or Title I annual reporting. Only time for gathering and processing information associated with the tax return/annual reporting systems, and learning about the law, was included. In addition, an activity is counted as a burden only once if performed for both tax and Title I purposes. The Agencies also have designed the instruction package for the Form 5500 Series so that filers generally will be able to complete the Form 5500 Annual Return/Report by reading the instructions without needing to refer to the statutes or regulations. The Agencies, therefore, have included in their PRA calculations a burden for reading the instructions and find there is no recordkeeping burden attributable to the Form 5500 Annual Return/Report.

The comments are solicited on whether or not any recordkeeping beyond that which is usual and customary is necessary to complete the Form 5500 Annual Return/Report. Comments are also solicited on whether the Form 5500 Annual Return/Report instructions are generally sufficient to enable filers to complete the Form 5500 Annual Return/Report without needing to refer to the statutes or regulations.

Paperwork and Respondent Burden

Estimated time needed to complete the forms listed below reflects the combined requirements of the IRS, the Department, and the PBGC. The times will vary depending on individual circumstances. The estimated average times are:

	Pension		Welfare	
	Large	Small	Large	Small
Form 5500	1 hr., 55 min	1 hr., 7 min	1 hr., 38 min	1 hr., 5 min.
Sch A	1 hr., 48 min	55 min	8 hr., 31 min	2 hr., 17 min.
Sch B	6 hr., 51 min	31 min.		
Sch C	1 hr., 35 min		56 min.	
Sch D	10 hr	10 hr.		
Sch G	11 hr., 58 min		6 hr., 28 min.	
Sch H	8 hr., 26 min		3 hr., 35 min.	
Sch I		1 hr., 33 min		1 hr., 33 min.

	Pension		Welfare	
	Large	Small	Large	Small
Sch R	1 hr., 4 min	31 min.		
Short Form		2 hr., 5 min		2 hr., 5 min.

The aggregate hour burden for the Form 5500 Annual Return/Report (including schedules and short form) is estimated to be 2.3 million hours annually. The hour burden reflects filing activities carried out directly by filers. The cost burden is estimated to be $754 million annually. The cost burden reflects filing services purchased by filers. Presented below is a chart showing the total hour and cost burden of the revised Form 5500 Annual Return/Report separately allocated across the Department and the IRS. There is no separate PBGC entry on the chart because, as explained below, its share of the paperwork burden is very small relative to that of the IRS and the Department.

Agency		Pension plans		Welfare plans		Total		Total
		Large	Small	Large	Small	Large	Small	
DOL	Hours 000s	1,437	158	266	2	1,703	159	1,862
	$MM	$428	$59	$121	$1	$549	$60	$608
IRS	Hours 000s	226	152	29	1	255	154	409
	$MM	$72	$63	$4	>$.5	$76	$64	$140

The paperwork burden allocated to the PBGC includes a portion of the general instructions, basic plan identification information, a portion of Schedule B, and a portion of Schedule R. The PBGC's Estimated Share of Total Form 5500 Annual Return/Report Burden is: 4,000 hours and $5 million dollars per year.

BILLING CODE 4510–29–P

APPENDIX A

Form **5500-SF**

Department of the Treasury
Internal Revenue Service

Department of Labor
Employee Benefits Security Administration

Pension Benefit Guaranty Corporation

Short Form Annual Return/Report of Employee Benefit Plan

This form is required to be filed under sections 104 and 4065 of the Employee Retirement Income Security Act of 1974 (ERISA) and sections 6047(e), 6057(b), and 6058(a) of the Internal Revenue Code (Code).

▶ **Complete all entries in accordance with the instructions to the Form 5500-SF**

OMB Nos. 1210-0110
1210-0089

2008

This Form is Open to Public Inspection.

Part I Annual Report Identification Information

For the calendar plan year 2006 or fiscal plan year beginning , and ending ,

A This return/report is for: ☐ single-employer plan ☐ multiple-employer plan (not multiemployer) ☐ one-participant plan

B This return/report is: ☐ first return/report ☐ final return/report
☐ amended return/report ☐ short plan year return/report (less than 12 months)

C Check box if filing under an extension of time ☐ or the DFVC program ☐ and attach required information. *(see instructions)*

Part II Basic Plan Information — enter all requested information.

1a Name of plan

1b Three-digit plan number (PN) ▶

1c Effective date of plan (mo., day, yr.)

2a Plan sponsor's name and address (employer, if for single-employer plan)

2b Employer Identification Number (EIN)

2c Plan sponsor's/employer's telephone number

2d Business code *(see instructions)*

3a Plan administrator's name and address (If same as Plan sponsor, enter "same")

3b Administrator's EIN

3c Administrator's telephone number

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

b EIN

c PN

5a Total number of participants at the beginning of the plan year	5a	
b Total number of participants as of the end of the plan year	5b	
c Total number of participants with account balances as of the end of the plan year *(defined benefit plans do not complete this item)*	5c	

6a Were all of the plan's assets during the plan year invested in eligible assets? *(see instructions)* ☐ Yes ☐ No

b Are you claiming a waiver of the annual examination and report of an independent qualified public accountant (IQPA) under 29 CFR 2520.104-46? *(See instructions on waiver eligibility and conditions.)* ☐ Yes ☐ No

If you answered "No" to either 6a or 6b, the plan cannot use Form 5500-SF and must instead file the Form 5500.

Part III Financial Information

7 **Plan Assets and Liabilities:**		(a) Beginning of Year	(b) End of Year
a Total plan assets	7a		
b Total plan liabilities	7b		
c Net plan assets (subtract line 7b from line 7a)	7c		

8 **Income, Expenses, and Transfers for this Plan Year:**		(a) Amount	(b) Total
a Contributions received or receivable			
(1) Employers	8a(1)		
(2) Participants	8a(2)		
(3) Others (including rollovers)	8a(3)		
b Other income (loss)	8b		
c Total income (add lines 8a(1), 8a(2), 8a(3), and 8b)	8c		
d Benefits paid (including direct rollovers and insurance premiums to provide benefits)	8d		
e Certain deemed and/or corrective distributions *(see instructions)*	8e		
f Administrative service providers (salaries, fees, commissions)	8f		
g Other expenses	8g		
h Total expenses (add lines 8d, 8e, 8f, and 8g)	8h		
i Net income (loss) (subtract line 8h from line 8c)	8i		
j Transfers to (from) the plan *(see instructions)*	8j		

For Privacy Act and Paperwork Reduction Act Notice, see instructions. Cat. No. 40888W Form **5500-SF** (2008)

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Part IV Plan Characteristics

9a If the plan provides pension benefits, enter the applicable pension feature codes from the List of Plan Characteristics Codes in the instructions: ☐☐☐☐☐☐☐☐☐☐

b If the plan provides welfare benefits, enter the applicable welfare feature codes from the List of Plan Characteristics Codes in the instructions: ☐☐☐☐☐☐☐☐☐☐

Part V Compliance Questions

10 During the plan year:		Yes	No	Amount
a Was there a failure to transmit to the plan any participant contributions within the time period described in 29 CFR 2510.3-102? *(See instructions and DOL's Voluntary Fiduciary Correction Program.)*	10a			
b Were there any nonexempt transactions with any party-in-interest? (Do not include transactions reported on line 10a.)	10b			
c Was the plan covered by a fidelity bond?	10c			
d Did the plan have a loss, whether or not reimbursed by the plan's fidelity bond, that was caused by fraud or dishonesty?	10d			
e Were any fees or commissions paid to any brokers, agents, or other persons by an insurance carrier, insurance service or other organization that provides some or all of the benefits under the plan? *(see instructions)*	10e			
f Has the plan failed to provide any benefit when due under the plan?	10f			
g Did the plan have any participant loans? (If "Yes," enter amount as of year end.)	10g			
h If this is an individual account plan, was there a blackout period? *(see instructions and 29 CFR 2520.101-3)*	10h			
i If 10h was answered "Yes," did the plan administrator comply with the blackout period notice requirements in 29 CFR 2520.101-3?	10i			

Part VI Pension Funding Compliance

11 Is this a defined benefit plan subject to minimum funding requirements? (If "Yes," complete Schedule B (Form 5500) and see instructions.) ☐ Yes ☐ No

12 If this is a defined contribution money purchase plan, is it subject to the minimum funding standards? (If this is a defined benefit plan, leave blank.) ☐ Yes ☐ No

If 12 is answered "Yes," complete a, b, c, and d below:

a Amount of employer contribution required for the plan year under Code sec. 412	12a	
b Amount of contribution paid by the employer for the plan year	12b	
Enter date or last payment by employer Month_____ Day_____ Year_____		
c If the amount of employer contribution required is greater than the amount paid by the employer, enter the funding deficiency here. Otherwise, enter -0-. (If you have a funding deficiency, file Form 5330.)	12c	

d Was a funding waiver granted? ☐ Yes ☐ No

Part VII Plan Terminations and Transfers of Assets

13a Has a resolution to terminate the plan been adopted during the plan year or any prior plan year? ☐ Yes ☐ No

If "Yes," enter the amount of any plan assets that reverted to the employer this year _____

b Were all the plan assets distributed to participants or beneficiaries, transferred to another plan, or brought under the control of the PBGC? ☐ Yes ☐ No

c If during this plan year, any assets or liabilities were transferred from this plan to another plan(s), identify the plan(s) to which assets or liabilities were transferred. *(see instructions)*

(1) Name of plan(s)	(2) EIN(s)	(3) PN(s)

Under penalties of perjury and other penalties set forth in the instructions, I declare that I have examined this return/report, including, if applicable, a Schedule B completed and signed by an enrolled actuary, 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

▶ _____ Signature of employer/plan sponsor _____ Date _____ Enter name of individual signing as employer/plan sponsor

Form **5500-SF** (2006)

Printed on recycled paper

Appendix B
Proposed Instructions for Form 5500-SF

2008
Instructions for Form 5500-SF

Short Form Annual Return/Report of Employee Benefit Plan

ERISA refers to the Employee Retirement Income Security Act of 1974, and Code references are to the Internal Revenue Code, unless otherwise noted.

General Instructions

The Form 5500-SF, Short Form Annual Return/Report of Employee Benefit Plan, is a simplified annual reporting form for use by certain small pension and welfare benefit plans. To be eligible, the plan generally must have fewer than 100 participants at the beginning of the plan year; it must be exempt from the requirement that the plan's books and records be audited by an independent qualified public accountant; it must have 100% of its assets invested in certain secure investments with a readily determinable fair value; and it must hold no employer securities. See **Who May File Form 5500-SF** for more detailed instructions on who may file the Form 5500-SF. Plans required to file an annual return/report that are not eligible to file the Form 5500-SF must file a **Form 5500 Return/Report of Employee Benefit Plan.**

To reduce the possibility of correspondence and penalties, we remind filers that the Internal Revenue Service (IRS), Department of Labor (DOL), and Pension Benefit Guaranty Corporation (PBGC) have consolidated their return/report forms to minimize the filing burden for employee benefit plans. Administrators and sponsors of employee benefit plans generally will satisfy their IRS and DOL annual reporting requirements for the plan under ERISA sections 104 and 4065 and Code section 6058 by filing either the Form 5500 or Form 5500-SF. Defined contribution and defined benefit pension plans may be required to file additional information with the IRS regarding their compliance with tax laws. See www.irs.gov for more information. Defined benefit pension plans covered by the PBGC may have special additional requirements, including filing the PBGC Form 1, Annual Premium Payment, and reporting certain transactions directly with that agency. See the PBGC's Premium Payment Package (Form 1 Package), available at www.pbgc.gov.

The Form 5500-SF must be filed electronically. See **How to File - Electronic Filing Requirement** instructions on page xx. Your entries will be initially screened. Your entries must satisfy this screening in order to be initially accepted as a filing. Once initially accepted, your form may be subject to further detailed review, and your filing may be rejected based upon this further review.

ERISA and the Code provide for the assessment or imposition of penalties for not submitting the required information when due. See **Penalties** on page xx.

Note: The Form 5500-EZ generally is used by one-participant plans (as defined below on page XX) that are not subject to the requirements of section 104(a) of ERISA to satisfy the annual reporting and filing obligations imposed by the Code. Certain one-participant plans who are eligible to file Form 5500-EZ may file the Form 5500-SF to satisfy the filing obligations under the Code. One participant plans that are eligible to file the Form 5500-SF electronically, complete only certain questions on the Form 5500-SF. (See **Specific Instructions for one-participant plans** on page xx). Therefore, a plan that is required to file Form 5500-EZ may file the paper Form 5500-EZ with the IRS or the Form 5500-SF electronically. For more information on filing with the IRS go to www.irs.gov/ep or call 1-877-829-5500.

How to Get Assistance

If you need help completing this form or have related questions, call the EFAST Help Line at 1-866-463-3278 (toll free). The EFAST Help Line is available Monday through Friday from 8:00 am to 8:00 pm, Eastern Time.

You can access the EFAST Web Site 24 hours a day, 7 days a week at *www.efast.dol.gov* to:

- View forms and related instructions.
- Get information regarding EFAST, including approved software vendors.

- See answers to frequently asked questions about the Form 5500-SF, the Form 5500 and its Schedules, and EFAST.
- Access the main EBSA and DOL Web Sites for news, regulations, and publications.

You can access the IRS Web Site 24 hours a day, 7 days a week at *www.irs.gov* to:

- View forms, instructions, and publications.
- See answers to frequently asked tax questions.
- Search publications on-line by topic or keyword.
- Send comments or request help by e-mail.
- Sign up to receive local and national tax news by e-mail.

You can order related forms and IRS publications by calling **1-800-TAX-FORM** (1-800-829-3676). You can order EBSA publications by calling **1-800-998-7542**. In addition, most IRS forms and publications are available at your local IRS office.

