

Issue 2011-5
June 22, 2011

employee plans news

PROTECTING RETIREMENT BENEFITS THROUGH EDUCATING CUSTOMERS

Internal Revenue Service
Tax Exempt and Government
Entities Division

A Publication of Employee Plans

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Review [recent news releases](#) granting relief to affected taxpayers in certain areas impacted by severe weather, including extensions to file Form 5500 series returns and other time sensitive actions listed in Revenue Procedure 2007-56

Advisory Committee on TE/GE

- [2011 ACT Report](#)
- **New Members** - we welcome [10 new members](#) to ACT, including Stephen L. Ferszt and Joan E. McCabe for Employee Plans

Visit the IRS Video Portal for Archived Presentations

Use the [portal](#) to access past Employee Plans webinars and phone forums

Share this Newsletter

Use the “share” button in the email you received about this newsletter to email the link to this Web page to others, post the link to social networking sites like Facebook and LinkedIn or disseminate it through Twitter

New and Updated Forms and Publications:

- [Form 8955-SSA](#), *Annual Registration Statement Identifying Separated Participants with Deferred Vested Benefits*
- [Pub 3066](#), *Have you had your Check-up this year? for Retirement Plans*
- [Pub 3636](#), *Employee Plans Brochure*
- [Pub 4222](#), *401(k) Plans for Small Businesses*
- [Pub 4482](#), *403(b) Tax-Sheltered Annuity for Participants*
- [Pub 4483](#), *403(b) Tax-Sheltered Annuity for Sponsors*
- [Pub 4484](#), *Choose a Retirement Plan for Employees of Tax Exempt and Government Entities*
- [Pub 4587](#), *Payroll Deduction IRAs for Small Businesses*

Recurring Columns:

- [DOL Corner](#)
- [PBGIC Insights](#)
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- [Calendar of EP Benefits Conferences](#)

2009 Form 8955-SSA and 2010 Form 5500-EZ Released

Form 8955-SSA

[Form 8955-SSA](#) (2009) has been released.

The due date for filing the Form 8955-SSA for both the 2009 and 2010 plan years is the later of (1) January 17, 2012 or (2) the due date that generally applies for filing the Form 8955-SSA for 2010. The IRS expects to issue guidance confirming this extended due date shortly. The January 17, 2012 date will not be eligible for further extensions by filing Form 5558.

See [Announcement 2011-21](#) for more information on Form 8955-SSA.

Filers can either:

- combine plan year 2009 and 2010 data on the 2009 Form 8955-SSA, or
- file separate Forms 8955-SSA to report 2009 and 2010 plan year data.

See our [FAQ](#) for how to combine 2009 and 2010 reportable employees on the 2009 form.

Obtain the Form 8955-SSA:

- by downloading the fillable form from the link above,
- through third party software developers, or
- by calling the IRS at (800) 829-3676.

A barcode capturing the data you entered on the fillable form will appear on the completed pages when printed.

You may file Form 8955-SSA using the Filing Information Returns Electronically system. The FIRE system will be down from 6:00 p.m. December 16, 2011, until midnight January 2, 2012, for programming updates. During this time you will not be able to file electronically. See [Revenue Procedure 2011-31](#) for more information about the FIRE system.

Form 5500-EZ

The [2010 Form 5500-EZ](#) and its [Instructions](#) are now available. However, one-participant plans eligible to file the electronic-only Form 5500-SF, Short Form Annual Return/Report of Small Employee Benefit Plan, are encouraged to do so instead of filing the paper-only Form 5500-EZ. Use the ERISA Filing Acceptance System (EFAST2) to file the 5500-SF.

Plan sponsors or administrators of one-participant and certain foreign plans who file the paper 2010 Form 5500-EZ can [download](#) it from IRS.gov. Alternatively, you can file using approved software, if available, or order the form and its instructions by calling the IRS at (800) 829-3676.

Mail your completed and signed Form 5500-EZ to:

Department of the Treasury
Internal Revenue Service
Ogden, UT 84201-0020

Please don't mail the 2010 Form 5500-EZ to the Lawrence, Kansas address or it will be returned to you.

