DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

DEPARTMENT OF LABOR

Employee Benefits Security Administration

29 CFR Part 2520

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4065

RIN 1210–AB97

Annual Information Return/Reports

AGENCY: Employee Benefits Security Administration, Labor; Internal Revenue Service, Treasury; Pension Benefit Guaranty Corporation.

ACTION: Final forms revisions.

SUMMARY: This document contains final forms and instructions revisions for the Form 5500 Annual Return/Report of Employee Benefit Plan and Form 5500–SF Short Form Annual Return/Report of Small Employee Benefit Plan effective for plan years beginning on or after January 1, 2023. The forms and instructions revisions relate to statutory amendments to the Employee Retirement Income Security Act of 1974 (ERISA) and the Internal Revenue Code (Code) enacted as part of the Setting Every Community Up for Retirement Enhancement Act of 2019 (SECURE Act) for multiple-employer plans and groups of plans, as well as changes intended to improve reporting of certain plan financial information regarding audits and plan expenses and enhance the reporting of certain tax qualification and other compliance information by retirement plans. There are also some minor changes that further improve defined benefit plan reporting by building on changes made to the forms for plan years beginning on or after January 1, 2022. The remaining changes are technical changes that are part of the annual rollover of the Form 5500 and Form 5500–SF forms and instructions. The revisions being finalized in this document affect employee pension and welfare benefit plans, plan sponsors, administrators, and service providers to plans subject to annual reporting requirements under ERISA and the Code.

DATES: The final forms and instructions revisions in this document are effective for plan years beginning on or after January 1, 2023.

FOR FURTHER INFORMATION CONTACT: Janet Song, Florence Novellino, or Colleen Brisport Sequeda, Office of Regulations and Interpretations, Employee Benefits Security Administration, U.S. Department of Labor (DOL), (202) 693–8500 for questions related to reporting requirements under Title I of ERISA. For information related to the IRS reporting requirements under the Code, contact Cathy Greenwood, Employee Plans Program Management Office, Tax Exempt and Government Entities, (470) 639–2503. For information related to Pension Benefit Guaranty Corporation (PBGC) reporting and changes in this document, including proposed changes to the actuarial schedules, contact Karen Levin, Regulatory Affairs Division, Office of the General Counsel, PBGC, (202) 229–3559.

Customer service information: Individuals interested in obtaining general information from the DOL concerning Title I of ERISA may call the EBSA Toll-Free Hotline at 1–866–444–EBSA (3272) or visit the DOL's website (*www.dol.gov/agencies/ebsa*).

SUPPLEMENTARY INFORMATION:

A. ERISA Reporting Framework

Titles I and IV of the Employer Retirement Income Security Act of 1974 (ERISA) and the Internal Revenue Code (Code) generally require pension and other employee benefit plans to file annual returns/reports concerning, among other things, the financial condition and operations of the plan. Filing a Form 5500 Annual Return/Report of Employee Benefit Plan (Form 5500) or, if eligible, a Form 5500–SF Short Form Annual Return/Report of Small Employee Benefit Plan (Form 5500–SF), together with any required schedules and attachments (together ''Form 5500 Annual Return/Report''), in accordance with related instructions, generally satisfies these annual reporting requirements. ERISA sections 103 and 104 broadly set out annual financial reporting requirements for employee benefit plans under Title I of ERISA. The Form 5500 Annual Return/Report, and related instructions and regulations, are also promulgated under the DOL's general regulatory authority in ERISA sections 109 and 505.[1]

In the United States, there are an estimated 2.5 million health plans,[2] an estimated 673,000 other welfare plans,[3] and approximately 747,000 private pension plans.[4] These plans cover roughly 152 million private sector workers, retirees, and dependents,[5] and have estimated assets of $12 trillion.[6] The Form 5500 Annual Return/Report serves as the principal source of information and data available to the DOL, the Internal Revenue Service (IRS), and the Pension Benefit Guaranty Corporation (PBGC) (together ''Agencies'') concerning the operations, funding, and investments of approximately 864,000 pension and welfare benefit plans that file.[7] Accordingly, the Form 5500 Annual Return/Report is essential to each Agency's enforcement, research, and policy formulation programs, as well as for the regulated community, which makes increasing use of the information as more capabilities develop to interact with the data electronically. The data is also an important source of information for use by other Federal agencies, Congress, and the private sector in assessing employee benefits, tax, and economic trends and policies. The Form 5500 Annual Return/Report also serves as a primary means by which the operations of plans can be monitored by participating employers in multiple-