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Pension and Welfare Plans Required to File Annual Return/Report

All pension benefit plans and welfare benefit plans covered by ERISA are required to file a Form 5500 or Form 5500-SF unless they are eligible for a filing exemption. (Code section 6058 and ERISA sections 104 and 4065). A return/report is due even if the plan is not "tax qualified" or if benefits no longer accrue, contributions were not made during this plan year, or contributions are no longer made. Pension benefit plans required to file include both defined benefit plans and defined contribution plans. Profit sharing, stock bonus, money purchase, 401(k) plans, Code section 403(b) plans and IRA plans established by an employer are among the pension benefit plans for which a return/report must be filed. Welfare benefit plans provide benefits such as medical, dental, life insurance, apprenticeship and training, scholarship funds, severance pay, disability, etc.

Plans Exempt From Filing

The Department of Labor has issued regulations under which some pension plans and many welfare plans with fewer than 100 participants are exempt from filing a return/report. Do not file a return/report for an employee benefit plan that is any of the following:

1. A welfare benefit plan that covers fewer than 100 participants as of the beginning of the plan year and is unfunded, fully insured, or a combination of insured and unfunded. For this purpose:

a. An unfunded welfare benefit plan has its benefits paid as needed directly from the general assets of the employer or the employee organization that sponsors the plan. **Note:** Plans which are NOT unfunded include those plans that received employee (or former employee) contributions during the plan year and/or used a trust or separately maintained fund (including a Code section 501(c)(9) trust) to hold plan assets or act as a conduit for the transfer of plan assets during the plan year.
b. A fully insured welfare benefit plan has its benefits provided exclusively through insurance contracts or policies, the premiums of which must be paid directly to the insurance carrier by the employer or employee organization from its general assets or partly from its general assets and partly from contributions by its employees or members (which the employer or organization forwards within 3 months of receipt). The insurance contracts or policies discussed above must be issued by an insurance company or similar organization (such as Blue Cross, Blue Shield or a health maintenance organization) that is qualified to do business in any state.
c. A combination unfunded/insured welfare plan has its benefits provided partially as an unfunded plan and partially as a fully insured plan. An example of such a plan is a welfare plan that provides medical benefits as in a above and life insurance benefits as in b above. See 29 CFR 2520.104-20 and the DOL Technical Release 92-01.

Note: A "voluntary employees' beneficiary association" as used in Code section 501(c)(9) should not be confused with the employee organization or employer that establishes and/or maintains (i.e., sponsors) the welfare benefit plan.

2. An unfunded pension benefit plan or an unfunded or insured welfare benefit plan: **(a)** whose benefits go only to a select group of management or highly compensated employees, and **(b)** which meets the terms of 29 CFR 2520.104-23 (including the requirement that a registration statement be timely filed with DOL) or 29 CFR 2520.104-24.
3. Plans maintained only to comply with workers' compensation, unemployment compensation, or disability insurance laws.
4. An unfunded excess benefit plan.
5. A welfare benefit plan maintained outside the United States primarily for persons substantially all of whom are nonresident aliens.
6. A pension benefit plan maintained outside the United States if it is a qualified foreign plan within the meaning of Code section 404A(e) that does not qualify for the treatment provided in Code section 402(e)(5).
7. A Code section 403(b) voluntary annuity arrangement that is not sponsored by an employer or employee organization as described in 29 CFR 2510.3-2(f).
8. A simplified employee pension (SEP) described in Code section 408(k) that conforms to the alternative method of compliance described in 29 CFR 2520.104-48 or 29 CFR 104-49. A SEP is a pension plan that meets certain minimum qualifications regarding eligibility and employer contributions.
9. A Savings Incentive Match Plan for Employees of Small Employers (SIMPLE) that involves SIMPLE IRAs under Code section 408(p).
10. A church welfare plan under ERISA section 3(33).
11. A church pension plan if the pension plan did not elect coverage under Code section 410(d).
12. A governmental plan.
13. A welfare benefit plan that participates in a group insurance arrangement that files a return/report Form 5500 on its behalf. A group insurance arrangement is an arrangement that provides benefits to the employees of two or more unaffiliated employers (not in connection with a multiemployer plan or a collectively bargained multiple-employer plan), fully insures one or more welfare plans of each participating employer, uses a trust (or other entity such as a trade association) as the holder of the insurance contracts and uses a trust as the conduit for payment of premiums to the insurance company. For further details, see 29 CFR 2520.104-43.
14. An apprenticeship or training plan meeting all of the conditions specified in 29 CFR 2520.104-22.
15. One-Participant (Owners and Their Spouses) Retirement Plan (generally referred to as a One-Participant Plan). A one-participant plan is: **(1)** a pension benefit plan that covers only an individual or an individual and his or her spouse who wholly own a trade or business, whether incorporated or unincorporated; or **(2)** a pension benefit plan for a partnership that covers only the partners or the partners and the partners' spouses. See **Specific Instructions for One-Participant Plans** on page xx. One-participant plans may be eligible to file the Form 5500-SF electronically (See **How to File - Electronic Filing Requirement** instructions on page xx.) or the paper Form 5500-EZ with the Internal Revenue Service. See www.irs.gov/ep or call 1-877-829-5500.

For more information on plans that are exempt from filing an annual return/report, see the Instructions for Form 5500 Annual Return/Report of Employee Benefit Plan or call the EFAST Help Line at 1-866-463-3278.

Who May File Form 5500-SF

If your plan is required to file an annual return/report, you may file the Form 5500-SF instead of the Form 5500 only if you meet **all** of the eligibility conditions listed below.

1. The plan is a small plan that covers fewer than 100 participants at the beginning of the plan year, or was eligible to and filed as a small plan last year and did not cover more than 120 participants at the beginning of the current plan year (see instructions for line 5 on page x);
2. The plan does not hold any employer securities;
3. The plan is 100% invested in certain secure, easy to value assets such as mutual fund shares, investment contracts with insurance companies and banks, publicly traded securities held by a registered broker dealer, cash and cash equivalents, and plan loans to participants (see the instructions for line 6a on page x); **and**
4. The plan gives certain disclosures and supporting documents to participants and beneficiaries regarding both the plan's investments and the fact that the plan meets the conditions for being exempt from the requirement to be audited each year by an independent qualified public accountant (see instructions for line 6b on page x).

Note: Multiemployer plans, ESOPs and Direct Filing Entities (DFEs) cannot file the Form 5500-SF.

TIP: Section III of Schedule D must be completed by DFEs for all participating plans even those plans filing the Form 5500-SF.

Note: One-Participant Plans should follow the "**Specific Instructions for One-Participant Plans**" in lieu of the instructions 1-4 above.

Caution: One-participant Plans that are an ESOP cannot file the Form 5500-SF electronically. These plans must file the paper Form 5500-EZ with the IRS.

What to File

Plans required to file an annual return/report that meet all of the conditions for filing the Form 5500-SF may complete and file the Form 5500-SF in accordance with its instructions. Defined benefit pension plans using the Form 5500-SF must also file the **Schedule B (Form 5500), Actuarial Information.** See the instructions for Schedule B [insert web link]. One-participant plans see **Specific Instructions for One-Participant Plans** on page XX. Plans filing under an extension of time or the DOL's Delinquent Filer Voluntary Compliance Program must include the required supporting attachment (see instructions for box C on page x). No other schedules or attachments have to be filed with the Form 5500-SF.

When to File

File the 2008 Form 5500-SF for plan years that began in 2008. The form, and any required schedules and attachments, must be filed by the last day of the 7th calendar month after the end of the plan year (not to exceed 12 months in length) that began in 2008.

Note: If the filing due date falls on a Saturday, Sunday, or Federal holiday, the return may be filed on the next day that is not a Saturday, Sunday, or Federal holiday.

Extension of Time to File

Using Form 5558

A one-time extension of time to file the Form 5500-SF (up to 2 ½ months) may be obtained by filing IRS **Form 5558,** Application For Extension Of Time To File Certain Employee Plan Returns, on or before the normal due date (not including any extensions) of the return/report. You **must** file the Form 5558 with the IRS at the Internal Revenue Service Center, Ogden, UT 84201-0027. Approved copies of the Form 5558 will not be returned to the filer. An electronic copy of the completed and signed Form 5558 extension request that was filed must be submitted as an electronic attachment to the Form 5500-SF.

Using Extension of Time to File Federal Income Tax Return

An automatic extension of time to file Form 5500-SF until the due date of the Federal income tax return of the employer will be granted if all of the following conditions are met: **(1)** the plan year and the employer's tax year are the same; **(2)** the employer has been granted an extension of time to file its federal income tax return to a date later than the normal due date for filing the Form 5500-SF (except IRS **Form 8736,** Application for Automatic Extension of Time To File U.S. Return for a Partnership, REMIC, or for Certain Trusts); and **(3)** an electronic copy of the application for extension of time to file the Federal income tax return is attached to the Form 5500-SF. An extension granted by using this automatic extension procedure CANNOT be extended further by filing a Form 5558.

If the application for extension of time contains social security numbers, ensure that these social security numbers are not visible in the copy attached to the Form 5500-SF. The Form 5500-SF and its attachments are open to public inspection, and the contents are public information and are subject to publication on the Internet. Because of privacy concerns, the inclusion of a visible social security number on the Form 5500-SF or its attachments may result in the rejection of the filing.

Other Extensions of Time

The IRS, DOL, and PBGC may announce special extensions of time under certain circumstances, such as extensions for presidentially declared disasters or for service in, or in support of, the Armed Forces of the United States in a combat zone. See www.irs.gov and www.efast.dol.gov for announcements regarding such special extensions. If you are relying on one of these announced special extensions, check Form 5500-SF, Part I, box C and attach a statement citing the announcement for the extension.

Change in Plan Year

Generally, only defined benefit pension plans need to get approval for a change in plan year. (See Code section 412(c)(5)). However, under Rev. Proc. 87-27, 1987-1 C.B. 769, these pension plans may be eligible for automatic approval of a change in plan year.

If a change in plan year for a pension or a welfare plan creates a short plan year, you must check the "short plan year return/report (less than 12 months)" box in Part I of the Form 5500-SF, and file the Form 5500-SF, with all required schedules and attachments, by the last day of the 7th calendar month after the end of the short plan year.

Delinquent Filer Voluntary Compliance (DFVC) Program

The DFVC Program facilitates voluntary compliance by plan administrators who are delinquent in filing annual return/report forms under Title I of ERISA by permitting administrators to pay reduced civil penalties for voluntarily complying with their DOL annual reporting obligations. If the Form 5500-SF is being filed under the DFVC Program, check Form 5500-SF, Part I, box C, and attach an explanation that the Form 5500-SF is being

filed under the DFVC Program. See www.efast.dol.gov for information concerning the DFVC Program. Send penalty payments to the DFVC Program processing center in Atlanta, GA. Do not submit penalty payments to EFAST.

Penalties

Plan administrators and plan sponsors must provide complete and accurate information and must otherwise comply fully with the filing requirements. ERISA and the Code provide for the DOL, and the IRS, respectively, to assess or impose penalties for not giving complete information and for not filing statements and returns/reports. Certain penalties are administrative (i.e., they may be imposed or assessed in an administrative proceeding). Others require a legal conviction.

Administrative Penalties

Listed below are various penalties under ERISA and the Code that may be assessed or imposed for not meeting the annual return/report filing requirements. The penalty may be assessed under ERISA or the Code, or both, depending upon the nature of the violation and the type of plan involved. One or more of the following administrative penalties may be assessed or imposed in the event of incomplete filings or filings received after the due date unless it is determined that your explanation for failure to file properly is for reasonable cause:

1. A penalty of up to $1,100 a day for each day a plan administrator fails or refuses to file a complete report. See ERISA section 502(c)(2) and 29 CFR 2560.502c-2.
2. A penalty of $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). See Code section 6652(e).
3. A penalty of $1,000 for not filing an actuarial statement. See Code section 6692.

Other Penalties

1. Any individual who willfully violates any provision of Part 1 of Title I of ERISA shall be fined not more than $100,000 or imprisoned not more than 10 years, or both. See ERISA section 501.
2. A penalty up to $10,000, five (5) years imprisonment, or both, may be imposed for making any false statement or representation of fact, knowing it to be false, or for knowingly concealing or not disclosing any fact required by ERISA. See section 1027, Title 18, U.S. Code, as amended by section 111 of ERISA.

How to File – Electronic Filing Requirement

Under the computerized ERISA Filing Acceptance System (EFAST), you must file your 2008 Form 5500-SF electronically. You may file your 2008 Form 5500-SF on-line, using EFAST's web-based filing system, or you may file through an EFAST-approved vendor. Detailed information on electronic filing is available at (insert web address). For telephone assistance, call the EFAST Help Line at 1-866-463-3278. The EFAST Help Line is available Monday through Friday from 8:00 am to 8:00 pm, Eastern Time.

[CAUTION] Annual reports filed under Title I of ERISA must be made available by plan administrators to plan participants and by the DOL to the public pursuant to ERISA sections 104 and 106. Even though the Form 5500-SF must be filed electronically, the administrator must keep a copy of the Form 5500-SF, including schedules and attachments, with all required manual signatures on file as part of the plan's records and must make a paper copy available on request to participants, beneficiaries, and the DOL as required by section 104 of ERISA and 29 CFR 2520.103-1.

Answer all questions with respect to the plan year unless otherwise explicitly stated in the instructions or on the form itself. Therefore, responses usually apply to the year entered at the top of the first page of the form.

Your entries will be initially screened. Your entries must satisfy this screening in order to be initially accepted as a filing. Once initially accepted, your form may be subject to further detailed review, and your filing may be rejected based upon this further review. To reduce the possibility of correspondence and penalties:

- Complete all lines on the Form 5500-SF unless otherwise specified. Also electronically attach any applicable schedules and attachments.
- Do not enter "N/A" or "Not Applicable" on the Form 5500-SF or Schedule B unless specifically permitted. "Yes" or "No" questions on the forms and schedules cannot be left blank, but must be answered either "Yes" or "No," and not both.