Additional Resources:

- [Form 8955-SSA Resources](#)

Form 5500 - Special Extensions of Time to File

To avoid delays in processing your form, it is important for filers to indicate that they qualify for a Special Extension of Time to File only if:

- they have been impacted by a **presidentially-declared disaster**, or
- they have service in, or in support of, the Armed Forces of the United States in a **combat zone**.

No other filers should be currently applying for a special extension. Special extensions are announced by the IRS and posted on IRS.gov. If you are relying on a special extension, check the appropriate box and enter the **exact language described in the announcement** in the space provided. For example, indicate “Disaster Relief Extension” or “Combat Zone Extension.”

Employee Plans Rulings & Agreements Priority Items

1. Governmental Plans Initiative – EP R&A continues to work with the Governmental Plans community identifying methods to provide guidance and resources to help them comply with the qualified plans rules.

R&A’s review of governmental plans revealed many issues, including the plan definition of normal retirement age. Additionally, R&A continues to develop guidance related to the definition of governmental employers under Code §414(d).

2. International – Following the 2009 Advisory Committee on Tax Exempt and Government Entities report, R&A accelerated its efforts to address international issues, including coordination with other IRS business units.

R&A is also working on guidance on:

- the application of the currency conversion rules;
- income sourcing, withholding and reporting rules relating to pensions of foreign countries and U.S. territories;
- rollovers from a foreign pension plan to an IRA; and
- follow-up guidance to Revenue Ruling 2011-1 on a Puerto Rico plan’s participation in a group trust.

3. Correction Programs – R&A has been working on an updated revenue procedure that includes 403(b) plan issues. Currently, 403(b) plans can use the [Voluntary Compliance Program](#) to correct certain operational, demographic and employer eligibility failures. The updated revenue procedure will allow 403(b) plans to correct written plan program failures.

4. Interim Amendment Requirement – The [2010 ACT report](#) identified several issues on the staggered remedial amendment system and determination letter process, including required adoption of interim amendments between remedial amendment cycles. The TE/GE Commissioner established the Employee Plans Determination Letter Study Group in 2010 to look for ways to improve the system. Recently, the Group presented its recommendations to the Commissioner.

5. 403(b) Plans – EP recently published a [revenue ruling](#) on plan terminations and is exploring other 403(b) areas where additional guidance may be helpful to plan sponsors.

We're Glad You Asked!

We contributed to our SEP plan after the original due date of our business' 2010 income tax return without filing an extension. Can we deduct the contributions on the 2010 tax return?

No. To get a deduction for a year, you must deposit contributions to your SEP plan by the due date (including extensions) of your business' federal income tax return for the year. If you apply for and receive an extension to file your tax return, you have until the end of the extension period to deposit the plan contributions, even if you file the return before the end of the extension period.

However, you did not request an extension to file your 2010 tax return and did not deposit the SEP plan contributions by the filing due date for that return. Therefore, you are not allowed to deduct any SEP plan contributions on your 2010 tax return.

If you already deducted SEP plan contributions on the 2010 tax return, then you must file an amended tax return as soon as possible. You may be able to deduct the contributions on your 2011 tax return.

Additional Resources:

- [SEP](#) plan Web pages
- [FAQs](#) - SEPs
- [Publication 560](#), *Retirement Plans for Small Business (SEP, SIMPLE, and Qualified Plans)*

We're Glad You Asked!

How do you calculate a participant's required minimum distribution from a defined contribution plan?

It depends on the type of DC plan that you have. Most DC plans (for example, 401(k) and profit-sharing plans) must comply with [Treas. Regs. §§1.401\(a\)\(9\)-1 through -9](#). SEP and SIMPLE IRA plans are DC plans but are governed by the IRA RMD rules under [Treas. Regs. §1.408-8](#), and 403(b) plans mostly follow the IRA rules.

401(k) and profit-sharing plans must calculate RMDs by dividing the participant's account balance at the end of the calendar year prior to the year in which the RMD is to be made by using the appropriate number from one of the following tables:

- [Joint Life and Last Survivor Expectancy Table](#) - for a married participant whose spouse is more than 10 years younger than the participant and is the sole beneficiary of the participant
- [Uniform Lifetime Table](#) - for all other participants

A participant's first year's RMD can be made as late as April 1 of the following year. A plan may purchase an annuity or use a shorter period than those listed in the Tables to distribute the participant's account balance.