[1] ERISA sections 103 and 104 broadly set out the content and filing requirements for the annual report under Title I of ERISA. The Form 5500 Annual Return/Report and the DOL's implementing regulations are promulgated through notice and comment rulemaking under general ERISA regulatory authority and specific ERISA provisions authorizing limited exemptions to these requirements and simplified reporting and disclosure for welfare plans under ERISA section 104(a)(3), simplified annual reports under ERISA section 104(a)(2)(A) for pension plans that cover fewer than 100 participants, and alternative methods of compliance for all pension plans under ERISA section 110. The Form 5500 Annual Return/Report filings are also information collections for the Agencies, subject to a separate clearance process under the Paperwork Reduction Act (PRA).

[2] Source: U.S. Department of Labor, EBSA calculations using the 2021 Medical Expenditure Panel Survey, Insurance Component (MEPS–IC), the Form 5500 and 2019 Census County Business Patterns.

[3] Source: U.S. Department of Labor, EBSA calculations using non-health welfare plan Form 5500 filings and projecting non-filers using estimates based on the non-filing health universe.

[4] Source: U.S. Department of Labor, EBSA. Private Pension Plan Bulletin: Abstract of 2020 Form 5500 Annual Reports.

[5] Source: U.S. Department of Labor, EBSA calculations using the Auxiliary Data for the March 2021 Annual Social and Economic Supplement to the Current Population.

[6] EBSA projected ERISA covered pension, welfare, and total assets based on the 2020 Form 5500 filings with the U.S. Department of Labor (DOL), reported SIMPLE assets from the Investment Company Institute (ICI) Report: The U.S. Retirement Market, Second Quarter 2022, and the Federal Reserve Board's Financial Accounts of the United States Z1 September 9, 2022.

[7] Estimates are based on 2020 Form 5500 filings. Welfare plans with fewer than 100 participants that are unfunded or insured (do not hold assets in trust) are generally exempt from filing a Form 5500. Therefore, while DOL estimates there are 2.5 million health plans and 673,000 non-health welfare plans, respectively only 63,000 and 21,000 of these plans filed a 2020 Form 5500.

employer plans and other group arrangements, by plan participants and beneficiaries, and by the general public.

B. September 2021 Proposed Rule and Final Rule Phases I, II and III

On September 15, 2021, the Agencies published a notice of proposed forms revisions (NPFR) to amend the Form 5500 Annual Return/Report primarily to implement annual reporting changes related to legislative provisions in the Setting Every Community Up for Retirement Enhancement Act of 2019 (SECURE Act) focused on multiple-employer pension plans (MEPs) and defined contribution group reporting arrangements (DCGs or DCG reporting arrangements).[8] 86 FR 51488 (Sep. 15, 2021). The NPFR also set forth additional proposed changes intended to improve reporting on multiemployer and single-employer defined benefit pension plans, update reporting on Form 5500 Annual Return/Report to make the financial information collected on the Form 5500 Annual Return/Report more useful and usable, enhance the reporting of certain tax qualification and other compliance information by retirement plans, and transfer to the DOL Form M–1 (Report for Multiple Employer Welfare Arrangements (MEWAs) and Certain Entities Claiming Exception (ECEs)) participating employer information for multiple-employer welfare arrangements that are required to file the Form M–1. 86 FR 51488 (Sept. 15, 2021). The DOL simultaneously published a proposed rulemaking (NPRM) required to implement the proposed forms revisions. 86 FR 51284 (Sep. 15, 2021). The NPFR and the NPRM are collectively referred to as the September 2021 proposal.

