

MEMO# 28516

November 10, 2014

DOL Issues Interim Final Rule Implementing Form 5500 Series Changes for Multiple-Employer Plans

[28516]

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TO: PENSION MEMBERS No. 44-14

OPERATIONS MEMBERS No. 19-14

BANK, TRUST AND RETIREMENT ADVISORY COMMITTEE No. 46-14 RE: DOL ISSUES INTERIM
FINAL RULE IMPLEMENTING FORM 5500 SERIES CHANGES FOR MULTIPLE-EMPLOYER PLANS

On November 10, 2014, the Department of Labor's Employee Benefits Security Administration published an interim final rule [\[1\]](#) in the Federal Register imposing additional Form 5500 reporting requirements for multiple-employer plans.

Background

The Cooperative and Small Employer Charity Pension Flexibility (CSEC) Act, enacted on April 7, 2014, amended the funding rules for pension plans that are maintained by certain cooperatives or charities. Additionally, the CSEC Act amended ERISA section 103 to implement additional annual reporting requirements for multiple-employer plans [\[2\]](#) covered by Title 1 of ERISA. Specifically, the CSEC Act added ERISA section 103(g) to require that the annual report of a multiple-employer plan must include a list of participating employers and a good faith estimate of the percentage of contributions [\[3\]](#) made by each participating employer during the plan year. Although the CSEC Act's provisions focus primarily on defined benefit plans, the provision imposing additional reporting requirements for multiple-employer plans applies to defined benefit and defined contribution multiple employer plans. [\[4\]](#)

Interim Final Rule Provisions

The current Forms 5500 and 5500-SF each include a box to check if the report is being filed by a multiple-employer plan. The interim final rule adds a parenthetical next to the box on each form to inform such filers that they must attach a list of participating employer information in accordance with the form instructions. The interim final rule also amends the Form 5500 and Form 5500-SF instructions to require that a multiple-employer plan file an attachment, using the format prescribed in the interim final rule, that (1) lists each participating employer in the plan during the plan year, identified by name and employer

identification number (EIN), and (2) includes a good faith estimate of each employer's percentage of the total contributions (including employer and participant contributions) made by all participating employers during the plan year.

Effective Date and Request for Comment

The interim final rule is effective on November 10, 2014 and the new reporting requirements are applicable beginning with the 2014 Form 5500 reports filed for plan years beginning after December 31, 2013. Although the interim final rule is effective beginning with the 2014 Form 5500 and Form 5500-SF, the Department is seeking comments on the interim final rule and states in the preamble that such comments will be considered in connection with final revisions that will be adopted in connection with the 2015 or later year forms. Comments are due to the Department on or before January 9, 2015.

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endnotes

[1] The interim final rule is available here:
<http://www.gpo.gov/fdsys/pkg/FR-2014-11-10/pdf/2014-26498.pdf>.

[2] DOL states in the preamble that the interim final rule uses the existing definition of "multiple-employer plan" found in the instructions to the Form 5500. Accordingly, for purposes of application of the interim final rule, a "multiple-employer plan" is a plan that is maintained by more than one employer and is not a "single employer" or multiemployer plan for Form 5500 filing purposes. See 79 Fed. Reg. 66619 (Nov. 10, 2014).

[3] DOL states in the preamble that for purposes of the interim final rule's application, it is interpreting the term "contributions" consistent with existing Form 5500 reporting requirements to include both employer and participant contributions. See Id.

[4] In the preamble, DOL estimates that 280 defined benefit multiple-employer plans and 4,730 defined contribution multiple-employer plans are subject to the interim final rule's new reporting requirements. See Id. at 66620.