Calculating RMDs after the participant's death

Participant dies on or after RMDs begin - Divide the participant's account balance at the end of the calendar year prior to the year in which the RMD is to be made by the applicable number in the Single Life Expectancy Table depending on who the beneficiary is:

- **No designated beneficiary** - use the participant's life expectancy, for the participant's age at his or her birthday in the year of death and subtract one to calculate the RMD for the year after the year of death. In each subsequent calendar year, reduce the number by one for each calendar year since the participant's death.
- **Designated beneficiary**
 - **Nonspouse** (or when spouse is not the sole beneficiary) – use the beneficiary's remaining life expectancy based on the beneficiary's age in the calendar year after the calendar year in which the participant died. In each subsequent calendar year, reduce the number by one for each calendar year since the

participant's death. If the RMD determined above for *no designated beneficiary* is smaller, then use that method.

If there are multiple beneficiaries, use the beneficiary with the shortest life expectancy.

- **Spouse** (the sole designated beneficiary) - use the surviving spouse's life expectancy based on his or her age in each distribution calendar year after the participant dies. If the RMD determined above for *no designated beneficiary* is smaller, then use that method.

If the spouse dies, continue to use the spouse's life expectancy based on his or her age at death, reducing the number by one for each calendar year since the spouse's death.

A plan must offer a nonspouse beneficiary the opportunity to directly roll over an inherited plan account to an inherited IRA.

Participant dies on or before RMDs begin - Use similar methods as used in calculating RMDs when *Participant dies on or after RMDs begin*, except:

- if there is no designated beneficiary (or if allowed by the terms of the plan), the participant's entire account must be distributed by December 31 of the fifth year following the year of death.
- if there is a designated beneficiary, RMDs must be based solely on the beneficiary's remaining life expectancy (the participant's life expectancy cannot be used).

RMD starting date

A DC plan must make RMDs to a participant by April 1 of the first year after the later of the calendar year in which he or she:

- reaches age 70½; or
- retires from the employer maintaining the plan (if delaying RMDs is allowed by the terms of the plan).

However, the plan must begin making RMDs to a participant who is a 5% owner of the employer maintaining the plan by April 1 of the first year after the calendar year in which the participant reaches age 70½.

Additional Resources:

- [Publication 560](#), *Retirement Plans for Small Business (SEP, SIMPLE, and Qualified Plans)*
- [RMD Comparison Chart](#) (IRAs vs. Defined Contribution Plans)

Form 5300 Applications for Employee Stock Ownership Plans

EP Determinations has taken numerous steps to expedite and improve our determination letter application processing for Employee Stock Ownership Plans, including forming a cadre of determination letter specialists dedicated to review these plans. We are changing some procedures for reviewing ESOPs submitted on Form 5300, *Application for Determination for Employee Benefit Plan*, during Cycles C-E:

- Practitioners who have submitted applications for multiple ESOPs, and who receive a letter from a determination specialist requesting plan amendments to a particular plan, may determine the applicability of that request to all other plans filed by the practitioner's firm and submit a single response that would apply to some or all of the amendments to the firm's pending ESOP Form 5300 applications. Include the letter from the determination specialist requesting the amendment(s) and provide a separate copy of the amendment to each affected plan, identifying the plans to which the proposed amendments apply.
- EP Determinations developed a revised, streamlined [worksheet](#) to review ESOPs in their initial review stage. Plan sponsors and practitioners may use the worksheet as a tool to design ESOP plan documents.

Plan sponsors are reminded that if all the requested information is not received by the date stated in the letter, the application may be closed and returned to the sponsor without further review.

Completing a Power of Attorney Form for Form 5330

If you prepare a [Form 5330](#), *Return of Excise Taxes Related to Employee Benefit Plans* ([instructions](#)), you may need to complete [Form 2848](#), *Power of Attorney and Declaration of Representative* ([instructions](#)). The taxpayer information included on Form 2848 will depend on the specific excise taxes reported on Form 5330.