The Agencies received 114 comments on the September 2021 proposal. The comments, which were all posted on the DOL's website, generally focused on the proposed changes for the 2022 plan year forms and on future rulemakings.

In December 2021, the DOL published a final forms revisions rulemaking (2021 Final Forms Revisions) that set forth a narrow set of changes to the instructions for the Form 5500 and Form 5500–SF, effective for plan years beginning on or after January 1, 2021. 86 FR 73976 (Dec. 29, 2021). Those instruction changes generally implemented annual reporting changes for MEPs, including pooled employer plans (PEPs), that were described in the September 2021 proposal. The DOL noted in that publication that other changes to the Form 5500 Annual Return/Report would be the subject of one or more separate and later final notices to address other elements of the September 2021 proposal. That rule is also referred to herein as Final Rule Phase I.[9]

In May 2022, the Agencies published a second final forms revisions rulemaking effective for plan years beginning on or after January 1, 2022. 87 FR 31133 (May 23, 2022). Those forms and instructions revisions generally implemented annual reporting changes for defined benefit plans on Schedules MB, SB and R, but also added certain plan characteristics codes for MEPs, including one to specifically identify PEPs, to the list of plan characteristics the plans must use to describe the plan on their annual report. That 2022 rule is referred to herein as Final Rule Phase II.

The Agencies stated in the 2022 Final Forms Revisions notice that the remaining proposed changes from the September 2021 proposal to the Form 5500 Annual Return/Report would be addressed either in a further final forms revisions notice or possibly re-proposed with modifications in a separate proposal as part of a broader range of improvements to the annual reporting requirements.[10] The decision to defer further changes until a third final rule was also based on the need to coordinate the careful consideration of public comments and other regulatory processes for adopting final changes to the Form 5500 Annual Return/Report with a separate contractual development schedule for integrating forms and instructions changes into the wholly-electronic EFAST2 filing system that receives and displays Form 5500 Annual Return/Report filings.[11]

This third rulemaking document (herein referred to as Final Rule Phase III) addresses the remaining subjects included in the September 2021 proposal, including DCG reporting arrangements, Schedule DCG and related audit issues, Schedule MEP and related reporting requirements regarding MEPs, financial statement improvements to the Schedule H and Schedules of Assets, changes in participant counting methodology for determining eligibility for small plan reporting purposes, including the conditional waiver of the Independent Qualified Public Accountant (IQPA) audit requirements, and additional questions on pension plan compliance with certain Code requirements. Some changes in those areas are being adopted in final form and others that were included in the September 2021 proposal are being deferred for further development and public input as part of a more general Form 5500 improvement project listed on DOL's semi-annual regulatory agenda. The final forms and instructions changes adopted in this Final Rule Phase III generally apply beginning with the 2023 plan year Form 5500 Annual Return/Report.

C. Overview of SECURE Act Changes Related to Form 5500 Annual Reporting Changes

The SECURE Act, which overall was designed to expand and preserve workers' retirement savings, is the most significant legislation impacting ERISA and Code provisions pertaining to retirement plans since the Pension Protection Act of 2006. Among other things, the SECURE Act directed the Secretaries of the Departments of Labor and Treasury (together the ''Departments'') to develop a new aggregate annual reporting option for certain groups of retirement plans and included other statutory amendments that directly impact annual reporting requirements for MEPs. In relevant part, the SECURE Act's expansion of MEPs and direction for the Departments to

[8] The SECURE Act was enacted December 20, 2019, as Division O of the Further Consolidated Appropriations Act, 2020 (Pub. L. 116–94).

[9] *See/www.reginfo.gov/public/do/eAgendaViewRule?pubId=202204&RIN=1210-AB97.*

[10] As noted in the September 2021 proposal, the DOL has a separate regulatory project on its semi-annual agenda in coordination with the IRS and PBGC to: (i) modernize the financial and other annual reporting requirements on the Form 5500 Annual Return/Report; (ii) continue an ongoing effort to make investment and other information on the Form 5500 Annual Return/Report more data mineable; and (iii) consider potential changes to group health plan annual reporting requirements, among other improvements that would enhance the Agencies' ability to collect employee benefit plan data in a way that best meets the needs of compliance projects, programs, and activities. See *www.reginfo.gov* for more information.

