



Compliance Advisory

October 2008

Final regulations phase-in Form 5500 filing requirements

On November 16, 2007, the Department of Labor (DOL), IRS, and Pension Benefit Guaranty Corporation (PBGC) published final annual reporting regulations. These regulations make changes to Form 5500 filing procedures to reflect changes made by the Pension Protection Act of 2006 (PPA), and address growing concerns about fee disclosures.

Good news

These regulations do not change the basic filing requirement for plan years that began in 2007 (generally, filing Form 5500 in 2008). Special rules may apply for situations involving short plan years and small plan (fewer than 25 participants) filings.

The regulations delay the PPA electronic filing requirement for one year. As a result, electronic Form 5500 filing will first be required for all plans for plan years beginning in 2009 (i.e., filed in 2010).

Transition year

Form 5500 filings for plan years beginning in 2008 (i.e., filed in 2009) will reflect requirements imposed by PPA, other than the electronic filing requirement. Specifically:

- Schedule B (Defined Benefit Plan Actuarial Information) will be replaced by two new schedules. These schedules will not be available electronically but the IRS will provide additional filing guidance. The new schedules are:
 - Schedule SB (Single Employer Defined Benefit Plan Actuarial Information), and
 - Schedule MB (Multiemployer Defined Benefit Plan and Certain Money Purchase Plan Actuarial Information).
- Additional information for multiemployer defined benefit plans will have to be provided as an attachment to the 2008 Schedule R.

Major changes for 2009 plan year filings

Electronic filing will be required for Form 5500 filings for plan years beginning in 2009 (i.e., filed in 2010). In addition:

- Effective for plan years beginning after December 31, 2008, ERISA 403(b) plans will be subject to the same reporting requirements that apply to ERISA qualified plans. Large 403(b) plans will also be subject to the annual independent audit requirement.
- Schedule C (Service Provider Information, for large plans) will require significantly more fee disclosure information, including disclosure of indirect and non-monetary compensation.
- Schedules H and I (Financial Information) will require more detailed reporting of delinquent participant contributions, black-out periods, and failures to pay benefits when due.
- Schedule E (ESOP Information) is eliminated and three questions will be moved to Schedule R.
- Schedule SSA (Separated Vested Participant Information) is eliminated.

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Prudential Retirement's response

The most significant changes made by these regulations (the Schedule C changes) will not be felt until the 2009 plan year Forms 5500 are filed in 2010. Currently, we are identifying the changes that we need to make to our services and procedures to comply with these new requirements. We will begin to communicate to our clients in 2008 and through 2009 about the impact of these changes and will notify you as additional guidance is provided by the regulatory agencies. Like today, Prudential will continue to provide you with the information needed to complete your 5500 filings.



Compliance Advisory by Prudential Retirement

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