For Form 5330 filed for Code §§4971 (except for 4971(g)(4)), 4972, 4975, 4976, 4977, 4978, 4979, 4979A, 4980, 4980F excise taxes imposed on the employer.

1. Line 1 Taxpayer Information – insert the taxpayer’s (the employer’s) name, address, telephone number, [EIN](#) and the plan number;
2. Line 2 Representative – provide your name, address, telephone number and [CAF number](#);
3. Line 3 Tax Matters – enter “excise tax” and list Form 5330 as the tax form with the specific year(s) or period(s) for which Form 5330 is being filed (using the term “all” or leaving the item blank is not acceptable);
4. Lines 4-9 – complete using the instructions;
5. Part II Declaration of Representative – list your designation and jurisdiction. Unenrolled Return Preparers should enter in the jurisdiction box: their two-letter state abbreviation for the state and the year(s) of the Form(s) 5330 they prepared; and
6. Sign and date the form.

Note: for Code §§4978 and 4979A, the taxpayer could be a worker-owned cooperative.

For Form 5330 filed for Code §§4965, 4971(g)(4), 4973(a)(3), 4975, 4980F excise taxes imposed on someone other than the employer, the taxpayer information on Line 1 will be someone other than the employer. The other steps for completing Form 2848 remain the same.

Code §4965 excise taxes imposed on the entity manager

Line 1 – Taxpayer Information - use the plan entity manager’s name, address, and telephone number instead of the employer’s.

Code §4971(g)(4) excise taxes imposed on a multiemployer plan sponsor

Line 1 – Taxpayer Information - use the multiemployer plan sponsor’s name, address, and telephone number instead of the employer’s. The term “plan sponsor” means, for any multiemployer plan, the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the plan.

Code §4973(a)(3) excise taxes on excess contributions

Line 1 – Taxpayer Information - give the individual’s name, address, telephone number, and Social Security number instead of the employer’s.

Code §4975 excise taxes for disqualified person other than the employer

Line 1 – Taxpayer Information - give the name of the entity or individual committing the act, their address, telephone number, EIN or Social Security number (depending on whether the disqualified person is an entity or an individual), and the plan number.

Code §4980F excise tax imposed on a multiemployer plan

Line 1 – Taxpayer Information - give the name of the authorized member(s) of the board of trustees representing the plan, their address, telephone number, EIN, and the plan number.

Note about Unenrolled Preparers

An unenrolled return preparer **cannot** be a Power of Attorney unless a Form 5330 has already been filed and he or she prepared it. Unenrolled return preparers cannot represent a taxpayer for the initial preparation of Form 5330 or any other return.

EPCU Project: Where are the Plan Participants?

Beginning in April 2011, EPCU sent compliance contact letters to a selection of plan sponsors who filed [Form 5500](#) series returns showing contributions to a plan with no participants. Plan sponsors should reply to these information requests.

This project's purpose is to determine if plan sponsors are complying with plan qualification rules and annual information-reporting requirements. Potential issues include favoring highly compensated employees and engaging in prohibited and abusive tax avoidance transactions.

How the Project Works

Contact letters ask for the number of participants at the beginning and end of the plan year, the amount of contributions and the value of plan assets. Sponsors may furnish any documents they believe will be helpful in responding to the letter.

After reviewing each response, EPCU determines whether the plan sponsor needs to make corrections. For example, the plan sponsor may need to amend returns, establish or revise operational practices, administrative policies and procedures or correct plan errors using the [Employee Plans Compliance Resolution System](#).

What We Found

Responses received so far indicate most errors are caused by:

1. computer software glitches,
2. forgetting to fill in the participant count, or
3. copying line items from a prior year's Form 5500 return and missing the line if the new Form 5500 return has a different line number for that question.

You can prevent these errors by reviewing your Form 5500 prior to filing it. You can even file an amended return if you discover an error after filing it. Find tips for avoiding, finding and correcting plan errors on the [Correcting Plan Errors Web page](#).