[11] EFAST2 is an all-electronic system designed by the Agencies to simplify and expedite the submission, receipt, and processing of the Form 5500 and Form 5500–SF. Under EFAST2, filers choose between using EFAST2-approved vendor software or an EFAST website (IFILE) to prepare and submit the Form 5500 or Form 5500–SF. Completed forms are submitted via the internet to EFAST2 for processing. EFAST2 is operated by a private sector government contractor on behalf of the Agencies. Each year the EFAST2 system is rolled over for the coming year's annual return/report filings; for example, the system must be updated to reflect changes from the 2022 plan year return/report filings to the 2023 plan year return/report filings. That rollover process is governed by a contractual development schedule with deadlines designed to ensure that forms and instructions changes are smoothly integrated into the EFAST2 system and the products developed by private software developers to provide filing services to employee benefit plans. Integration of the regulatory and EFAST2 processes is less complicated in years that do not involve material changes to the forms or instructions. These processes, however, are more complex when the Agencies make substantial changes to the forms and instructions.

establish a consolidated reporting option for defined contribution pension plans that share certain key characteristics should help expand retirement coverage by making it easier for record keepers and other financial services providers to offer attractive retirement plan alternatives and for employers, especially small ones, to pick from an array of retirement plan alternatives and structure that works best.

Section 101 of the SECURE Act amended ERISA section 3(2) and added ERISA sections 3(43) and 3(44) to allow for a new type of ERISA-covered MEP—a defined contribution pension plan called a ''pooled employer plan'' (PEP), operated by a ''pooled plan provider'' (PPP). PEPs allow multiple unrelated employers to participate without the need for any common interest among the participating employers (other than having adopted the plan).[12] Under ERISA section 3(2), a PEP is treated for purposes of ERISA as a single plan that is a MEP. A PEP is defined in ERISA section 3(43) as a plan that is an individual account plan established or maintained for the purpose of providing benefits to the employees of two or more employers; that is a qualified retirement plan, a plan that consists of annuity contracts described in Code section 403(b) that also meets the requirements of Code section 403(b)(15),[13] or a plan funded entirely with individual retirement accounts (IRA-based plan); and the terms of which must meet certain requirements set forth in the statute.[14]

ERISA section 3(43) further provides that PEPs do not include multiemployer plans as defined in ERISA section 3(37) or plans maintained by employers that have a common interest other than having adopted the plan.[15] The term PEP also does not include a plan established before the date the SECURE Act was enacted unless the plan administrator elects to have the plan treated as a PEP and the plan meets the ERISA requirements applicable to a PEP established on or after such date. The PPP for a PEP must file a registration statement with the Secretary of Labor and the Secretary of Treasury pursuant to ERISA section 3(44) and section 413(e)(3)(A)(ii) of the Code. On November 16, 2020, as part of implementing the SECURE Act section 101, the DOL published a notice of final rulemaking establishing Form PR (Pooled Plan Provider Registration) (Form PR) and making its filing the registration requirement for PPPs. 85 FR 72934 (Nov. 16, 2020). The Treasury, DOL, and the IRS have advised that filing the Form PR with the DOL will satisfy the requirement to register with the Secretary of the Treasury.[16] The instructions to the Form PR tell PPP registrants to use the same identifying information on the Form 5500 Annual Return/Reports filed by the PEPs, particularly name; EIN for the PPP; any identified affiliates providing services; trustees; and plan name and number for each PEP.