The Form 5500-SF, Schedule B, and attachments are open to public inspection, and the contents are public

information subject to publication on the Internet. Do not enter social security numbers in response to questions asking for an EIN. Because of privacy concerns, the inclusion of a social security number on the Form 5500-SF or on a schedule or attachment that is open to public inspection may result in the rejection of the filing. EINs may be obtained by applying for one on **Form SS-4**, Application for Employer Identification Number. You can obtain Form SS-4 by calling **1-800-TAX-FORM** (1-800-829-3676) or at the IRS Web Site at www.irs.gov. The EBSA does not issue EINs.

Specific Instructions for One-Participant Plans.

A One-Participant Plan is: **(1)** a pension benefit plan that covers only an individual or an individual and his or her spouse who wholly own a trade or business, whether incorporated or unincorporated; or **(2)** a pension benefit plan for a partnership that covers only the partners or the partners and the partners' spouses. One-participant plans may be eligible to file the Form 5500-SF electronically or the paper Form 5500-EZ with the Internal Revenue Service.

One-participant plan filers that meet the following conditions are eligible to file a Form 5500–SF electronically. You may file a Form 5500-SF electronically if you meet all of the following conditions:

1. The plan is a one-participant plan.
2. The plan meets the minimum coverage requirements of section 410(b) without being combined with any other plan you may have that covers other employees of your business.
3. The plan does not provide benefits for anyone except you, or you and your spouse, or one or more partners and their spouses.
4. The plan does not hold any employer securities.

If you do not meet **all** the conditions listed above, file the complete Form 5500-SF or the Form 5500.

One-participant plans only complete the following questions on the Form 5500-SF. Part I A, B and C, Part II 1a -5 a, Part III 7 a-c, 8 a, Part IV 9a, Part V 10g, Part VI 11-12d.

Note: A Form 5500-SF may be filed for one-participant plans that are either defined contribution plans (which include profit-sharing plans, money purchase pension plans, but not an ESOP or stock bonus plan) or defined benefit plans.

Note: Actuaries of one-participant plans that are defined benefit plans subject to the minimum funding standards for this plan year must complete Schedule B (Form 5500), Actuarial Information, and forward the completed Schedule to the person responsible for filing the Form 5500-SF. The completed Schedule B is subject to the records retention provisions of these instructions. See the instruction for Schedule B (Form 5500).

Note: If you are filing a paper form, you must file the Form 5500-EZ with the Internal Revenue Service (address to be added). You may order the paper Form 5500-EZ by calling 1-800-TAX-FORM (1-800-829-3676).

Note: If you are filing an amendment for a one-participant plan that filed a Form 5500-SF electronically, you must submit the amendment using the Form 5500-SF electronically as well. Similarly, if you are filing an amendment for a one-participant plan that previously filed on a paper Form 5500-EZ, you must submit the amendment using the paper Form 5500-EZ with the IRS.

Specific Line By Line Instructions

Part I – Annual Report Identification Information

Box A – Single-Employer Plan. Check this box if the Form 5500-SF is filed for a single-employer plan. A single-employer plan for purposes of the Form 5500-SF is an employee benefit plan maintained by one employer or one employee organization.

Box A – Multiple-Employer Plan. Check this box if the Form 5500-SF is being filed for a multiple-employer plan. For purposes of the Form 5500-SF, a multiple-employer plan is a plan that is maintained by more than one employer and is not a single-employer plan or a multiemployer plan. Multiple-employer plans can be collectively bargained and collectively funded. If multiple-employer plans are covered by PBGC termination insurance, they must have properly elected before September 27, 1981, not to be treated as a multiemployer plan under Code section 414(f)(5) or ERISA sections 3(37)(E) and 4001(a)(3). Participating employers do not file individually for multiple-employer plans. *Do **not** check this box if the employers maintaining the plan are members of the same controlled group.*

[**Caution**] Multiemployer plans cannot use the Form 5500-SF to satisfy their annual reporting obligations. They must file the Form 5500 and its required schedules and attachments. For these purposes, a plan is a multiemployer plan if: (**a**) more than one employer is required to contribute; (**b**) the plan is maintained pursuant to one or more collective bargaining agreements between one or more employee organizations and more than one employer; and (**c**) an election under Code section 414(f)(5) and ERISA section 3(37)(E) has not been made.

Box A - One-Participant Plan. Check this box if the Form 5500-SF is being filed for a plan that is: **(1)** a pension

benefit plan that covers only an individual or an individual and his or her spouse who wholly own a trade or business, whether incorporated or unincorporated; or **(2)** a pension benefit plan for a partnership that covers only the partners, or the partners and the partners' spouses. See **Specific Instructions for One-Participant Plans** on page xx.

Box B – First Annual/Return Report. Check this box if this is the first annual return/report filing for this plan. Do not check this box if you have ever filed for this plan, even if it was a different form (e.g., Form 5500 or Form 5500-EZ).

Box B – Amended Return/Report. Check this box – if you have already filed for the 2008 plan year and are now filing an amended return to correct errors and/or omissions on the previously filed return.

Note. File an amended return/report to correct errors and/or omissions in a previously filed annual return/report for the 2008 plan year. The amended Form 5500-SF and any amended schedules must conform to the requirements in these instructions. If you need to file an amended return/report to correct errors and or omissions in a previously filed annual return/report for the 2008 plan year AND you are eligible to file the Form 5500-SF, you may use the Form 5500-SF even if the original filing was a Form 5500. If you determine that you were not eligible to file the Form 5500-SF, your amended return/report must be the Form 5500 and its required schedules and attachments.

[TIP] *If you are filing a corrected return/report in response to correspondence from EBSA regarding processing of your return/report, do* ***not*** *check the box for an "amended return report" on the Form 5500-SF.*

Box B – Final Return/Report. Check this box if this is the final report for the plan. Only check this box if all assets under the plan (including insurance/annuity contracts) have been distributed to the participants and beneficiaries or legally transferred to the control of another plan, and when all liabilities for which benefits may be paid under a welfare benefit plan have been satisfied. Do not mark final return/report if you are reporting participants and/or assets at the end of the plan year. If a trustee is appointed for a terminated defined benefit plan pursuant to ERISA section 4042, the last plan year for which a return/report must be filed is the year in which the trustee is appointed.

Examples:

Mergers/Consolidations

A final return/report should be filed for the plan year (12 months or less) that ends when all plan assets were legally transferred to the control of another plan.

Pension and Welfare Plans That Terminated Without Distributing All Assets

If the plan was terminated but all plan assets were not distributed, a return/report must be filed for each year the plan has assets. The return/report must be filed by the plan administrator, if designated, or by the person or persons who actually control the plan's assets/property.

Welfare Plans Still Liable To Pay Benefits

A welfare plan cannot file a final return/report if the plan is still liable to pay benefits for claims that were incurred prior to the termination date, but not yet paid. See 29 CFR 2520.104b-2(g)(2)(ii).

Box B – Short Plan Year. Check this box if this form is filed for a period of less than 12 months. Show the dates at the top of the form.

Box C. If this form is being filed under an extension of time or under the DOL's DFVC Program, check the appropriate box in this line. If you are filing under the DFVC Program, attach a statement that the report is submitted under the DFVC Program. Information on how to file under the DFVC Program is available at www.efast.dol.gov.

Part II – Basic Plan Information

Line 1a. Enter the formal name of the plan or enough information to identify the plan. Abbreviate if necessary. If an annual return/report has previously been filed on behalf of the plan, regardless of the type of Form that was filed (Form 5500, Form 5500-EZ, Form 5500-SF) use the same abbreviation as was used on the prior filings. Once you use an abbreviation, continue to use it for that plan on all future annual return/report filings with the IRS, DOL, and PBGC. Do not use the same name or abbreviation for any other plan, even if the first plan is terminated.

Line 1b. Enter the three-digit plan or entity number (PN) that the employer or plan administrator assigned to the plan. This three-digit number, in conjunction with the employer identification number (EIN) entered on line 2b, is used by the IRS, DOL, and PBGC as a unique 12-digit number to identify the plan.

Start at 001 for plans providing pension benefits. Start at 501 for welfare plans. Do not use 888 or 999.

Once you use a plan number, continue to use it for that plan on all future filings with the IRS, DOL, and PBGC. Do not use it for any other plan, even if the first plan is terminated.

For each Form 5500-SF with same EIN (line 2b), when	Assign PN
Codes are entered in line 9a	001 to the first plan. Consecutively number others as 002, 003...
Codes are entered in line 9b, and not in line 9a	501 to the first plan. Consecutively number others at 502, 503...

Line 1c. Enter the date the plan first became effective.

Line 2a. Enter the plan sponsor's (employer, if for a single-employer plan) name, postal address (only use a P.O. Box number if the Post Office does not deliver mail to the employer's street address), foreign routing code where applicable, and "doing business as (D/B/A)" or trade name of the employer if different from the employer's name.

Line 2b. Enter the employer's nine-digit employer identification number (EIN). **Do not enter your Social Security Number. The inclusion of a Social Security Number on this line may result in the rejection of the filing.**

Employers who do not have an EIN number must apply for one on **Form SS-4,** Application for Employer Identification Number, as soon as possible. You can obtain Form SS-4 by calling **1-800-TAX-FORM** (1-800-829-3676) or at the IRS Web Site at www.irs.gov. The EBSA does **not** issue EINs.

A multiple-employer plan or plan of a controlled group of corporations should use the EIN number of the sponsor identified in line 2a. The EIN must be used in all subsequent filings of the Form 5500-SF (or any subsequent Form 5500 in a year where the plan is not eligible to file the Form 5500-SF) for these plans. (See instructions to line 4 concerning change in EIN).

Note. EINs for funds (trusts or custodial accounts) associated with plans are generally not required to be on the Form 5500-SF. The IRS, however, will issue EINs for such funds for other reporting purposes. EINs may be obtained by filing Form SS-4 as explained above. Plan sponsors should use the trust EIN when opening a bank account or conducting other transactions for a trust.

Line 2c. Enter the telephone number for the plan sponsor.

Line 2d. Enter the six-digit business code that best describes the nature of the plan sponsor's business from the list of business codes on pages xx-xx. If more than one employer or employee organization is involved, enter the business code for the main business activity of the employers and/or employee organizations.

Line 3a. Enter the plan administrator's name, postal address (only use a P.O. Box number if the Post Office does not deliver mail to the employer's street address), and foreign routing code where applicable . Enter "same" if the plan administrator identified on line 2 is the same as the plan sponsor identified on line 2.

Plan administrator means:
- The person or group of persons specified as the administrator by the instrument under which the plan is operated;
- The plan sponsor/employer if an administrator is not so designated; or
- Any other person prescribed by regulations if an administrator is not designated and a plan sponsor cannot be identified.

Line 3b. Enter the plan administrator's nine-digit EIN. A plan administrator must have an EIN for Form 5500-SF reporting. If the plan administrator does not have an EIN, it must apply for one as explained in the instructions for line 2b. One EIN should be entered for a group of individuals who are, collectively, the plan administrator.

Note. Employees of the plan sponsor who perform administrative functions for the plan are generally not the plan administrator unless specifically designated in the plan document. If an employee of the plan sponsor is designated as the plan administrator, that employee must obtain an EIN.

Line 3c. Enter the telephone number for the plan administrator.

Line 4. If the plan sponsor's name and/or EIN have changed since the last return/report was filed for this plan, enter the plan sponsor's name, EIN, and the plan number as it appeared on the last return/report filed.

[CAUTION] *Failure to indicate on line 4 that a plan was previously identified by a different EIN or PN could result in correspondence from the DOL and the IRS.*

Line 5 – Number of Participants. ***Enter in element (a) the total number of participants at the beginning of the plan year. Enter in element (b) the total number of participants at the end of the plan year. Enter in element (c) the total number of participants with account balances as of the end of the plan year. Welfare plans and defined benefit plans do not complete element (c).***

The description of "participant" in the instructions below is only for purposes of these lines.

An individual becomes a participant covered under an employee welfare benefit plan on the earliest of the date designated by the plan as the date on which the

individual begins participation in the plan; the date on which the individual becomes eligible under the plan for a benefit subject only to occurrence of the contingency for which the benefit is provided; or the date on which the individual makes a contribution to the plan, whether voluntary or mandatory. See 29 CFR 2510.3-3(d)(1). This includes former employees who are receiving group health continuation coverage benefits pursuant to Part 6 of ERISA and who are covered by the employee welfare benefit plan. Covered dependents are not counted as participants. A child who is an "alternate recipient" entitled to health benefits under a qualified medical child support order (QMCSO) should not be counted as a participant for line 5. An individual is not a participant covered under an employee welfare plan on the earliest date on which the individual is ineligible to receive any benefit under the plan even if the contingency for which such benefit is provided should occur, and is not designated by the plan as a participant. See 29 CFR 2510.3-3(d)(2).

For pension benefit plans, "alternate payees" entitled to benefits under a qualified domestic relations order (QDRO) are not to be counted as participants for this line.

Before counting the number of participants, especially in a welfare plan, it is important to determine whether the plan sponsor has established one or more plans for Form 5500/Form 5500-SF reporting purposes. As a matter of plan design, plan sponsors can offer benefits through various structures and combinations. For example a plan sponsor could create (i) one plan providing major medical benefits, dental benefits, and vision benefits, (ii) two plans with one providing major medical benefits and the other providing self-insured dental and vision benefits, or (iii) three separate plans. You must review the governing documents and actual operations to determine whether welfare benefits are being provided under a single plan or separate plans.