Compliance Check Tips

1. Answer the letter as accurately as possible by the due date. If you need additional time, contact the person listed on the letter for an extension before the due date. Failure to provide the information requested could result in further action or examination of your plan.
2. You may email requested information. However, IRS will not respond to you by email, so please include your telephone number on any correspondence.
3. In addition to the information requested in the letter, you may furnish any other documents you believe will be helpful for us to review.
4. If your representative, rather than the plan sponsor, plan administrator or trustee, responds to the compliance check, send us a completed [Form 2848](#), *Power of Attorney and Declaration of Representative*, to allow us to contact that person directly and also to send them a copy of the compliance check closing letter.
5. If the [Form 5500](#) series return information is inaccurate, consider filing an amended return to correct it. Read DOL's [FAQ # 4](#) when amending your return. Find Forms 5500 and 5500-SF on DOL's website. File an amended [Form 5500-EZ](#) by mailing it to IRS in Utah (see [Instructions](#)); do not use DOL's EFAST2.

Contacting the EPCU

If you have general questions about this project, please [email](#) us and we will be glad to answer your questions. Please include the words "Plan Participant Project" in the subject line.

Exam Priorities...With Monika Templeman

Today's Discussion: Issues on the Employee Plans Compliance Unit's Radar Screen

In each issue, Monika Templeman, Director of EP Examinations, responds to questions and offers insights on retirement plan topics uncovered during audits. You may provide feedback or suggest future topics for discussion by emailing her at: RetirementPlanComments@irs.gov.

Monika, your last discussion addressed how plan sponsors should respond to [compliance checks sent by the Employee Plans Compliance Unit](#). What are some of the current issues that EPCU is reviewing?

EPCU's newest project is confirming higher educational organizations' compliance with the [universal availability](#) rule, which is one of the main errors we find in 403(b) plan examinations. EPCU just completed a 403(b) Universal Availability K-12 Schools Follow-up Project in which we contacted over 5,000 school districts in over 40 states. We found that **more than 20% of the plans had universal availability problems**, which they voluntarily corrected. This resulted in the inclusion of improperly excluded teachers, school bus drivers, cafeteria workers, janitors and substitute teachers in the plan. We also increased our outreach efforts about the 403(b) universal availability rule.

Another recent EPCU project focuses on Form 5500 series returns that show no plan participants, yet the plan received employer contributions. We're sending compliance check letters to these sponsors to learn if this information is accurate and, if so, why these plans have no participants, but still have assets and continue to receive contributions.

Additionally, EPCU is requesting information from plan sponsors that terminated their plan, but have plan assets remaining. This could be a violation of Revenue Ruling 89-87, which requires plan assets be distributed as soon as administratively feasible after the stated plan termination date.

EPCU's Partial Termination/Partial Vesting Project looks at Form 5310 returns that had over a 20% drop in participants from one year to the next to determine if a partial termination occurred and, if so, whether affected plan participants were 100% vested. Because of this project, **over 250 participants were 100% vested** as required by Revenue Ruling 2007-43.

Another recent EPCU compliance check project is the Form 5500 Non-Filer Project. We contact plan sponsors if their latest Form 5500 return was not marked "final" and they have not filed a subsequent return. EPCU began by selecting returns that were due for the plan year ending January 31, 2010 (originally due August 31 if no extension was filed) and that have still not filed by February 2011. We are finding that not everyone is aware they need to file Form 5500 through EFAST2. Some Form 5500-EZ filers were not aware they must now mail their return to the IRS Campus in Ogden, Utah. Instead, they may have erroneously mailed their Form 5500-EZ to the Department of Labor. Of the over 150 contacts closed, **32% resulted in a filed return**.

Finally, the Qualifying Employer Securities Project contacted plan sponsors who reported over 10% of their plan's net assets were invested in employer securities. We found in 32% of over 150 cases closed to date that the **stock is not being valued at fair market value**, especially in non-publicly traded companies sponsoring small plans and Rollovers as Business Start-Ups (ROBS) plans.

Is EPCU involved in Employee Plan's international projects?

Two EPCU projects are focused at improving international compliance. The first project is confirming whether a foreign entity sponsoring a qualified plan maintains a [domestic trust](#). In general, trusts must be administered exclusively in the U.S. and U.S. persons must control substantive decisions. So far, the responses indicate that approximately 95% of foreign companies understand their plans must maintain domestic trusts.

