



Securities Industry Association

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May 5, 2004

EFAST Program Office
Employee Benefits Security Administration
Room N-5459
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210
Attn: EFAST RFC

Dear Sir or Madam:

The Securities Industry Association (SIA)¹ is pleased to have the opportunity to review the proposed improvements under consideration by the Employee Benefits Security Administration (EBSA) to the EFAST filing system for annual submission of Form 5500 and Form 5500-EZ. In reviewing the proposed modifications, SIA has the following comments:

Assessment of filing fees

SIA does not support a filing fee for Form 5500. In the experience of our members, it can be difficult to persuade some plan sponsors of the necessity of filing the form. Adding a fee requirement would add to the already heavy burden plan sponsors feel they are subject to in sponsoring a retirement plan. A fee could also discourage potential plan sponsors from even offering a plan. SIA believes the improvements and maintenance of the filing system should be financed out of the general budget for the agency, not the plan sponsors who are voluntarily offering plans to their employees.

SIA has long supported an expansion in the qualifications for filing the 5500-EZ. If the 5500-EZ was expanded to 25 participants and the asset threshold was increased to \$250,000 the overall costs of the small business in complying with the filing

¹The Securities Industry Association, established in 1972 through the merger of the Association of Stock Exchange Firms and the Investment Banker's Association, brings together the shared interests of nearly 600 securities firms to accomplish common goals. SIA member-firms (including investment banks, broker-dealers, and mutual fund companies) are active in all U.S. and foreign markets and in all phases of corporate and public finance. According to the Bureau of Labor Statistics, the U.S. securities industry employs 780,000 individuals. Industry personnel manage the accounts of nearly 93-million investors directly and indirectly through corporate, thrift, and pension plans. In 2003, the industry generated an estimated \$209 billion in domestic revenue and \$278 billion in global revenues. (More information about SIA is available on its home page: www.sia.com.)

requirements and any associated fees would be reduced. Keeping these costs in mind should be a consideration as we continue to promote plan sponsorship, particularly for workers in small business.

Acceleration of due date for paper returns

SIA also believes that the proposal to accelerate the due date for paper returns should be rejected. Paper forms do put additional burdens on processing times. However, SIA urges the agency to consider the confusion that would likely result from having two different due dates based on the medium the plan sponsor chooses. This could hurt compliance instead of improve it. Accelerating the due date also seems problematic from a chronological standpoint because reporting problems with respect to contributions could arise. For example, 12/31/03 contributions are not required to be made until 9/15/04. It seems that it would be difficult to reconcile this issue unless contributions were required to be made earlier.

Access to Schedule P

SIA would also encourage the agency to consider alternatives to the way Schedule P is currently accessed. Currently, the only way to obtain Schedule P is to purchase software, request a paper form from the Internal Revenue Service, or wait for the plan sponsor's third party administrator to provide one. It would be helpful to plan sponsors to provide other options. We would encourage you to consider one of the following alternatives:

1. Eliminate the Schedule P with no replacement.
2. Offer a downloadable form that can be completed, signed, and provided to the plan sponsor and maintained for inspection only.
3. Eliminate the need for a signed Schedule P by providing custodians with a PIN for filing this form. The form would be modified to reflect the custodian's PIN. The PIN could easily be provided to plan sponsors or their TPAs.
4. Eliminate the Schedule P and add the questions to the 5500. If the answer to the question regarding providing information is NO, then require a Schedule P. This would result in custodians making more of an effort to provide the information to avoid having to file the Schedule P.
5. As an option to providing a Schedule P, permit custodians to separately file a list of plans and plan tax identification numbers directly to EBSA. This may enhance EBSA enforcement measures as records could be matched with actual filers to determine who has not met the filing requirement.

Method of Filing

To encourage greater usage of new technology, SIA recommends that the agency consider hosting an on-line form that could be accessed for small businesses and/or self-employed individuals. The form could be filled out on-line and sent electronically and the form could also be imprinted with a computer code that would easily be scanned if the sponsor chose to print the form from the computer and mail it in. These alternatives –

rather than requiring a form from a specific type of paper or mandating electronic filing – should result in substantially increased use of electronic/scannable technology.

SIA also recommends that EBSA consider a number of changes that would ease administration for large service providers and minimize errors.

- To encourage transition to electronic filing, it would be helpful for EFAST to host a dedicated analog only phone line. This would reduce the need for extra hardware, software, and provide additional security.
- Allow automated filing of Form 5558. Scanning and attaching this document is a costly and inefficient process, particularly for large service providers.
- Allow attachments that accommodate free-form text. This would allow plan sponsors to include only necessary explanations, for example, a prohibited transaction.
- Enhance developer certification process. Currently, the cross check evaluates any format errors but does not evaluate whether the data elements were transferred correctly.
- Install upfront edits which quickly send notification of potential errors.
- Consider other correspondence, such as responses to EBSA inquiries to be via electronic medium to reinforce the move to a paperless environment.

Simplification of electronic signature/authentication

SIA members have indicated that usage of PINs could be enhanced in the following ways. First, EFAST should provide for on-line application for PINs, allowing for quick notification process for forgotten PINs. Second, allow easy and secure entry for any number of entities required to electronically sign the forms and schedules.

Non-public information

SIA would also urge the agency to carefully consider any change that would require the plan sponsor to submit non-public information in separate packages to EBSA and IRS. (Point 10 of the request for comment). Instead, we would suggest that the information be retained for inspection only.

Also, the current format of Schedule SSA does not allow for more than 4 participant entries per schedule. This creates a burden for large plan sponsors.

Plan sponsor identification

An additional complication in Form 5500 compliance is the lack of a unique plan identification number for plan sponsors. Many unincorporated small business owners provide the custodian with their social security number, as they do not have a taxpayer identification number. In the experience of our members, self-employed individuals and very small business owners are unlikely to apply for a separate employer identification number for the purpose of maintaining a plan. Unfortunately, Summary Plan Description

rules do not allow the use of the business owner's social security number. SIA would urge EBSA to reconsider this restriction as it could increase the ability of the agencies to properly identify the plan.

Timing of implementation

The EFAST technology proposed changes would be substantial. Using Internet filing data standards such as XML would require significant systems modifications. Therefore, SIA recommends that the release of new EFAST standards should be timed at least 9 months prior to the plan year end in which the plans could be filed using the new technology.

Thank you for the opportunity to provide comments on the proposed changes currently under consideration. If you have questions or would like to discuss our comments further, please do not hesitate to contact me at (202) 216-2000.

Sincerely,

Liz Varley
Staff Adviser
SIA Retirement & Savings Committee

cc: Ann Combs