The fact that you have separate insurance policies for each different welfare benefit does not necessarily mean that you have separate plans. Some plan sponsors use a "wrap" document to incorporate various benefits and insurance policies into one comprehensive plan. In addition, whether a benefit arrangement is deemed to be a single plan may be different for purposes other than Form 5500/Form 5500-SF reporting. For example, special rules may apply for purposes of HIPAA, COBRA, and Code compliance. If you need help determining whether you have a single welfare benefit plan for Form 5500/Form 5500-SF reporting purposes, you should consult a qualified benefits consultant or legal counsel.

For pension plans, "participant" for this line means any individual who is included in one of the categories below:

1. Active participants, i.e., any individuals who are currently in employment covered by a plan and who are earning or retaining credited service under a plan. This includes any individuals who are eligible to elect to have the employer make payments into a Code section 401(k) qualified cash or deferred arrangement. Active participants also include any nonvested individuals who are earning or retaining credited service under a plan. This does not include (a) nonvested former employees who have incurred the break in service period specified in the plan or (b) former employees who have received a "cash-out" distribution or deemed distribution of their entire nonfortfeitable accrued benefit.
2. Retired or separated participants receiving benefits, *i.e.*, individuals who are retired or separated from employment covered by the plan and who are receiving benefits under the plan. This does not include any individual to whom an insurance company has made an irrevocable commitment to pay all the benefits to which the individual is entitled under the plan.
3. Other retired or separated participants entitled to future benefits, i.e., any individuals who are retired or separated from employment covered by the plan and who are entitled to begin receiving benefits under the plan in the future. This does not include any individual to whom an insurance company has made an irrevocable commitment to pay all the benefits to which the individual is entitled under the plan.
4. Deceased individuals who had one or more beneficiaries who are receiving or are entitled to receive benefits under the plan. This does not include any individual to whom an insurance company has made an irrevocable commitment to pay all the benefits to which the beneficiaries of that individual are entitled under the plan.

80-120 Participant Rule: If the number of participants reported on line 5 is between 80 and 120, and a Form 5500 was filed in 2007 as a "small plan filer," and the conditions for filing the Form 5500-SF described in the instructions for line 6a and line 6b are met, you may elect to file the Form 5500-SF in 2008. (29 CFR 2520.103-1(d)).

Note: One-participant plans skip to Part III.

Line 6 – Short Form Eligible Plans. Except for one-participant plans filing the Form 5500-SF in accordance with the instructions on page x, to be eligible to file the Form 5500-SF, a pension or welfare plan must: (1) cover fewer than 100 participants or be a pension plan eligible to file as a small plan under the 80 to 120 rule in 29 CFR 2520.103-1(d); (2) be eligible for the small plan audit waiver under 29 CFR 2520.104-46 (but not by virtue of enhanced bonding); (3) hold no employer securities; and (4) have 100% of its assets in investments that have a readily ascertainable fair market value for purposes of this annual reporting requirement as described in 29 CFR 2520.103-1(c)(2)(iii).

Line 6a – Eligible Plan Assets. To be eligible to file the Form 5500-SF, all of the plan's assets must be "eligible plan assets." Answer line 6a "yes" or "no." Do **not** leave this question blank. If the answer to line 6a is "no" you CANNOT file the Form 5500-SF and must file the Form 5500. See discussion under **Who May File Form 5500-SF** on page 1.

For purposes of this line, "eligible plan assets" are assets that have a readily determinable fair market value for purposes of this annual reporting requirement as described in 29 CFR 2520.103-1(c)(2)(iii), are not employer securities, and are held or issued by one of the following regulated financial institutions: a bank or similar financial institution as defined in 29 CFR 2550.408b-4(c) (for example, banks, trust companies, savings and loan associations, domestic building and loan associations, and credit unions); an insurance company qualified to do business under the laws of a state; organizations registered as broker-dealers under the Securities Exchange Act of 1934; investment companies registered under the Investment Company Act of 1940; or any other organization authorized to act as a trustee for individual retirement accounts under Code section 408. Examples of assets that would qualify as eligible plan assets for this annual reporting purpose are: mutual fund shares; investment contracts with insurance companies or banks that provide the plan with valuation information at least annually; publicly traded stock held by a registered broker dealer; and cash and cash equivalents held by a bank. Participant loans meeting the requirements of ERISA section 408(b)(1) are also "eligible plan assets" for this purpose whether or not they have been deemed distributed.

Line 6b – In addition to all of the plan's assets being eligible plan assets, to be able to file the Form 5500-SF the plan also must be exempt from the requirement to be audited annually by an independent qualified public accountant (IQPA).

Welfare plans that cover fewer than 100 participants at the beginning of the plan year are exempt from the annual audit requirement. A pension plan is exempt from the annual audit requirement if it covered fewer than 100 participants at the beginning of the plan year or is eligible to file as a small plan under the **80 to 120 rule** (described above) and meets the following three requirements for the audit waiver under 29 CFR 2520.104-46: (1) as of the last day of the preceding plan year at least 95% of a small pension plan's assets were "qualifying plan assets;" (2) the plan includes the required audit waiver disclosure in the Summary Annual Report (SAR) furnished to participants and beneficiaries (see 29 CFR 2520.104-46 and 2520.104b-10(d)(3) for a model audit waiver disclosure); and (3) in response to a request from any participant or beneficiary, the plan administrator must furnish without charge copies of statements from the regulated financial institutions holding or issuing the plan's "qualifying plan assets."

"Qualifying plan assets" for this purpose include: shares issued by an investment company registered under the Investment Company Act of 1940 (e.g., mutual fund shares); investment and annuity contracts issued by any insurance company qualified to do business under the laws of a state; participant loans meeting the requirements of ERISA section 408(b)(1), whether or not they have been deemed distributed, and any eligible assets, e.g., publicly traded stocks and bonds, held by banks or similar financial institutions, including trust companies, savings and loan associations, domestic building and loan associations, and credit unions; insurance companies qualified to do business under the laws of a state; organizations registered as broker-dealers under the Securities Exchange Act of 1934; investment companies registered under the Investment Company Act of 1940; or any other organization authorized to act as a trustee for individual retirement accounts under Code section 408. In the case of an individual account plan, "qualifying plan assets" also include any assets in the individual account of a participant or beneficiary over which the participant or beneficiary had the opportunity to exercise control and with respect to which the participant or beneficiary has been furnished, at least annually, a statement from one of the above regulated financial institutions describing the plan assets held or issued by the institution and the amount of such assets.

CAUTION: In order to be able to file the Form 5500-SF, a small plan must meet the audit waiver conditions by virtue of having 95% or more of its assets as qualifying plan assets in accordance with 29 CFR 2520.104-46(b)(1)(i)(A)(1). If the small plan satisfies the conditions of the audit waiver by virtue of having enhanced fidelity bond under 29 CFR 2520.104-46(b)(1)(i)(A)(2), the plan does not satisfy the conditions for filing the Form 5500-SF and must file the Form 5500, along with the appropriate schedules and attachments. Also, many "qualifying plan assets" for audit waiver purposes will also be "eligible plan assets" as described in the instructions for line 6a, but the definitions are not the same. For example, real estate held by a bank as trustee for a plan could be a qualifying plan asset for purposes of the small pension plan audit waiver conditions but it would not be a "eligible plan asset" for purposes of the plan being eligible to file the Short Form 5500 because real estate would not have a readily determinable fair market value as described in described in 29 CFR 2520.103-1(c)(2)(iii).

Part III – Financial Information

Line 7 – Plan Assets and Liabilities.

Amounts reported on line 7a, 7b, and 7c for the beginning of the plan year must be the same as reported for the end of the plan year for the corresponding lines on the return/report for the preceding plan year. That means that if the Form 5500 was filed the previous year, the amounts reported on the Form 5500-SF line 7a, column (a), 7b, column (a), and 7c, column (a) should correspond to the amounts entered in line 1a, column (b), 1b, column (b), and 1c, column (b) of Schedule I (Form 5500) or the amounts entered in line 1f, column (b), 1k, column (b), and 1l, column (b) of Schedule H (Form 5500) filed for the previous plan year, whichever schedule was filed.

Line 7a. Enter the total amount of plan assets at the beginning of the plan year in column **(a)**. Do not include contributions designated for the 2008 plan year in column **(a)**.

Enter the total amount of plan assets at the end of the plan year in column **(b)**. Do not include in column **(b)** a participant loan that has been deemed distributed during the plan year under the provisions of Code section 72(p) and Treasury Regulation section 1.72(p)-1, if both the following circumstances apply: (1) Under the plan, the participant loan is treated as a direct investment solely of the participant's individual account; and (2) As of the end of the plan year, the participant is not continuing repayment under the loan.

If the deemed distributed participant loan is included in column **(a)** and both of these circumstances apply, include the value of the loan as a deemed distribution on line 8e. However, if either of these two circumstances does not apply, the current value of the participant loan (including interest accruing thereon after the deemed distribution) should be included in column **(b)** without regard to the occurrence of a deemed distribution.

After a participant loan that has been deemed distributed is included in the amount reported on line 8e, it is no longer to be reported as an asset on line 7a unless, in a later year, the participant resumes repayment under the loan. However, such a loan (including interest accruing thereon after the deemed distribution) that has not been repaid is still considered outstanding for purposes of applying Code section 72(p)(2)(A) to determine the maximum amount of subsequent loans. Also, the deemed distribution is not treated as an actual distribution for other purposes, such as the qualification requirements of Code section 401, including, for example, the determination of top-heavy status under Code section 416 and the vesting requirements of Treasury Regulation section 1.411(a)-7(d)(5). See Q&As 12 and 19 of Treasury Regulation section 1.72(p)-1.

The entry on line 7a, column **(b)** (plan assets at end of year) must include the current value of any participant loan included as a deemed distribution in the amount reported for any earlier year if, during the plan year, the participant resumes repayment under the loan. In addition, the amount to be entered on line 8e must be reduced by the amount of the participant loan reported as a deemed distribution for the earlier year.

Line 7b. Enter the total liabilities at the beginning and end of the plan year. Liabilities to be entered here do not include the value of future pension payments to participants. The amount to be entered in line 7b for accrual basis filers includes, among other things:

1. Benefit claims that have been processed and approved for payment by the plan but have not been paid (including all incurred but not reported welfare benefit claims);
2. Accounts payable obligations owed by the plan that were incurred in the normal operations of the plan but have not been paid; and
3. Other liabilities such as acquisition indebtedness and any other amount owed by the plan.

Line 7c. Enter the net assets as of the beginning and end of the plan year. (Subtract line 7b from 7a). Line 7c, column (b) must equal the sum of line 7c, column (a), plus lines 8i (net income (loss)) and 8j (transfers to (from) the plan).

Line 8 – Income, Expenses, and Transfers for this Plan Year

Line 8a. Include the total cash contributions received and/or (for accrual basis plans) due to be received.

Line 8a(1). Plans using the accrual basis of accounting must not include contributions designated for years before the 2008 plan year on line 8a(1).

Line 8a(2). For welfare plans, report all employee contributions, including all elective contributions under a cafeteria plan (Code section 125). For pension plans, participant contributions, for purposes of this item, include elective contributions under a qualified cash or deferred arrangement (Code section 401(k)).

Line 8a(3). Enter the value of all other contributions, including rollovers from other plans.

Line 8b. Enter all other plan income for the plan year. Do not include transfers from other plans that should be reported on line 8j. Examples of other income received and/or receivable include:

1. Interest on investments (including money market accounts, sweep accounts, etc.)
2. Dividends. (Accrual basis plans should include dividends declared for all stock held by the plan even if the dividends have not been received as of the end of the plan year.)
3. Net gain or loss from the sale of assets.

4. Other income such as unrealized appreciation (depreciation) in plan assets.

Line 8c. Enter the total of all cash contributions (line 8a(1) through 8a(3)) and other plan income (line 8b) during the plan year. Put negative numbers in parentheses.

Line 8d. Include (1) payments made (and for accrual basis filers payments due) to or on behalf of participants or beneficiaries in cash, securities, or other property (including rollovers of an individual's accrued benefit or account balance). Include all eligible rollover distributions as defined in Code section 401(a)(31)(D) paid at the participant's election to an eligible retirement plan (including an IRA within the meaning of section 401(a)(31)(E)); (2) payments to insurance companies and similar organizations such as Blue Cross, Blue Shield, and health maintenance organizations for the provision of plan benefits (e.g., paid-up annuities, accident insurance, health insurance, vision case, dental coverage, etc.); and (3) payments made to other organizations or individuals providing benefits. Generally, these payments discussed in (3) are made to individual providers of welfare benefits such as legal services, day care services, and training and apprenticeship services. If securities or other property are distributed to plan participants or beneficiaries, include the current value of the date of distribution.

Line 8e. Include on this line all distributions paid during the plan year of excess deferrals under Code section 402(g)(2)(A)(ii), excess contributions under section 401(k)(8), and excess aggregate contributions under section 401(m)(6). Include allocable income distributed. Also include on this line any elective deferrals and employee contributions distributed or any elective deferrals and employee contributions distributed or returned to employees during the plan year in accordance with Treasury Regulation section 1.415-6(b)(6)(iv), as well as any attributable gains that were also distributed.

For line 8e, also include in the total amount a participant loan included in line 7a, column (a) that has been deemed distributed during the plan year under the provisions of Code section 72(p) and Treasury Regulation section 1.72(p)-1 only if both of the following circumstances apply:

1. Under the plan, the participant loan is treated as a directed investment solely of the participant's individual account; and
2. As of the end of the plan year, the participant is not continuing repayment under the loan.

If either of these circumstances does not apply, a deemed distribution of a participant loan should not be included in the total on line 8e. Instead, the current value of the participant loan (including interest accruing thereon after the deemed distribution) should be included on lines 7a, column (b) (plan assets – end of year), and 10j (participant loans - end of year), without regard to the occurrence of a deemed distribution.