The second project identifies [individuals with foreign addresses](#) who failed to report premature distributions subject to the additional 10% early distribution tax under Code §72(t). EPCU sent compliance letters to individuals in every continent except Antarctica. To date, we have determined that **global taxpayers are generally unaware they had to file a U.S. tax return to report and pay taxes on their worldwide income and were subject to the additional early distribution tax**. International employers and tax preparers don't appear to be sufficiently knowledgeable of U.S. taxation filing, withholding and reporting requirements. We also found that Form 1099-R payers are inaccurately completing the form for global U.S. taxpayers using their "global" address. As globalization continues to escalate, U.S. citizens must be aware of the tax laws affecting them regardless of their current non-U.S. address.

A new EP International Hacienda Compliance Check Project will begin later this year. It will initially focus on Form 5500 coding to ensure adherence to Puerto Rico or U.S. law.

As projects are completed, we post our findings on the EPCU Web page.

The EPCU appears to be a vital part of your work plan.

Yes, their work enables us to contact more taxpayers using fewer resources; we contact many more taxpayers than we ever could just on examinations alone. Information that EPCU receives helps us because we can share [project results](#) internally and externally. Internally, we can select better returns for examinations, resulting in a better chance of contacting a plan sponsor with operational issues. Externally, our findings allow plan sponsors to review their plans and, if necessary, [correct errors](#).

EPCU lists about fifteen projects as “current” on the [EPCU](#) Web page. I assume EPCU employees are quite busy.

EPCU is in a constant state of activity. Their work has led me to set up a third group of employees, who work on current projects and brainstorm future ones.

To close this article, I think it would be beneficial to reiterate what happens when a plan sponsor doesn't respond to an EPCU letter.

Through many different outreach venues, we continue to inform plan sponsors that their failure to answer an EPCU compliance contact will result in further action and quite possibly, a full examination of their plan. Plan sponsors who receive contact letters can email us at EPCU@irs.gov to ask for clarification of the request and extensions of time. Remember, an EPCU Compliance Check does not preclude a plan sponsor from using our Voluntary Correction Program, and where feasible, self-correction, to correct plan errors cost-effectively unless the plan is referred for audit.

DOL Corner

The Department of Labor's Employee Benefits Security Administration (DOL/EBSA) announced new guidance as featured below. You can subscribe to [DOL/EBSA's](#) website homepage for updates.

Extension and Alignment of Applicability Dates for Fee Disclosure Rules

On June 1, DOL/EBSA published a [proposed rule](#) to extend and align the applicability dates for its retirement plan fee disclosure rules.

DOL/EBSA published an [interim final regulation](#) on July 16, 2010, requiring retirement plan service providers to disclose comprehensive information about their fees and potential conflicts of interest to plan fiduciaries. Although the new requirements are scheduled to apply to plan contracts or arrangements for services in existence on or after July 16, 2011, DOL/EBSA previously announced its intention to extend the deadline to January 1, 2012. The proposed rule, when finalized, would make the extension official. DOL/EBSA recognizes that, because a final rule is not yet in place, service providers may need additional time to comply.

DOL/EBSA also published a [final participant-level regulation](#) on October 20, 2010, requiring that employers disclose information about plan and investment costs to workers who direct their own investments. This regulation applies for plan years beginning on or after November 1, 2011, with a 60-day transition provision. DOL/EBSA's proposal would amend the regulation's transitional rule so that employers would have up to 120 days to furnish initial disclosures to workers. This amendment will provide additional time for employers to obtain the information they need from service providers to satisfy disclosure obligations to their workers.

Electronic Disclosure by Employee Benefit Plans

On April 7, DOL/EBSA published a [Request for Information](#) to solicit public comments to assist in determining whether and possibly how to modify current rules regarding the electronic distribution of employee benefit plan information. Plan information, such as quarterly account statements, is required to be disclosed under ERISA.

The RFI has 30 specific questions on a broad range of topics related to electronic distribution of benefit plan information. The comment period has closed. [Comments](#) received are available on DOL/EBSA's website.

