

Employee Plans News

Issue 2014-18, November 13, 2014

[Form 5500-SUP](#) – draft of the paper supplement for 2015 and later plan years

[New option for plan sponsors](#) to include income annuities in default target date fund investment options (Notice 2014-66)

[EPCU QJSA project](#) – most sponsors complied with the qualified joint and survivor annuity notice and consent requirements

[One-per-year limit on IRA rollovers](#) allows owners of multiple IRAs fresh start in 2015 (Announcement 2014-32)

[The Information Reporting Program Advisory Committee](#) (IRPAC) 2014 annual report

[Renew your PTIN](#) before Dec. 31

[DOL Corner](#) updates

Draft Paper Form 5500-SUP for Plan Year 2015

Final Regulations ([T.D. 9695](#)) issued under Internal Revenue Code Sections 6058 and 6059 generally require filers who have to file at least 250 returns with the IRS during the calendar year to file their Form 5500-series returns [electronically](#).

- The regulations are effective for plan years beginning on or after January 1, 2015, but only for Form 5500-series returns with a filing deadline after December 31, 2015.
- As noted in the preamble to the regulations, the IRS plans to:
 - add items on the 2015 Forms 5500 and 5500-SF that relate solely to the Internal Revenue Code requirements and
 - provide a supplemental, paper-only form containing those Code-related items for filers who aren't required to file electronically under the regulations.

[Form 5500-SUP](#), *Annual Return of Employee Benefit Plan Supplemental Information*, is the paper-only form the IRS intends to issue to supplement the Form 5500 and Form 5500-SF for 2015 and later plan years. Plan administrators and plan sponsors (in certain situations) may use the Form 5500-SUP if they're exempt from the mandatory IRS electronic filing regulation and don't choose to electronically answer the "IRS compliance" questions on Forms 5500 and 5500-SF through the EFAST2 system.

The IRS anticipates that the Form 5500-SUP will contain the same IRS compliance questions that the IRS intends to add to the Form 5500 and the Form 5500-SF. The

Form 5500-SUP will give filers who are not required to file electronically the option to answer these questions on paper.

The Form 5500-SUP may be used by plan administrator or plan sponsors who:

1. are required to file Form 5500 or Form 5500-SF;
2. file fewer than 250 tax returns of any type, including information returns, during the calendar year that includes the first day of the plan year; and
3. choose not to answer the IRS compliance questions electronically through the EFAST2 system.

Plan sponsors who file Form 5500-EZ will not need to file Form 5500-SUP because the compliance questions will already be on the Form 5500-EZ.

If you wish, you can submit [comments](#) about the draft Form 5500-SUP.

Qualified Joint & Survivor Annuities in Money Purchase Plans

During its qualified joint & survivor annuities (QJSA) project, the Employee Plans Compliance Unit ([EPCU](#)) looked at money purchase plan sponsors whose Form 5500-SF showed distributions during the plan year.

Project goals

EPCU designed the project to determine whether money purchase plan sponsors:

- distributed benefits to married participants as a QJSA, or
- obtained spousal consent before distributing benefits to married participants in a form other than a QJSA, such as a single lump sum.

Project results

Most plan sponsors complied with the QJSA [notice and consent requirements](#) for plan distributions; however, the EPCU did find some sponsors that didn't:

- secure spousal consent when the participant waived the QJSA, or
- ensure that a plan representative or notary public witnessed the consent.

Other notes

EPCU also noted that some plan sponsors weren't aware that the QJSA notice and consent requirements:

- apply to any waiver of the QJSA,
- apply to direct rollovers and loans, and
- don't apply to required minimum distributions.

Planning tips

If plan sponsors make distributions from a money purchase pension plan to married participants without obtaining spousal consent, the plan will have operational mistakes that may lead to plan disqualification. Sponsors can [fix this failure](#) through the Employee Plans Compliance Resolution System ([EPCRS](#)).

Consult with your benefits professional to ensure that you have administrative procedures in place to prevent these operational errors. If you find errors, take prompt action to correct them.

Contact us

If you have questions about this project, [email](#) us and include “QJSA” in the subject line. Make sure to include your telephone number so we can contact you with answers.