Note: The amount to be reported on line 8e must be reduced if, during the plan year, a participant resumes repayment under a participant loan reported as a deemed distribution on line 2g of Schedule H or Schedule I of a prior Form 5500 or line 8e of a prior Form 5500-SF for any earlier year. The amount of the required reduction is the amount of the participant loan that was reported as a deemed distribution on such line for any earlier year. Put negative numbers in parentheses. The current value of the participant loan must then be included in line 10i (participant loans – end of year) and line 7a, column (b) (plan assets – end of year).

Although certain participant loans deemed distributed are to be reported on line 8e, and are not to be reported on the Form 5500-SF or on the Schedule H or Schedule I of the Form 5500 as an asset thereafter (unless the participant resumes repayment under the loan in a later year), they are still considered outstanding loans and are not treated as actual distributions for certain purposes. See Q&As 12 and 19 of Treasury Regulation section 1.72(p)-1.

Line 8f. The amount to be reported for administrative service providers (salaries, fees, and commissions) must include the total fees paid (or in the case of accrual basis plans, costs incurred during the plan year but not paid as of the end of the plan year) by the plan for, among others:

1. Salaries to employees of the plan;
2. Fees and expenses for accounting, actuarial, legal, and securities brokerage services, and investment management and advice;
3. Contract administrator fees;
4. Fees and expenses for corporate and plan trustees, including reimbursement for travel, seminars, and meeting expenses;
5. Fees and expenses paid for valuations and appraisals of real estate and closely held securities; and
6. Fees for legal services provided to the plan (do not include legal services as a benefit to plan participants).

Do not include in this line amounts paid to plan employees to perform administrative services.

Line 8g. Other expenses (paid and/or payable) include other administrative and miscellaneous expenses paid by or charged to the plan, including among others office supplies and equipment, telephone, and postage.

Line 8h. Enter the total of all benefits paid or due reported on lines 8d and 8e and all other plan expenses reported on lines 8f and 8g.

Line 8i. Subtract line 8h from line 8c.

Line 8j. Enter the net value of all assets transferred to and from the plan during the plan year including those resulting from mergers and spin-offs. A transfer of assets or liabilities occurs when there is a reduction of assets or liabilities with respect to one plan and the receipt of these assets or the assumption of these liabilities by another plan. Transfers out at the end of the year should be reported as occurring during the plan year.

Note. A distribution of all or part of an individual participant's account balance that is reportable on Form 1099-R, Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc., should not be included on line 8j but must be included in benefit payments reported on Line 8d. Do not submit Form 1099-R with Form 5500-SF.

Part IV Plan Characteristics

Line 9 – Benefits Provided Under the Plan. Enter in lines 9a and 9b, as appropriate, in the boxes provided all applicable plan characteristic codes from the table on pages [___] that describe the characteristics of the plan being reported. (See examples on page ___).

[The charts showing plan feature codes that are in the Form 5500 Instructions will be included here in the Short Form instructions. Codes for ESOP and multiemployer plans that cannot file the Short Form will be eliminated from the list of Codes for the Short Form Instructions].

Part V – Compliance Questions

Line 10. Answer all lines either "Yes" or "No." **Do not leave any answer blank.** For items 10a, b, c, d, e, f, and i, if the answer is "Yes," an amount must be entered.

Note: One-participant plans should only complete question 10g.

Line 10a. Amounts paid by a participant or beneficiary to an employer and/or withheld by an employer for contribution to the plan are participant contributions that become plan assets as of the earliest date on which such contributions can reasonably be segregated from the employer's general assets. See 29 CFR 2510.3-102. Plans that check "Yes" must enter the aggregate amount of all late contributions for the year. The total amount of the delinquent contributions should be included on line 10a for the year in which the contributions were delinquent and should be carried over and reported again on line 10a for each subsequent year (or on line 4a of Schedule H or I of the Form 5500 if not eligible to file the Form 5500-SF in the subsequent year) until the year after the violation has been fully corrected by payment of the late contributions and reimbursement of the plan for lost earnings or profits.

An employer holding participant contributions commingled with its general assets after the earliest date on which such contributions can reasonably be segregated from the employer's general assets will have engaged in a prohibited use of plan assets (see ERISA section 406). If such a nonexempt prohibited transaction occurred with respect to a disqualified person (see Code section 4975(e)(2)), file **Form 5330**, Return of Excise Taxes Related to Employee Benefit Plans, with the IRS to pay any applicable excise tax on the transaction. Applicants that satisfy both the DOL Voluntary Fiduciary Correction Program (VFCP) and the conditions of Prohibited Transaction Exemption (PTE) 2002-51 are eligible for immediate relief from payment of certain prohibited transaction excise taxes for certain corrected transactions, and are also relieved from the requirement to file the **Form 5330** with the IRS. For more information on how to apply under the VFCP, the specific transactions covered (which transactions include delinquent participant contributions to pension and welfare plans), and acceptable methods for correcting violations, see 67 Fed. Reg. 15062 (Mar. 28, 2002), 67 Fed. Reg. 70623 (Nov. 25, 2002), and 70 Fed. Reg. 17515 (Apr. 6, 2005). All delinquent participant contributions must be reported on line 10a at least for the year in which they were delinquent even if violations have been fully corrected by the close of the plan year. Information about the VFCP is also available on the Internet at www.dol.gov/ebsa.

Line 10b. Plans that check "Yes" must enter the amount. Check "Yes" if any nonexempt transaction with a party-in-interest occurred. Do not check "Yes" with respect to transactions that are: (1) statutorily exempt under Part 4 of Title I of ERISA; (2) administratively exempt under ERISA section 408(a); (3) exempt under Code sections 4975(c) or 4975(d); (4) the holding of participant contributions in the employer's general assets for a welfare plan that meets the conditions of ERISA Technical Release 92-01; or (5) delinquent participant contributions reported on line 10a. You may indicate that an application for an administrative exemption is pending. If you are unsure whether a transaction is exempt or not, you should consult either with a qualified public accountant, legal counsel, or both. If the plan is a qualified pension plan and a nonexempt prohibited transaction occurred with respect to a disqualified person, a Form 5330 should be filed with the IRS to pay the excise tax on the transaction.

Non-exempt transactions with a party-in-interest include any direct or indirect:
A. Sale or exchange, or lease, of any property between the plan and a party-in-interest.
B. Lending of money or other extension of credit between the plan and a party-in-interest.

C. Furnishing of goods, services, or facilities between the plan and a party-in-interest.
D. Transfer to, or use by or for the benefit of, a party-in-interest, of any income or assets of the plan.
E. Acquisition, on behalf of the plan, of any employer security or employer real property in violation of Code section 407(a).
F. Dealing with the assets of the plan for a fiduciary's own interest or own account.
G. Acting in a fiduciary's individual or any other capacity in any transaction involving the plan on behalf of a party (or represent a party) whose interests are adverse to the interests of the plan or the interests of its participants or beneficiaries.
H. Receipt of any consideration for his or her own personal account by a party-in-interest who is a fiduciary from any party dealing with the plan in connection with a transaction involving the income or assets of the plan.

Party-in-Interest. For purposes of this form, party-in-interest is deemed to include a disqualified person. See Code section 4975(e)(2). The term "party-in-interest" means, as to an employee benefit plan:

A. Any fiduciary (including, but not limited to, any administrator, officer, trustee or custodian), counsel, or employee of the plan;
B. A person providing services to the plan;
C. An employer, any of whose employees are covered by the plan;
D. An employee organization, any of whose members are covered by the plan;
E. An owner, direct or indirect, of 50% or more of: (1) the combined voting power of all classes of stock entitled to vote or the total value of shares of all classes of stock of a corporation; (2) the capital interest or the profits interest of a partnership; or (3) the beneficial interest of a trust or unincorporated enterprise which is an employer or an employee organization described in C or D;
F. A relative of any individual described in A, B, C, or E;
G. A corporation, partnership, or trust or estate of which (or in which) 50% or more of: (1) the combined voting power of all classes of stock entitled to vote or the total value of shares of all classes of stock of such corporation, (2) the capital interest or profits interest of such partnership, or (3) the beneficial interest of such trust or estate, is owned directly or indirectly, or held by persons described in A, B, C, D, or E;
H. An employee, officer, director (or an individual having powers or responsibilities similar to those of officers or directors), or a 10% or more shareholder directly or indirectly, of a person described in B, C, D, E, or G, or of the employee benefit plan; or
I. A 10% or more (directly or indirectly in capital or profits) partner or joint venturer of a person described in B, C, D, E, or G.

[TIP] *Applicants that satisfy the VFCP requirements and the conditions of PTE 2002-51 (see the instructions for line 10a) are eligible for immediate relief from payment of certain prohibited transaction excise taxes for certain corrected transactions and from the requirement to file the Form 5330 with the IRS. For more information, see 67 Fed. Reg. 15062 (Mar. 28, 2002), 67 Fed. Reg. 70623 (Nov. 25, 2002), and 70 Fed. Reg. 17515 (Apr. 6, 2005). When the conditions of PTE 2002-51 have been satisfied, the corrected transactions should be treated as exempt under Code section 4975(c) for the purposes of answering line 10b.*

Line 10c. Plans that check "Yes" must enter the aggregate amount of fidelity bond coverage for all claims. Check "Yes" only if the plan itself (as opposed to the plan sponsor or administrator) is a named insured under a fidelity bond that is from an approved surety covering plan officials and that protects the plan from losses due to fraud or dishonesty as described in 29 CFR Part 2580. Generally, every plan official of an employee benefit plan who "handles" funds or other property of such plan must be bonded. Generally, a person shall be deemed to be "handling" funds or other property of a plan, so as to require bonding, whenever his or her other duties or activities with respect to given funds are such that there is a risk that such funds could be lost in the event of fraud or dishonesty on the part of such person, acting either alone or in collusion with others. Section 412 of ERISA and DOL regulations (29 CFR Part 2580) describe the bonding requirements, including the definition of "handling" (29 CFR 2580.412-6), the permissible forms of bonds (29 CFR 2580.412-10), the amount of the bond (29 CFR Part 2580 Subpart C), and certain exemptions such as the exemption for certain banks and insurance companies and the exemption allowing plan officials to purchase bonds from surety companies authorized by the Secretary of the Treasury as acceptable reinsurers on Federal bonds (29 CFR 2580.412-23). Information concerning the list of approved sureties and reinsurers is available on the Internet at www.fms.treas.gov/c570.

Note. Plans are permitted under certain conditions to purchase fiduciary liability insurance with plan assets. These fiduciary liability insurance policies are not written specifically to protect the plan from losses due to dishonest acts and are not fidelity bonds reported in line 10c.

Line 10d. Check "Yes" if the plan had suffered or discovered any loss as a result of any dishonest or fraudulent act(s) even if the loss was reimbursed by the plan's fidelity bond or from any other source. If "Yes" is checked enter the full amount of the loss. If the full amount of the loss has not yet been determined, provide an estimate and disclose that the figure is an estimate, such as "@1000."

[CAUTION] *Willful failure to report is a criminal offense. See ERISA section 501.*

Line 10e. If any benefits under the plan are provided by an insurance company, insurance service, or other similar organization (such as Blue Cross, Blue Shield, or a health maintenance organization) or if the plan has investments with insurance companies such as guaranteed investment contracts (GICs), report the total of all insurance fees and commissions paid to agents, brokers and/or other persons directly or indirectly attributable to the contract(s) placed with or retained by the plan.

For purposes of line 10e, commissions and fees include sales or base commissions and other monetary and non-monetary compensation where the broker's, agent's, or other person's eligibility for the payment or the amount of the payment is based, in whole or in part, on the value (e.g., policy amounts, premiums) of contracts or policies (or classes thereof) placed with or retained by an ERISA plan, including, for example, persistency and profitability bonuses. For more detailed information on what are reportable fees and commissions, see the instructions to Line 2 of the Schedule A for the Form 5500.

Important Reminder. The insurer (or similar organization) is required under ERISA section 103(a)(2) to provide the plan administrator with the information needed to complete the return/report. Your insurance company should provide you with the information you need to answer this question. If your insurer (or similar organization) does not automatically send you this information, you should make a written request for the information. If you have difficulty getting the information from your insurance company, contact the nearest office of the DOL's Employee Benefits Security Administration.

Line 10f. You must check "Yes" if any benefits due under the plan were not timely paid or not paid in full. Include in this amount the total of any outstanding amounts that were not paid when due in previous years, that have continued to remain unpaid.

Line 10h. Check "yes" if there was a "blackout period." A blackout period is a temporary suspension of more than three consecutive business days during which participants or beneficiaries of a 401(k) or other individual account pension plan were unable to, or were limited or restricted in their ability to, direct or diversify assets credited to their accounts, obtain loans from the plan, or obtain distributions from the plan. A "blackout period" generally does not include a temporary suspension of the right of participants and beneficiaries to direct or diversify assets credited to their accounts, obtain loans from the plan, or obtain distributions from the plan if the temporary suspension is: (1) part of the regularly scheduled operations of the plan that has been disclosed to participants and beneficiaries; (2) due to a qualified domestic relations order (QDRO) or because of a pending determination as to whether a domestic relations order is a QDRO; (3) due to an action or a failure to take action by an individual participant or because of an action or claim by someone other than the plan regarding a participant's individual account; or (4) by application of federal securities laws. For more information, see the Department of Labor's regulation at 29 CFR 2520.101-3 (available at www.dol.gov/ebsa).

Line 10i. If there was a blackout period, did you provide the required notice not less than 30 days nor more than 60 days in advance of restricting the rights of participants and beneficiaries to change their plan investments, obtain loans from the plan, or obtain distributions from the plan? See 29 CFR 2520.101-3 for specific notice requirements and for exceptions from the notice requirement. Answer "no" if notice was not provided even if the plan met one of the exceptions to the notice requirement.