Section 101 of the SECURE Act also amended ERISA section 103(g) for MEPs. Section 103(g) of ERISA requires that the Form 5500 Annual Return/Report of a MEP generally must include a list of participating employers and a good faith estimate of the percentage of total contributions made by each participating employer during the plan year. The SECURE Act amended section 103(g) to expand the participating employer information that must be reported on the Form 5500 Annual Return/Report[17] also to require the aggregate account balances attributable to each employer in the plan (determined as the sum of the account balances of the employees of each employer and the beneficiaries of such employees), and applied section 103(g) to retirement plans that currently meet the definition of a MEP under ERISA section 210(a), including any PEPs, for plan years beginning on or after January 1, 2021.[18] With respect to a PEP, section 103(g) further requires that the annual return/report must include the identifying information for the person designated under the terms of the plan as the PPP.

Section 101 of the SECURE Act also amended ERISA section 104(a)(2)(A) to permit the Secretary of Labor to prescribe by regulation simplified reporting for MEPs subject to ERISA section 210(a) with fewer than 1,000 participants in total, so long as each participating employer has fewer than 100 participants.

Section 202 of the SECURE Act provides that the Departments, shall, in cooperation, modify the Form 5500 Annual Return/Report so that all members of a group of defined contribution pension plans that are individual account plans described in section 202 may file a single consolidated annual return/report satisfying the requirements of both section 6058 of the Code and section 104 of ERISA, effective for plan years beginning on or after January 1, 2022.[19] The SECURE Act further provides that, in developing the consolidated return/report, the Departments may require any information regarding each plan in the group determined to be necessary or appropriate for the enforcement and administration of the Code and ERISA. The SECURE Act also mandates that the consolidated reporting by such a group must include such information as will enable participants in each of the plans to identify any aggregated return/report filed with respect to their plan. Section 202 provides that to constitute an eligible group of plans, all of the plans in the group must be either individual account plans or defined contribution plans as defined in section 3(34) of

[12] DOL sought comments through a Request for Information published on July 31, 2019, on ''open'' MEP structures (those without the need for any commonality among the participating employers or other genuine organization relationship unrelated to participation in the plan) being treated as one multiple-employer plan for purposes of compliance with ERISA. The DOL does not have any current plan to take further action regarding defined contribution open MEPs due to the SECURE Act provisions permitting PEPs as a type of open MEP.

[13] After the final rule had been submitted to OMB on November 21, 2022, for review under Executive Order 12866, the SECURE Act 2.0 of 2022 (SECURE Act 2.0) was signed into law on December 29, 2022, as Division T of the Consolidated Appropriations Act, 2023, H.R. 2617, as amended. Section 106 of the SECURE Act 2.0 amended ERISA section 3(43) and added a new subparagraph 15 to Code section 403(b) to permit 403(b) PEPs for plan years beginning after December 31, 2022. This notice of final forms revision includes certain SECURE 2.0 updates to the definition of a PEP in the Schedule MEP instructions and general instructions for Form 5500 and Form 5500–SF.

[14] 29 U.S.C. 1002(43).

[15] In establishing a PEP as a new type of multiple-employer plan, the SECURE Act in section 101(c) specifically referred to plans maintained by employers that have a common interest other than having adopted the plan. For example, the DOL's recent final association retirement plan regulation, at 29 CFR 2510.3–55, published July 31, 2019, clarified and expanded the types of arrangements that could be treated as MEPs under Title I of ERISA to include plans established and maintained by a bona fide group or association of employers or by a professional employer organization (PEO). The SECURE Act provision excluding a ''plan maintained by employers that have a common interest'' from the definition of a PEP does not preclude employers with a common interest other than participating in the plan from establishing or participating in a PEP. Rather, in the Departments' view, the SECURE Act provision means that if a group of employers with a common interest other than participating in the plan establish a MEP based on a common interest among the employers, *e.g.,* an association retirement plan under the DOL's regulation, the MEP will not be subject to the SECURE Act requirements for a plan to be a PEP.

[16] Like other pooled plan providers, pooled plan providers for 403(b) PEPs authorized in SECURE Act 2.0 are subject to the Form PR registration requirements.

[17] SECURE Act Section 101(d).

[18] SECURE Act Section 101(e)(1).

