

MEMO# 33975

December 29, 2021

DOL Finalizes Form 5500 Changes for PEPs and other MEPs

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TO: ICI Members

Pension Committee

Pension Operations Advisory Committee SUBJECTS: Pension RE: DOL Finalizes Form 5500 Changes for PEPs and other MEPs

On December 28, 2021, the Department of Labor (DOL) released final revisions to the instructions for the Form 5500 Annual Return/Report of Employee Benefit Plan for multiple employer plans (MEPs), including pooled employer plans (PEPs).[\[1\]](#) The finalized revisions are effective for plan years beginning on or after January 1, 2021.[\[2\]](#) These revisions were proposed in September 2021 along with numerous other proposed changes to the Form 5500 and associated regulations.[\[3\]](#) DOL indicated in the preamble to the final revisions that the other proposed changes included in the September 2021 proposal will be the subject of one or more separate and later final notices.[\[4\]](#)

MEP Changes in September 2021 Proposal

As a reminder, the proposal would establish a new Schedule MEP (Multiple-Employer Retirement Plan Information)[\[5\]](#) that would require filers to:

- Identify the type of MEP, e.g., PEP, professional employer organization, etc.;
- For PEPs, confirm that the sponsoring pooled plan provider has filed the Form PR (Pooled Plan Provider Information) and provide certain other information, including whether services to the plan have been provided by affiliates, and if so, whether a prohibited transaction exemption is being relied on (including identification of any such exemption); and
- Provide the MEP's participating employer information, currently collected as a non-standardized attachment to the Form 5500 and Form 5500-SF,[\[6\]](#) and the new aggregate account balance information required by the SECURE Act.[\[7\]](#) For the 2021 plan year, MEPs would continue to provide this information (including the new information) as a non-standardized attachment to the Form 5500. The proposed new Schedule MEP would become available for the 2022 plan year.

Final Revisions for 2021 Reporting Year

The only changes being finalized at this time are those that apply for the 2021 reporting year and involve only the instructions to the Form 5500 series (not the forms themselves). The final revisions do not include all information that was proposed to be collected for MEPs under the September 2021 proposal, though DOL could include such items in revisions for subsequent filing years. As indicated in the proposal, the new standardized Schedule MEP will not apply for the 2021 filing year.

The finalized revisions for 2021 filings require that:

- MEPs that are defined contribution plans must include the new participating employer information required by the SECURE Act (i.e., year-end aggregate account balances attributable to each participating employer) on the non-standardized attachment already required for MEPs; and
- PEPs must indicate (also on a non-standardized attachment) (i) whether the plan's pooled plan provider complied with the Form PR registration requirements for pooled plan providers; and (ii) if the answer is yes, provide the AckID number^[8] for the pooled plan provider's latest Form PR filing.^[9]

The finalized instructions contain charts illustrating the participating employer information required to be provided on the non-standardized attachment and the new required information specific to PEPs and PEP providers.

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endnotes

^[1] PEPs were created by section 101 of the SECURE Act, which allows otherwise unrelated employers to band together and participate in a new type of defined contribution MEP, known as a PEP. The DOL established registration requirements for providers of PEPs in November 2020, including creating new Form PR (Pooled Plan Provider Registration). See ICI Memorandum No. 32921, dated November 18, 2020, available here: <https://www.ici.org/memo32921>. For a description of the SECURE Act, see ICI Memorandum No. 32118, dated December 20, 2019, available here: <https://www.ici.org/memo32118>.

^[2] The final form revisions are available here: <https://www.federalregister.gov/public-inspection/2021-27764/annual-information-returnreports>.

^[3] See ICI Memorandum No. 33783, dated September 22, 2021, available here: <https://www.ici.org/memo33783>.

^[4] In addition to the proposed changes for MEPs/PEPs, the proposal included changes to reflect the new consolidated filing framework for groups of similar defined contribution plans (created by the SECURE Act), changes to the Schedule H financial reporting of investment assets (including making the data collected more usable), changes to the rules for counting participants for purposes of eligibility for small plan simplified reporting, changes to improve reporting on defined benefit pension plan funding, and changes to improve tax compliance reporting for tax-qualified plans. In our October 29, 2021 comment

letter on the proposed changes, ICI urged DOL to postpone aspects of the proposal not related to implementing the SECURE Act changes, such as the proposed revisions to Schedule H. We urged DOL to hold off on these changes and issue a re-proposal as part of the broader Form 5500 reform project on DOL's long-term agenda, after obtaining greater input from stakeholders. See ICI Memorandum No. 33877, dated November 2, 2021, available here: <https://www.ici.org/memo33877>.

[5] The proposal includes as, Appendix A, a facsimile of proposed Schedule MEP and instructions. See 86 Fed. Reg. 51508.

[6] The instructions to the multiple-employer plan check box on Form 5500 (Part I, Line A) currently provide that the annual report filed for a multiple-employer plan (MEPs and multiple employer welfare plans) must include a non-standard attachment that identifies the participating employers in the plan by name and employer identification number (EIN) and include for each participating employer an estimate of the percentage of total contributions for the plan year made by each employer.

[7] Section 101 of the SECURE Act requires MEPs to report the year-end aggregate account balances attributable to each participating employer.

[8] The AckID is the acknowledgement code generated in response to a completed Form PR filing.

[9] The September 2021 proposal would require additional information for PEPs, including whether services to the plan have been provided by affiliates, and if so, whether a prohibited transaction exemption is being relied on (including identification of any such exemption). The revisions being finalized at this time do not include this additional information.