Part VI – Pension Funding Compliance

Line 11. If "Yes," is checked, you must attach Schedule B (Form 5500). If this is a defined contribution pension plan, leave blank. One-participant plans, however, do not attach Schedule B to the Form 5500-SF. Instead, one-participant plans keep the Schedule B in accordance with the applicable record retention requirements.

Line 12. Check "Yes" if this is a defined contribution money purchase plan (including a target benefit plan) that is subject to the minimum funding requirements. If "Yes" is checked, answer lines 12a, b, c and d.

Line 12a. The minimum required contribution for a money purchase defined contribution plan (including a target benefit plan) for a plan year is the amount required to be contributed for the year under the formula set forth in the plan document. If there is an accumulated funding deficiency for a prior year that has not been waived, that amount should also be included as part of the contribution required for the current year.

Line 12b. Include all contributions for the plan year made not later than 8 ½ months after the end of the plan year. Show only contributions actually made to the plan by the date the form is filed, *i.e.*, do not include receivable contributions for this purpose.

Line 12c. If the minimum required contribution exceeds the contributions for the plan year made not later than 8½ months after the end of the plan year, the excess is an accumulated funding deficiency for the plan year and **Form 5330**, Return of Excise Taxes Related to Employee Benefit Plans, should be filed with the IRS to pay the excise tax on the deficiency. There is a penalty for not filing Form 5330 on time.

Note: One-participant plans skip the reminder of these instructions.

Part VII – Plan Terminations and Transfers of Assets

Line 13a. Check "Yes" if a resolution to terminate the plan was adopted during this or any prior plan year, unless the termination was revoked and no assets reverted to the employer. If "Yes" is checked, enter the amount of plan assets that reverted to the employer during the plan year in connection with the implementation of such termination. Enter "-0-" if no reversion occurred during the current plan year.

[CAUTION] *IRS Form 5310-A, Notice of Plan Merger or Consolidation, Spinoff, or Transfer of Plan Assets or Liabilities; Notice of Qualified Separate Lines of Business, must be filed at least 30 days before any plan merger or consolidation or any transfer of plan assets or liabilities to another plan. There is a penalty for not filing Form 5310-A on time. In addition, a transfer of benefit liabilities involving a plan covered by PBGC insurance may be reportable to the PBGC (see PBGC Form 10 and Form 10-Advance).*

Line 13b. Check "Yes" if all of the plan assets (including insurance/annuity contracts) were distributed to the participants and beneficiaries, legally transferred to the control of another plan, or brought under the control of the PBGC.

Check "No" for a welfare benefit plan that is still liable to pay benefits for claims that were incurred before the termination date, but not yet paid. See 29 CFR 2520.104b-2(g)(2)(ii).

Line 13c. Enter information concerning assets and/or liabilities transferred from this plan to another plan(s) (including spin-offs) during the plan year. A transfer of assets or liabilities occurs when there is a reduction of assets or liabilities with respect to one plan and the receipt of these assets or the assumption of these liabilities by another plan. Enter the name, PN, and EIN of the transferee plan(s) involved on lines 13c(1), c(2) and c(3).

Do not use a social security number in lieu of an EIN. The Form 5500-SF is open to public inspection, and the contents are public information and are subject to publication on the Internet. Because of privacy concerns, the inclusion of a social security number on this Form 5500-SF may result in the rejection of the filing.

ERISA COMPLIANCE QUICK CHECKLIST

Compliance with the Employee Retirement Income Security Act (ERISA) begins with knowing the rules. Plan administrators and other plan officials can use this checklist as a quick diagnostic tool for assessing a plan's compliance with certain important ERISA rules; it is not a complete description of all ERISA's rules and it is not a substitute for a comprehensive compliance review. Use of this checklist is voluntary, and it should not be filed with your Form 5500.

If you answer "No" to any of the questions below, you should review your plan's operations because you may not be in full compliance with ERISA's requirements.

1. Have you provided plan participants with a summary plan description, summaries of any material modifications of the plan, and annual summary financial reports?
2. Do you maintain copies of plan documents at the principal office of the plan administrator for examination by participants and beneficiaries?
3. Do you respond to written participant inquires for copies of plan documents and information within 30 days?
4. Does your plan include written procedures for making benefit claims and appealing denied claims, and are you complying with those procedures?
5. Is your plan covered by a fidelity bond against losses due to fraud or dishonesty?
6. Are the plan's investments diversified so as to minimize the risk of large losses?
7. If the plan permits participants to select the investments in their plan accounts, has the plan provided them with enough information to make informed decisions?
8. Has a plan official determined that the investments are prudent and solely in the interest of the plan's participants and beneficiaries, and evaluated the risks associated with plan investments before making the investments?
9. Did the employer or other plan sponsor send participant contributions to the plan on a timely basis?
10. Did the plan pay participant benefits on time and in the correct amounts?
11. Did the plan give participants and beneficiaries 30 days advance notice before imposing a "blackout period" of at least three consecutive business days during which participants or beneficiaries of a 401(k) or other individual account pension plan were unable to change their plan investments, obtain loans from the plan, or obtain distributions from the plan?

If you answer "Yes" to any of the questions below, you should review your plan's operations because you may not be in full compliance with ERISA's requirements.

1. Has the plan engaged in any financial transactions with persons related to the plan or any plan official? (For example, has the plan made a loan to or participated in an investment with the employer?)
2. Has the plan official used the assets of the plan for his/her own interest?
3. Have plan assets been used to pay expenses that were not authorized in the plan document, were not necessary to the proper administration of the plan, or were more than reasonable in amount?

If you need help answering these questions or want additional guidance about ERISA requirements, a plan official should contact the U.S. Department of Labor Employee Benefits Security Administration office in your region or consult with the plan's legal counsel or professional employee benefit advisor.

Note: The list of business codes published with the Form 5500 will be included in the Short Form Instructions and will be updated to reflect the North American Industry Classification System Update for 2007. See 70 FR 12390 (Mar. 11, 2005)

OMB Control Numbers

Agency	OMB Number
Employee Benefits Security Administration	1210-0110
	1210-0089
Internal Revenue Service	1545-1610
Pension Benefit Guaranty Corporation	1212-0057

Paperwork Reduction Act Notice

We ask for the information on this form to carry out the law as specified in ERISA and in Code sections 6058(a), and 6059(a). You are required to give us the information. We need it to determine whether the plan is operating according to the law.

Your are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books and records relating to a form or its instructions must be retained as long as their contents may become material in the administration of the Internal Revenue Code or are required to be maintained pursuant to Title I or IV of ERISA. The Form 5500 return/reports are open to public inspection and are subject to publication on the Internet.

The time needed to complete and file the form 5500-SF and the Schedule B reflects the combined requirements of the Internal Revenue Service, Department of Labor, and Pension Benefit Guaranty Corporation. These times will vary depending on individual circumstances. The estimated average times are:

	Pension Plans	Welfare Plans
Form 5500-SF	2 hours, 5 minutes	2 hours, 5 minutes
Schedule B	53 minutes	

If you have comments concerning the accuracy of these time estimates or suggestions for making these forms simpler, we would be happy to hear from you. You can write to the Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:T:SP, 1111 Constitution Ave., NW, IR-6406, Washington, DC 20224. DO NOT send any of these forms or schedules to this address. The forms and schedules must be filed electronically. See How to File - Electronic Filing Requirement on page xx.

BILLING CODE 4510–29–C

Appendix C—Description of Changes to Existing Form 5500

General Changes to Form 5500 and Schedules

Appearance of check boxes and line items may be changed in order to reflect electronic input format. Dates and line numbering will be changed to reflect plan year and insertions and deletions throughout. Line titles may be changed to provide for fewer or additional entries to reflect changed appearance and electronic data entry on the Form 5500 and all Schedules. Instructions for schedules and line items being eliminated will also be eliminated. Conforming changes to titles and line items changed in the forms will be made in the instructions.

To enable filers to better evaluate the proposed changes, the Department is making available on its Web site at *http://www.dol.gov/ebsa*, handwritten mark-ups of the existing Form 5500 and Schedules to show the changes proposed. Copies of the mark-ups may also be obtained by calling the EBSA's Public Disclosure Room at 1.866.444.EBSA (3272).

Specific Changes

Form 5500

- Signature lines will be changed to reflect shift to electronic filing; plan administrators still will be required to maintain a manually signed copy with the plan's records.
- Separate signature line will be added for DFEs.
- Line 5 (Preparer information) will be eliminated.
- New Line 7 will be added to request total number of contributing employers to multiemployer plan.
- List of Schedules will be modified to eliminate references to schedules being eliminated.

Schedule A

- Minor non-substantive changes will be made to language of lines to make questions clearer.
- Line 2(b) entry will be changed to "Amount of sales and base commissions paid"
- Line 2 (c) entry will be changed to "Fees and other commissions paid"
- New Part IV will be added to enable plan administrator to identify any insurance company that failed to provide the information necessary to complete Schedule A and the information that was not provided by the insurance company.

Schedule B

New Line 12 will be added that provides as follows:

12 If the total participant count on Schedule B, line 2(b)(1)(4) is 1,000 or more, then answer questions 12a and 12b.

a Enter percentage of plan assets held as: Stock ____% Debt ____% Real Estate ____% Other ____%

b For the debt securities, provide the Macaulay duration for all debt securities and the percentage held as (see instructions):

Macaulay Duration ..... ____.____
Government Debt ..... ____.____
Investment Grade Corporate Debt ..... ____.____
High-Yield Corporate Debt .... ____.____

Schedule C

Existing Part I will be deleted; new Part II will be added; existing Part II will be renumbered Part III.

New Part I and II will be as follows:

Part I—Service Provider Compensation Information (See Instructions)

Line 1. The information required by this Part must be completed, in accordance with the instructions, for each person receiving, directly or indirectly, $5,000 or more in total compensation (i.e., money or anything else of value) in connection with services rendered to the plan or their position with the plan during the plan year.

(a) Name _____
(b) Enter EIN or, if reported person does not have an EIN, address and telephone number
1. EIN – –
2. Address and Phone Number _____
( ) – Ext.
(c) Enter Code(s) for relationship or services provided to the plan (see instructions)
(d) Relationship to employer, employee organization, or person known to be a party-in-interest. _____
(e) Total amount received (see instructions)
1. $ _____
2. Is the amount entered in element (d)(l) an estimate? Yes No
3. If applicable, describe formula for calculating payment(s) _____
(f) Did the person identified in element (a) (above) receive during the plan year compensation (money or anything else of value) from a source other than the plan or plan sponsor in connection with the person's position with the plan or services provided to the plan? Yes No
(g) If the answer to (f) is ''Yes,'' enter the following information for each source from whom the person identified in element (a) received $1,000 or more in compensation if the person is a fiduciary to the plan or provides one or more of the following services to the plan— contract administrator, securities brokerage (stock, bonds, commodities), insurance brokerage or agent, custodial, consulting, investment advisory (plan or participants), investment or money management, recordkeeping, trustee, appraisal, or investment evaluation.
(1) Name and EIN of source from whom compensation was received
(payor)_____ –
(2) Enter Code(s) for relationship or services provided by the payor to the plan (see instructions)
(3) Amount paid by the payor (see instructions)
(A) $_____
(B) Is the amount entered in element (3)(A) an estimate? Yes No
(C) If applicable, describe formula for calculating payment(s)

_____

(4) Describe nature of compensation reported in (g)(3) (see instructions)

_____

Part II. Service Providers Who Fail or Refuse to Provide Information

Line 2. Provide, to the extent possible, the following information for each fiduciary or service provider who failed or refused to provide the information necessary to complete Part I of this Schedule.
(a) Name _____
(b) Enter EIN or, if reported person does not have an EIN, address and telephone number
1. EIN – –
2. Address and Phone Number_____
( ) – Ext.

Schedule H

Part IV will be changed as follows:

- Title will be changed to ''Compliance Questions.'' General instructions will be modified to note that MTIAs, 103–12IEs, and GIAs will not complete new lines 4m and 4n and that 103–12IEs and MTIAs also will not complete new Line 4l.
- Line 4a will be modified to read as follows: ''Was there a failure to transmit to the plan any participant contributions within the time period described in 29 CFR 2510.3–102? (See Instructions and DOL's Voluntary Fiduciary Correction Program).'' This will conform the text in Line 4a to the same question on the new proposed Short Form 5500.
- New Lines 4l–4m will be added as follows:

○ 4l Has the plan failed to provide any benefit when due under the plan? Yes__ No__ Amount __.__
○ 4m If this is an individual account plan, was there a blackout period? (see instructions and 29 CFR 2520.101–3) Yes__No __
○ 4n If 4m was answered ''Yes,'' did the plan administrator comply with the blackout period notice requirements in 29 CFR 2520.101–3? Yes__ No__

Schedule I

- New Line 2h will be added to conform Schedule I to new Short Form, and ''total expenses'' description will be modified to reflect addition of new entry:

○ 2h Administrative service providers (salaries, fees, and commissions).

- Part II will be changed as follows:

○ Title changed to ''Compliance Questions.''
○ New Lines 4l-ndash;4m are added as follows:

- 4l Has the plan failed to provide any benefit when due under the plan? Yes__ No__Amount __.__
- 4m If this is an individual account plan, was there a blackout period? (see instructions and 29 CFR 2520.101–3) Yes__No __
- 4n If 4m was answered ''Yes,'' did the plan administrator comply with the blackout period notice requirements in 29 CFR 2520.101–3? Yes__ No__

Schedule R

- New Line 7 will added:
- Will the minimum funding amount reported on line 6c be met by the funding deadline? Yes __ No __ N/A __
- Current Part IV Coverage will be deleted.
- New Part IV will be added as follows:

Part IV ESOPs (See Instructions) If this is not a plan described under Section 409(a) or 4975(e)(7) of the Internal Revenue Code, skip this part.