Additional resources

We have many resources to help you keep your retirement plan in compliance. Our resources can help you learn how to fix plan errors and avoid future ones.

- [Retirement Topics - Qualified Joint and Survivor Annuity](#)
- [Fixing Common Plan Mistakes](#)
- [Check-Ups](#)
- [Fix-It Guides](#)
- [A Guide to Common Qualified Plan Requirements](#)
- [“Maintaining Your Plan” Video](#)
- [What You Should Know About Your Retirement Plan](#) (Department of Labor publication)

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](#) home page for updates

ERISA at 40

As we recognize the 40th anniversary of ERISA’s passage this year, DOL/EBSA invites you to visit our dedicated [Web page](#). On October 21, DOL/EBSA hosted a symposium to commemorate the 40th anniversary. You can view the discussions online. The [first panel](#) discussed “From Statute to Action” and the [second panel](#) examined “Leadership and Legacy.”

Fiduciary guidance on lifetime income

On October 23, DOL/EBSA issued an [information letter](#) to the Department of the Treasury responding to a request for views on whether a series of target date funds (Funds) could serve as "qualified default investment alternatives" within the meaning of 29 CFR Section 2550.404c-5 (the QDIA regulation), in light of the Funds' investments in unallocated deferred annuity contracts, described in IRS Notice 2014-66. The letter also addressed whether, and to what extent, the Department's "annuity selection safe harbor," 29 CFR Section 2550.404a-4, is available in connection with the selection of the unallocated deferred annuity contracts as investments of the Funds. The letter was issued in coordination with the issuance of [Notice 2014-66](#).

E-filing for “top hat” plan statements and apprenticeship and training plan notices

On September 30, DOL/EBSA published a [proposed regulation](#) that would require electronic filing of “top hat” plan statements and apprenticeship and training plan notices.

Under current law, top hat plans and apprenticeship and training plans file paper statements and notices with DOL/EBSA. The proposed regulation would revise current filing procedures to require electronic submission but would not change current content requirements.

The new electronic filing system is available and filers are encouraged to use it pending the adoption of the final regulation. The [new system for top hat plans](#) and the [new system for apprenticeship and training plan notices](#) are available on DOL/EBSA's website. DOL/EBSA will treat electronic filers as satisfying the current requirement to file paper.

Comments on the proposed regulation and the design of the new filing system are due by December 29, 2014.

Brokerage windows

On August 21, DOL/EBSA published a [Request for Information](#) on the use of brokerage windows, self-directed brokerage accounts and similar features in 401(k)-type plans.

Some 401(k)-type plans offer participants access to brokerage windows in addition to, or in place of, specific investment options chosen by the employer or another plan fiduciary. These “window” arrangements can enable or require individual participants to choose for themselves from a broad range of investments. DOL/EBSA received a number of questions about brokerage windows following the 2012 publication of a final regulation on participant-level fee disclosure.

The RFI asks questions concerning brokerage windows including:

- the scope of investment options typically available through a window,
- demographic and other information about participants who commonly use brokerage windows,
- the process of selecting a brokerage window and provider for a plan,
- the costs of brokerage windows, and
- what kind of information about brokerage windows and underlying investment options typically is available and disclosed to participants.

Comments are due by November 19, 2014. Comments can be submitted electronically by email to E-ORI@dol.gov or through the [eRulemaking portal](#). Written comments may also be sent to the U.S. Department of Labor, Office of Regulations and Interpretations, Employee Benefits Security Administration, N-5655, 200 Constitution Ave, NW, Washington, DC 20210, Attn: Brokerage Window RFI.

Missing participants

On August 14, DOL/EBSA issued [Field Assistance Bulletin 2014-01](#). This Bulletin updates DOL/EBSA guidance on how fiduciaries of terminated defined contribution plans can fulfill their obligations under ERISA to locate missing participants and properly distribute the participants' account balances.

Outreach and education

For notice of upcoming events as they are scheduled, subscribe to [DOL/EBSA's](#) website home page. DOL/EBSA conducts seminars for small businesses on retirement plans and health benefits plans.