Proposed Definition of “Fiduciary” of Employee Benefit Plans

On October 22, DOL/EBSA published a [proposed rule](#) to update the definition of “fiduciary” to more broadly define the term as a person who provides investment advice to plans for a fee or other compensation.

The proposed amendment would update the definition to changes in the marketplace and in the practices of investment advice providers.

As the proposal notes, the 1975 rule’s approach to fiduciary status may inappropriately limit DOL/EBSA’s ability to protect plan sponsors, plans, participants and beneficiaries from conflicts of interest that may arise from today’s diverse and complex fee practices in the retirement plan services market. The 1975 regulation may leave many employers, participants and beneficiaries who expect to receive unbiased advice unaware of the potential conflicts of interest of those who provide investment advice for a fee.

The proposed rule, which more closely reflects the statutory definition, is designed to remedy this problem, and protect plan officials and participants who expect unbiased advice, by giving a broader and clearer understanding of when individuals providing such advice are subject to ERISA’s fiduciary standards.

DOL/EBSA held a public hearing on March 1 and 2 on the proposed regulation. The [transcript](#) is posted on the dedicated Web page that has public comments, the hearing agenda and testimony. The public hearing record was extended for 15 days after the transcript was posted on DOL/EBSA’s website to give the public an opportunity to comment on issues raised at the hearing. The extended comment period has closed. [Comments](#) received after the hearing are available on the dedicated Web page as well.

Going Forward, Year Two of Electronic Filing with EFAST2 – A Compliance Assistance Webcast

Now that the first year of electronic filing the Form 5500 has been completed using the EFAST2 system, there are a few changes to be aware of while preparing to file for 2010. DOL/EBSA held a webcast on April 27 to address what had changed since the launch of EFAST2. The webcast also discussed filer experiences, what to expect when filing the 2010 Form 5500 and considerations for the 2011 Form 5500 filing. It also provided an update on the Delinquent Filer Voluntary Compliance Program. The archive of this [webcast](#) is available on DOL/EBSA’s website and the EFAST2 website.

PBGC Insights

Preliminary Plan for Regulatory Review

PBGC’s [Preliminary Plan for Regulatory Review](#) is available for public comment. The Preliminary Plan was developed in response to Executive Order 13563, *Improving Regulation and Regulatory Review*. That order calls for an “open exchange” of information among government officials, experts, stakeholders and the public. PBGC encourages comments as it finalizes its Plan and engages in the regulatory review. Identify comments as “Regulatory Review” and submit by:

- [Federal eRulemaking Portal](#): Follow the website instructions for submitting comments.
- Email: reg.comments@pbgc.gov.
- Fax: (202) 326-4224.
- Mail or hand delivery: Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW, Washington, DC 20005-4026.

All comments will be posted on www.pbgc.gov.

Confirming Premium E-Filing Submissions via My Plan Administration Account (My PAA)

- View the Plan Page for Screen Filings and Imported Filings: If a screen filing or an imported filing has been submitted to PBGC, team members can verify the submission by viewing the filing receipt reflected on the Plan Page. The filing receipt shows the date/time that PBGC received the filing and all the data submitted. If the filing receipt is not present on the Plan Page, the filing has not been submitted. The submission can also be viewed on the plan’s account history (see Account History bullet below).

- View the uploader's Home Page for Uploaded Filings: If a file with one or more filings has been submitted to PBGC, only the uploader can see the confirmation in the Upload section on his/her Home Page. The confirmation shows the date/time PBGC received the file and the file name that was uploaded; however, it does not show any of the filing data. The uploader is responsible for ensuring that the appropriate filings were included in the file uploaded to PBGC. The submission can also be viewed on the plan's account history (see the following Account History bullet).
- View the Account History for all Filings: The submission of all types of filings can be verified on the plan's account history. PBGC urges all sponsors/plan administrators to have one or more representatives view the plan's online account history to ensure that the filing was submitted/posted correctly and to determine whether there are any overpayments or underpayments. In order to view a plan's account history, a person must have a My PAA account that includes the plan along with the "view account history" permission.
- For additional information, review the following [Frequently Asked Questions](#)
 - How do I access an in-process premium filing?
 - How do I know PBGC received a premium filing?
 - How can I view a plan's account history online?