10 Were unallocated employer securities or proceeds from the sale of unallocated securities used to repay any exempt loan? ☐ Yes ☐ No
11 a Does the ESOP hold any preferred stock? ☐ Yes ☐ No
b If the ESOP has an outstanding exempt loan with the employer as lender, is such loan part of a ''back-to-back'' loan? (See instructions for definition of ''back-to-back'' loan.) ☐ Yes ☐ No
12 Does the ESOP hold any stock that is not readily tradable on an established securities market? ☐ Yes ☐ No

- New Part V will be added as follows:

Part V Contributing Employer Information for Multiemployer Defined Benefit Pension Plans

List each employer required to contribute an annual amount equal to or greater than 5% of all annual contributions to the plan (measured in dollars). (See instructions). Complete as many entries as needed to report all employers required to be listed.

a Name of contributing employer _____
b EIN _____
c Dollar Amount Contributed _____
d Contribution Rate _____
e Contribution Base Unit Measure (Check Applicable Measure):
Hourly __ Weekly __ Unit of Product __
Other (Specify): __
f CBA Expiration Date (mm/dd/yyyy) ____

Appendix D—Description of Proposed Changes to Existing Form 5500 Instructions

General Changes

All instructions regarding ''hand print'' and ''machine print'' and paper filings will be eliminated, as will be instructions as to how to file using the original EFAST system. Instructions will be updated to describe the mechanics of electronic filing and the EFAST2 processing system. Appropriate date changes, table of contents changes, and other non-substantive changes will be made. Cross-references to the Short Form instructions will be included as appropriate. Instructions regarding plans that only filed the Form 5500 for Title II purposes, and not Title I purposes will be eliminated.

To enable filers to better evaluate the proposed changes, the Department is making available on its Web site at *http://www.dol.gov/ebsa*, handwritten mark-ups of the existing Instructions to the Form 5500 and Schedules to show the changes proposed.

Specific Changes Using Format of Existing Instructions

A new general section describing electronic filing will be inserted:

Electronic Filing Requirement

Under the computerized ERISA Filing Acceptance System (EFAST), you must file your 2008 Form 5500 electronically. You may file your 2008 Form 5500 on-line, using EFAST's web-based filing system, or you may file through an EFAST-approved vendor. Detailed information on electronic filing is available at (insert web address). For telephone assistance, call the EFAST Help Line at 1–866–463–3278. The EFAST Help Line is available Monday through Friday from 8 a.m. to 8 p.m., Eastern Time.

[CAUTION] Annual reports filed under Title I of ERISA must be made available by plan administrators to plan participants and by the Department to the public pursuant to ERISA sections 104 and 106. Even though the

Form 5500 must be filed electronically, the administrator must keep a copy of the Form 5500, including schedules and attachments, with all required manual signatures on file as part of the plan's records and must make a paper copy available on request to participants, beneficiaries, and the Department of Labor as required by section 104 of ERISA and 29 CFR 2520.103–1.

Answer all questions with respect to the plan year unless otherwise explicitly stated in the instructions or on the form itself. Therefore, responses usually apply to the year entered at the top of the first page of the form.

Your entries will be initially screened. Your entries must satisfy this screening in order to be initially accepted as a filing. Once initially accepted, your form may be subject to further detailed review, and your filing may be rejected based upon this further review. To reduce the possibility of correspondence and penalties:

• Complete all lines on the Form 5500 unless otherwise specified. Also electronically attach any applicable schedules and attachments.

• Do not enter ''N/A'' or ''Not Applicable'' on the Form 5500 or Schedules unless specifically permitted. ''Yes'' or ''No'' questions on the forms and schedules cannot be left blank, but must be marked either ''Yes'' or ''No,'' and not both.

The Form 5500, Schedules, and attachments are open to public inspection, and the contents are public information subject to publication on the Internet. Do not enter social security numbers in response to questions asking for an EIN. Because of privacy concerns, the inclusion of a social security number on the Form 5500 or on a schedule or attachment that is open to public inspection may result in the rejection of the filing. EINs may be obtained by applying for one on Form SS–4, Application for Employer Identification Number. You can obtain Form SS–4 by calling 1–800–TAX–FORM (1–800–829–3676) or at the IRS Web Site at *www.irs.gov.* The EBSA does not issue EINs.

• Who Must File

○ This section will be modified to eliminate paragraph 6, requiring certain foreign plans to file the Form 5500 based solely on whether the contributions are deducted on a U.S. tax return.

• Do Not File A Form 5500 For A Pension Benefit Plan That Is Any Of The Following

○ This section will be modified to eliminate paragraph 6, referring to ''qualified foreign plans'' under Code section 404A, and replacing it with the following: ''A pension benefit plan that is maintained outside the United States primarily for the benefit of persons substantially all of whom are nonresident aliens.''

Changes to Line by Line Instructions will be made as follows:

Form 5500

Instructions for the new line 7 will be added:

Line 7. For multiemployer plans, enter the total number of employers that made contributions to the plan for any part of the 2007 plan year. Any two or more contributing entities (e.g., places of business with separate collective bargaining agreements) that have the same nine-digit employer identification number (EIN) must be aggregated and counted as a single employer for this purpose.

List of plan characteristic codes will be modified as follows:

Codes 2L and 2M—reference to Limited Pension Plan reporting is eliminated. Codes 3A and 3G are eliminated.

New Codes 2S and 2T are added:

2S Plan provides for automatic enrollment in plan that has employee contributions deducted from payroll.

2T Total or partial participant-directed account plan—plan uses default investment account for participants who fail to direct assets in their account.

The Schedule A Instructions will be changed as follows:

The ''Important Reminder'' regarding the insurance company obligation to provide information will be deleted.

Instructions for the new proposed Part IV will be added:

Part IV—Provision of Information

The insurer (or similar organization) is required to provide the plan administrator with the information needed to complete the return/report, pursuant to ERISA section 103(a)(2). If you do not receive this information in a timely manner, contact the insurer (or similar organization). If information is missing on Schedule A (Form 5500) due to a refusal to provide information, check ''Yes'' on line 10 and enter a description of the information not provided on line 11.

The Schedule B Instructions will be changed as follows:

The instructions for Line 1d(2)(a) will be modified to eliminate discussion of the special rule under Code section 412(l)(7)(C)(i).

Instructions for the new line 12 will be added as follows:

Line 12. Line 12 must be filed by all defined benefit pension plans (except DFEs) with 1,000 or more participants at the beginning of the plan year as shown in line 2(b)(1)(4) of the Schedule B.

Line 12a. Show the beginning of year distribution of assets for the categories shown. These percentages should reflect the total assets held in stocks, debt instruments (bonds), real estate, or other asset classes, regardless of how they are listed on the Schedule H. For example, assets held in master trusts should be disaggregated into the four asset components and properly distributed. They should not be listed under ''Other'' unless the trust contains no stocks, bonds, or real estate holdings. The same methodology should be used in disaggregating trust assets as are used when disclosing the allocation of plan assets on the sponsor's 10-K filings to the Securities and Exchange Commission. REITs should be listed with stocks, while real estate limited partnerships should be included in the Real Estate category.

Line 12b. Report the Macaulay duration for the entire Debt portfolio. The Macaulay duration is a weighted average of the number of years until each interest payment and the principal are received. The weights are the amounts of the payments discounted by the yield-to-maturity of the bond.

When calculating the distribution of debt securities, any corporate debt that has not been rated should be included in the High-Yield Corporate Debt category. Foreign debt should be allocated to the appropriate category as if it were debt issued by U.S. corporations or government entity.

The Instructions for Schedule C will be modified as follows:

The existing general instructions and instructions for Part I will be eliminated. The proposed new general instructions and instructions for the revised Part I and new Part II of Schedule C will be as follows:

Who Must File

Schedule C (Form 5500) must be attached to a Form 5500 filed for a large pension or welfare benefit plan, a MTIA, 103–12IE, or GIA, to report information concerning service providers. For more information on MTIAs, 103–12IEs, and GIAs see the instructions for Direct Filing Entities on pages xx of the Form 5500 Instructions.

Check the Schedule C box on the form 5500 (Part II, line 10b(4)) if a Schedule C is attached to the Form 5500. Multiple Schedule C entries must be used (if necessary) to report the required information.

Lines A, B, C, and D. This information should be the same as reported in Part II of the Form 5500 to which this Schedule C is attached. You may abbreviate the plan name (if necessary) to fit in the space provided.

Do not use a social security number in line D in lieu of an EIN. The Schedule C and its attachments are open to public inspection, and the contents are public information and are subject to publication on the Internet. Because of privacy concerns, the inclusion of a social security number on this Schedule C or any of its attachments may result in the rejection of the filing.

EINs may be obtained by applying for one on Form SS–4, Application for Employer Identification Number. You can obtain Form SS–4 by calling 1–800–TAX–FORM (1–800–829–3676) or at the IRS Web Site at *www.irs.gov.* The EBSA does not issue EINs.

Instructions for Part I

Part I must be completed to report all service providers receiving, directly or indirectly, $5,000 or more in compensation for all services rendered to the plan, MTIA, 103–12IE, or GIA during the plan or DFE year except:

1. Employees of the plan whose only compensation in relation to the plan was less than $25,000 for the plan year;

2. Employees of the plan sponsor or other business entity where the plan sponsor or business entity was reported on the Schedule C as a service provider, provided the employee did not separately receive compensation in relation to the plan; and

3. Persons whose only compensation in relation to the plan consists of insurance fees and commissions listed in a Schedule A filed for the plan.

For purposes of this Schedule, reportable compensation includes money or any other thing of value (for example, gifts, awards,

trips) received by a person who is a service provider in connection with that person's position with the plan or services rendered to the plan. Examples of indirect compensation include: finders' fees, placement fees, commissions on investment products, transaction-based commissions, sub-transfer agency fees, shareholder serving fees, 12b–1 fees, soft-dollar payments, and float income. Also, brokerage commissions or fees (regardless of whether the broker is granted discretion) are reportable whether or not they are capitalized as investment costs.

In the case of service provider arrangements where one person offers a bundle of services priced to the plan as a package rather than on a service-by-service basis, generally only the person offering the bundled service package should be identified in Part I, except that investment service providers must be separately identified if their compensation in the bundled fee arrangement is set on a per transaction basis, e.g., brokerage fees. If, however, the person providing services is a fiduciary to the plan or provides one or more of the following services to the plan—contract administrator, securities brokerage (stock, bonds, commodities), insurance brokerage or agent, custodial, consulting, investment advisory (plan or participants), investment or money management, recordkeeping, trustee, appraisal, or investment evaluation, such person must be separately identified regardless of whether the payment received by such service provider is only as part of a bundle of services priced to the plan as a package. Also, if a person is providing services directly to the plan, as well as part of a bundle of services, that person must be separately identified on Schedule C.

Include in the compensation reported the amount of consideration received by the service provider attributable to the plan or DFE filing the Form 5500, not the aggregate amount received in connection with several plans or DFEs. If, however, reportable compensation is due to a person's position with or services rendered to more than one plan or DFE, the total amount of the consideration received generally should be reported on the Schedule C of each plan or DFE unless the consideration can reasonably be allocated to services performed for the separate plans or DFEs. For example, if an investment advisor working for multiple pension plans and other non-plan clients receives a gift valued in excess of $1,000 from a securities broker in whole or in part because of the investment advisor's relationship with plans as potential brokerage clients, the full dollar value of the gift would be reported on the Schedule C of all plans for which the investment advisor performed services. On the other hand, if a securities broker received incentive compensation from an investment provider based on amount or volume of business with the broker's clients, the Schedule C of each plan could report a proportionate allocation of the incentive compensation attributable to the plan. In such cases, any reasonable method of allocation may be used provided that the allocation method is disclosed to the plan administrator.

The term ''persons'' on the Schedule C instructions includes individuals, trades and businesses (whether incorporated or unincorporated). See ERISA section 3(9).

Either the cash or accrual basis may be used for the recognition of transactions reported on the Schedule C as long as you use one method consistently.

Specific Instructions

Line 1—Service Provider Compensation Information—List each person receiving, directly or indirectly, $5,000 or more in total compensation (i.e., money or any other thing of value) in connection with services rendered to the plan or their position with the plan during the plan year. Start with the most highly compensated and end with the lowest compensated. Enter in element (a) the person's name and complete elements (b) through (g) as specified below. Use as many entries as necessary to list all service providers.

Element (b). Enter the EIN for the person. If the name of an individual is entered in element (a), the EIN to be entered in element (b) should be the EIN of the individual's employer. If the person does not have an EIN, you may enter the person's address and telephone number. Do not use a social security number in lieu of an EIN. The Schedule C and its attachments are open to public inspection and are subject to publication on the Internet. Because of privacy concerns, the inclusion of a social security number on this Schedule C or any of its attachments may result in the rejection of the filing.

Element (c). Select from the list below and enter all codes that describe the nature of services provided to the plan or the position with the plan. If more than one code applies, enter the primary codes first. Complete as many entries as necessary to list all applicable codes. Do not list PBGC or IRS as a service provider on Part I of Schedule C.

Service Provider Codes

10 Accounting (including auditing)
11 Actuarial
12 Contract Administrator
13 Administration
14 Brokerage (real estate)
15 Brokerage (stocks, bonds, commodities)
16 Computing, tabulating, data processing, etc.
17 Consulting (general)
18 Consulting (pension)
19 Custodial (other than securities)
20 Custodial (securities)
21 Insurance agents and brokers
22 Investment advisory and evaluations (participants)
23 Investment advisory and evaluations (plan)
24 Investment management
25 Money management
26 Legal
27 Named fiduciary
28 Printing and duplicating
29 Recordkeeper
30 Trustee (individual)
31 Trustee (business)
32 Trustee (discretionary)
33 Trustee (directed)
34 Pension insurance advisor
35 Valuation services (appraisals, asset valuations, etc.)
36 Employee (plan)
37 Employee (plan sponsor)
99 (Other)

Element (d). Enter relationship to employer, employee organization, or person known to be a party-in-interest, for example, employee of employer, vice-president of employer, union officer, affiliate of plan recordkeeper, etc.