[19] The SECURE Act Section 202 appears to use the terms ''combined,'' ''aggregated,'' and ''consolidated'' interchangeably when directing the Departments to develop a new alternative method for the Form 5500 Annual Report/Return for DCGs. This final rule generally uses the term ''consolidated'' to describe the DCG reporting arrangement filing.

ERISA or in section 414(i) of the Code; must have the same trustee as described in section 403(a) of ERISA; the same one or more named fiduciaries as described in section 402(a) of ERISA; the same administrator as defined in section 3(16)(A) of ERISA and plan administrator as defined in section 414(g) of the Code; must have plan years beginning on the same date; and must provide the same investments or investment options to participants and beneficiaries. Section 202 further provides that a plan not subject to Title I of ERISA shall be treated as meeting these requirements for being eligible to be part of a consolidated reporting group of plans, if the same person that performs each of the functions described in the above requirements, as applicable, for all other plans in such group performs each of such functions for such plan.[20]

Accordingly, the statutory authorization to develop a new type of consolidated reporting arrangements for groups of plans (*i.e.,* DCGs), the establishment of a new type of multiple-employer plan (*i.e.,* PEP), and the changes to the required reporting on participating employers in multiple-employer plans required some adjustments to the Form 5500 Annual Return/Report.

D. Overview of Final Form and Instruction Changes and Discussion of Public Comments

After consideration of the written comments received, the Agencies have determined to adopt various elements of the proposed forms and instructions changes with some modifications as set forth below. The forms and instructions changes fall into seven major categories: (1) adding a DCG consolidated reporting option; (2) adding Schedule MEP to collect MEP information; (3) adding certain new Code compliance questions; (4) changing the methodology for counting participants in defined contribution plans for purposes of determining eligibility for small plan reporting options; (5) additional defined benefit plan reporting improvements; (6) adding new breakout categories to the ''Administrative Expenses'' category of the Income and Expenses section of the Schedule H balance sheet; and (7) miscellaneous and conforming changes to forms and instructions. The DOL is also concurrently publishing a separate final rule that adds new regulations at 29 CFR 2520.103–14 and 2520.104–51, pursuant to section 110 of ERISA, and revises existing reporting regulations as needed to conform the Title I annual reporting regulations to the forms and instructions changes being adopted in this notice.

1. SECURE Act Section 202 DCG Reporting Arrangements

As noted above, section 202 of the SECURE Act directs the Departments to modify the Form 5500 to allow certain groups of defined contribution pension plans to file a single consolidated annual return/report. For a group of plans to be able to file a consolidated return/report, section 202(c) of the SECURE Act provides that all plans must be individual account plans or defined contribution plans that have the same trustee; the same one or more named fiduciaries; the same plan administrator under ERISA and the Code; the same plan year; and provide the same investments or investment options for participants and beneficiaries. The SECURE Act also provides that in developing the consolidated return/report for such arrangements, the Departments shall require such information as will enable a participant in a plan to identify any consolidated return or report filed with respect to the plan. The SECURE Act statutory provision further expressly provides the Departments with the authority to require such return/report to include any information regarding each plan in the group they determine is necessary or appropriate for the enforcement and administration of the provisions of ERISA and the Code.

The Departments explained in the proposal, and continue to believe, that the conditions in section 202 of the SECURE Act suggest that the section was primarily aimed at plans of unrelated small businesses that adopt a plan that has received approval from the IRS as to its form through the IRS Pre-Approved Program (pre-approved plan) offered by the same provider, and that section 202 was intended to provide this type of business structure with annual reporting cost efficiencies similar to those that MEPs and PEPs can offer to their participating employers. The Departments gave significant weight to that view of the purpose of the SECURE Act provision as they considered public comments and reached conclusions on final forms revisions in this area.