Element (e). Enter the total amount of direct and indirect compensation received. Indicate in the boxes provided whether the amount entered includes an estimate. If the amount or part of the amount entered includes an estimate, describe the formula used for calculating the estimated payments.

Caution: Do not report the same compensation twice on the Schedule C filed for the plan and again on the Schedule C filed for an MTIA or 103–12IE in which the plan participates. Plan filers must include in Element (e) the plan's share of compensation paid during the year to an MTIA trustee or other persons providing services to the MTIA or 103–12IE, if such compensation is not subtracted from the total income of the MTIA or 103–12IE in determining the net income (loss) reported on the MTIA's or 103–12IE's Schedule H, line 2k. MTIA and 103–12IE Schedule C filers must include compensation for services paid by the MTIA or 103–12IE during its fiscal year to the MTIA trustee and persons providing services to the MTIA or 103–12IE if such compensation is subtracted from the total income in determining the net income (loss) reported by the MTIA or 103–12IE on Schedule H, line 2k.

Element (f). You must indicate, by checking ''Yes'' or ''No,'' whether the person identified in element (a) received during the plan year consideration (money or anything else of value) from a source other than the plan or plan sponsor in connection with the person's position with the plan or services provided to the plan. Do not leave element (f) blank.

Element (g). If the answer to (f) is ''Yes,'' *and* the person identified in element (a) is a fiduciary to the plan or provides one or more of the following services to the plan—contract administrator, securities brokerage (stock, bonds, commodities), insurance brokerage or agent, custodial, consulting, investment advisory (plan or participants), investment or money management, recordkeeping, trustee, appraisal, or investment evaluation—enter the requested information for each source other than the plan or plan sponsor from whom the person received $1,000 or more in consideration.

Part II. Service Providers Who Fail or Refuse To Provide Information

Line 2. Provide, to the extent possible, the requested identifying information for each fiduciary or service provider who failed or refused to provide any of the information necessary to complete Part I of this Schedule.

The Schedule D Instructions will be changed as follows:

A statement will be added to advise that DFEs must complete Part II to identify participating plans even if those plans are filing the Form 5500–SF and not the Form 5500 with Schedule D.

The Schedule H Instructions will be changed as follows:

• Line 2i(1) and 2i(4) instructions changed to have reporting for fees and expenses for corporate trustees and individual trustees, including reimbursement of expenses associated with trustees, such as lost time, seminars, travel, meetings, etc., on line 2i(1) instead of 2i(4).

• General instructions for lines 4a through new line 4n are modified to indicate that MTIAs, 103–12IEs, and GIAs do not complete new lines 4m or 4n and MTIAs and 103–12IEs also do not complete new line 4l.

• The Line 4a Instructions are changed to add the following language permitting reporting delinquent participant loans on line 4a and requiring filers to use the following supplemental Schedule if they respond ''yes'' to line 4a:

Participant loan repayments paid to and/or withheld by an employer for purposes of transmittal to the plan that were not transmitted to the plan in a timely fashion may be reported on Line 4a in accordance with the reporting requirements that apply to delinquent participant contributions or they can be reported on Line 4d. See Advisory Opinion 2002–02A, available at *http://www.dol.gov/ebsa.*

Line 4a Schedule. Attach a Schedule of Delinquent Participant Contributions using the format below if you entered ''Yes.'' If you choose to include participant loan repayments on Line 4a, you must apply the same supplemental schedule and IQPA disclosure requirements to the loan repayments as apply to delinquent transmittals of participant contributions.

2008 FORM 5500 LINE 4a.—SCHEDULE OF DELINQUENT PARTICIPANT CONTRIBUTIONS

Participant contributions transferred late to plan	Total that constitute nonexempt prohibited transactions			Total fully corrected under VFCP and PTE 2002–51
	Contributions not corrected	Contributions corrected outside VFCP	Contributions pending correction in VFCP	

• Instructions will be added for the new lines 4l, 4m, and 4n as follows:

Line 4l. You must check ''Yes'' if any benefits due under the plan were not timely paid or not paid in full. Include in this amount the total of any outstanding amounts that were not paid when due in previous years that have continued to remain unpaid.

Line 4m. Check ''Yes'' if there was a ''blackout period.'' A blackout period is a temporary suspension of more than three consecutive business days during which participants or beneficiaries of a 401(k) or other individual account pension plan were unable to, or were limited or restricted in their ability to, direct or diversify assets credited to their accounts, obtain loans from the plan, or obtain distributions from the plan. A ''blackout period'' generally does not include a temporary suspension of the right of participants and beneficiaries to direct or diversify assets credited to their accounts, obtain loans from the plan, or obtain distributions from the plan if the temporary suspension is: (1) Part of the regularly scheduled operations of the plan that has been disclosed to participants and beneficiaries; (2) due to a qualified domestic relations order (QDRO) or because of a pending determination as to whether a domestic relations order is a QDRO; (3) due to an action or a failure to take action by an individual participant or because of an action or claim by someone other than the plan regarding a participant's individual account; or (4) by application of federal securities laws. For more information, see the Department of Labor's regulation at 29 CFR 2520.101–3 (available at *www.dol.gov/ebsa*).

Line 4n. If there was a blackout period, did you provide the required notice not less than 30 days nor more than 60 days in advance of restricting the rights of participants and beneficiaries to change their plan investments, obtain loans from the plan, or obtain distributions from the plan? See 29 CFR 2520.101–3 for specific notice requirements and for exceptions from the notice requirement. Answer ''no'' if notice was not provided even if the plan met one of the exceptions to the notice requirement.

The Schedule I Instructions will be changed as follows:

• The line 2h and 2i Instructions will be changed to conform to the Instructions for the proposed Form 5500–SF:

Line 2h. Administrative service providers (salaries, fees, and commissions) include the total fees paid (or in the case of accrual basis plans, costs incurred during the plan year but not paid as of the end of the plan year) by the plan for, among others:

1. Salaries to employees of the plan;
2. Fees and expenses for accounting, actuarial, legal and investment management, investment advice, and securities brokerage services;
3. Contract administrator fees;
4. Fees and expenses for corporate trustees and individual trustees, including reimbursement for travel, seminars, and meeting expenses;
5. Fees and expenses paid for valuations and appraisals of real estate and closely held securities;
6. Fees for legal services provided to the plan (do not include legal services as a benefit to plan participants).

Do not include in this line amounts paid to plan employees to perform administrative services.

Line 2i. Other expenses (paid and/or payable) include other administrative and miscellaneous expenses paid by or charged to the plan, including among others, office supplies and equipment, telephone, postage, rent and expenses associated with the ownership of a building used in operation of the plan.

• The Line 4a Instructions will be changed to add the following language permitting filers to report delinquent participant loan repayments on line 4a and to require filers to use the following supplemental Schedule if they respond ''yes'' to line 4a:

Participant loan repayments paid to and/or withheld by an employer for purposes of transmittal to the plan that were not transmitted to the plan in a timely fashion may be reported on Line 4a in accordance with the reporting requirements that apply to delinquent participant contributions or they can be reported on Line 4d. See Advisory Opinion 2002–02A, available at *www.dol.gov.ebsa.*

Line 4a Schedule. Attach a Schedule of Delinquent Participant Contributions using the format below if you entered ''Yes'' on Line 4a and you are checking ''No'' on Line 4k because you are not claiming the audit waiver for the plan. If you choose to include participant loan repayments on Line 4a, you must apply the same supplemental schedule and IQPA disclosure requirements to the loan repayments as apply to delinquent transmittals of participant contributions.

2008 FORM 5500 LINE 4a.—SCHEDULE OF DELINQUENT PARTICIPANT CONTRIBUTIONS

Participant Contributions Transferred Late to Plan	Total that Constitute Nonexempt Prohibited Transactions			Total Fully Corrected Under VFCP and PTE 2002–51
	Contributions Not Corrected	Contributions Corrected Outside VFCP	Contributions Pending Correction in VFCP	

• The Instructions for line 4k will be updated to indicate that a model notice that plans can use to satisfy the enhanced SAR requirements to be eligible for the audit waiver is made available as an appendix to 29 CFR 2520.104–46 under the proposed regulations published simultaneously with this Notice.

• Instructions will be added for the new lines 4l, 4m, and 4n as follows:

Line 4l. You must check ''Yes'' if any benefits due under the plan were not timely paid or not paid in full. Include in this amount the total of any outstanding amounts that were not paid when due in previous years that have continued to remain unpaid.

Line 4m. Check ''Yes'' if there was a ''blackout period.'' A blackout period is a temporary suspension of more than three consecutive business days during which participants or beneficiaries of a 401(k) or other individual account pension plan were unable to, or were limited or restricted in their ability to, direct or diversify assets credited to their accounts, obtain loans from the plan, or obtain distributions from the plan. A ''blackout period'' generally does not include a temporary suspension of the right of participants and beneficiaries to direct or diversify assets credited to their accounts, obtain loans from the plan, or obtain distributions from the plan if the temporary suspension is: (1) Part of the regularly scheduled operations of the plan that has been disclosed to participants and beneficiaries; (2) due to a qualified domestic relations order (QDRO) or because of a pending determination as to whether a domestic relations order is a QDRO; (3) due to an action or a failure to take action by an individual participant or because of an action or claim by someone other than the plan regarding a participant's individual account; or (4) by application of federal securities laws. For more information, see the Department of Labor's regulation at 29 CFR 2520.101–3 (available at *www.dol.gov/ebsa*).

Line 4n. If there was a blackout period, did you provide the required notice not less than 30 days nor more than 60 days in advance of restricting the rights of participants and beneficiaries to change their plan investments, obtain loans from the plan, or obtain distributions from the plan? See 29 CFR 2520.101–3 for specific notice requirements and for exceptions from the notice requirement. Answer ''no'' if notice was not provided even if the plan met one of the exceptions to the notice requirement.

The Schedule R Instructions will be modified as follows:

• The general instructions will be updated to explain how Schedule R now also applies to ESOPs.

• Instructions will be deleted for old Part IV, Coverage, and instructions will be added for new Part IV, line 11b as follows:

Line 11b. A loan is a ''back-to-back loan'' if the following requirements are satisfied:

1. The loan from the employer corporation to the ESOP qualifies as an exempt loan under Department regulations at 29 CFR 2550.408b–3 and under Treasury Regulation sections 54.4975–7 and 54.4975–11; and

2. The repayment terms of the loan from the sponsoring corporation to the ESOP are substantially similar to the repayment terms of the loan from the commercial lender to the sponsoring employer.

Instructions will be added for new Part V, line 13 as follows:

Part V Contributing Employer Information for Multiemployer Defined Benefit Pension Plans

Line 13 should be completed only by multiemployer defined benefit pension plans that are subject to the minimum funding standards (see Code section 412 and Part 3 of Title I of ERISA). Enter the information on Lines 13a through 13f for any employer that contributed five (5) percent or more of the plan's total contributions for the 2008 plan year. The employers should be listed in descending order according to the dollar amount of their contributions to the plan. Complete as many entries as are necessary to list all employers that contributed five (5) percent or more of the plan's contributions.

Line 13a. Enter the name of the contributing employer to the plan.

Line 13b. Enter the EIN number of the contributing employer to the plan. Do not enter a social security number in lieu of an EIN. The Form 5500 is open to public inspection, and the contents are public information and are subject to publication on the Internet. Because of privacy concerns, the inclusion of a social security number on this line may result in the rejection of the filing.

EINs may be obtained by applying for one on Form SS–4, Application for Employer Identification Number. You can obtain Form SS–4 by calling 1–800–TAX–FORM (1–800–829–3676) or at the IRS Web Site at *http://www.irs.gov*. The EBSA does not issue EINs.

Line 13c. Dollar Amounts Contributed. Enter the total dollar amount contributed to the plan by the employer for all covered workers in all locations for the plan year. Do not include the portion of an aggregated contribution that is for another plan, such as a welfare benefit plan, a defined contribution pension plan or another defined benefit pension plan.

Line 13d. Contribution Rate. Enter the employer's contribution rate per contribution base unit (*e.g.*, if the contribution rate is $xx.xx per covered hour worked, enter $xx.xx). If the employer's contribution rate changed during the plan year, enter the last contribution rate in effect for the plan year. If the employer uses different contribution rates for different classifications of employees or different places of business, complete separate entries for each contribution rate.

Line 13e. Contribution Base Units. Check the contribution base unit on which the contribution rate is based. If the contribution rate is not measured on an hourly, weekly, or unit-of-production basis, check ''other'' and indicate the basis of measurement. If you entered more than one contribution rate for an employer in line 13d, show the applicable contribution base unit for each contribution rate.

Line 13f. Collective Bargaining Agreement Expiration Date. Enter the date on which the employer's collective bargaining agreement expires. If the employer has more than one collective bargaining agreement requiring contributions to the plan, enter the expiration date of the agreement that provided for the largest dollar amount contributed by the employer for the plan year.

Statutory Authority

Accordingly, pursuant to the authority in sections 101, 103, 104, 109, 110 and 4065 of ERISA and section 6058 of the Code, the Form 5500 Annual Return/Report and the instructions thereto are proposed to be amended as set forth herein, including the addition of the proposed Short Form 5500.

Signed at Washington, DC, this 13th day of July, 2006.

Ann C. Combs,

Assistant Secretary, Employee Benefits Security Administration, U.S. Department of Labor.

Carol D. Gold,

Director, Employee Plans, Tax Exempt and Government Entities Division, Internal Revenue Service.

Vincent K. Snowbarger,

Acting Executive Director, Pension Benefit Guaranty Corporation.

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