After considering the public comments on the proposal, the Departments continue to believe that an efficient and effective approach to establishing such a consolidated return/report option is to amend the Form 5500 Annual Return/Report and its related instructions to provide that the filing requirements for large pension plans and direct filing entities (DFEs) will generally apply to this new type of DFE—a defined contribution group (DCG) reporting arrangement—except that an additional schedule (Schedule DCG Individual Plan Information) to report individual plan-level information will have to be attached for each plan included in the DCG filing. As described in more detail below, the final rule is largely consistent with the September 2021 proposal, although several changes are being made in response to public comments, including eliminating the requirements that the DCG reporting arrangement and participating plans use a ''single trust'' and obtain an IQPA audit of that single trust, and that the investments of all participating plans be in investments that satisfy the qualifying assets condition that currently applies for small plans to be eligible to file a Form 5500–SF and for the small plan audit waiver. The separate Notice of Final Rulemaking being published with these final form revisions adds new DOL regulations at 29 CFR 2520.103–14 and 2520.104–51, pursuant to section 110 of ERISA, that set forth this DCG reporting arrangement option as an alternative method of compliance for eligible plans to satisfy the generally applicable requirement under Title I of ERISA to file their own separate Form 5500.

a. Conditions Applicable to DCG Reporting Arrangements

This final rule provides that a DCG reporting arrangement is treated as a new type of DFE that is required to: (1) file a Form 5500 under rules and conditions generally applicable to large defined contribution pension plans; (2) report specific plan-level information on the new Schedule DCG regarding each individual plan in the DCG, which shall include an IQPA audit report for each large plan and each small plan that does not meet the conditions in 29 CFR 2520.104–46 for a waiver of the IQPA audit and opinion requirements in ERISA section 103; and (3) ensure that each individual plan included in the DCG filing meets specified eligibility conditions that are consistent with SECURE Act Section 202 statutory criteria and designed to meet necessary and appropriate financial accountability and oversight protections.

The final rule sets forth the eligibility conditions for a defined contribution pension plan to file as part of a DCG reporting arrangement, and thus rely on this alternative method of compliance to satisfy the annual reporting obligation in section 104 of ERISA and in section 6058 of the Code. To satisfy such annual reporting obligations, all defined contribution pension plans filing as part

[20] SECURE Act Section 202(c).

of a DCG must meet the following eligibility conditions with respect to such DCG:

All plans are individual account plans or defined contribution plans that—

(1) Have the same trustee meeting the requirements set forth in ERISA section 403(a) (''common trustee'');

(2) Have the same one or more named fiduciaries designated in accordance with the requirements set forth in ERISA section 402(a) (''common named fiduciaries''), except that an individual employer may be a named fiduciary of each employer's own plan, provided that the other named fiduciaries are the same and common to all plans;

(3) Have a designated administrator under ERISA section 3(16)(A) that is the same plan administrator and common to all plans (''common plan administrator'');

(4) Have plan years beginning on the same date (''common plan year'');

(5) Provide the same investments or investment options to participants and beneficiaries in all the plans (''common investments or investment options'') (as discussed below, a single dedicated brokerage window provided by the same designated registered broker-dealer common to all plans that restricts participant and beneficiary investments solely to assets with a readily determinable fair market value as described in 29 CFR 2520.103–1(C)(2)(ii)(C) will be treated as a ''common investment option'' for purposes of this paragraph);

(6) Do not hold any employer securities at any time during the plan year, except that this condition does not prohibit investments in any employer's publicly traded securities within an otherwise ''common investment or investment option'' available to all participants and beneficiaries in the plans participating in the DCG;

(7) Either obtain an audit by an IQPA and file the IQPA report with the DCG consolidated Form 5500, or be eligible for the waiver of the annual examination and report of an IQPA under 29 CFR 2520.104–46; [21] and

(8) Are not a MEP (including a PEP) or a multiemployer plan.

The Form 5500 also includes a new checkbox on the Form 5500 (Part II, line 10a(4)) to indicate that at least one Schedule DCG is attached to the Form 5500, with a space for the filer to enter the number of Schedules DCG (one per participating plan) attached to the Form 5500 filing.

These conditions are designed to meet SECURE Act section 202 statutory criteria for plans participating in a group filing as well as related administrative requirements for DCG compliance and agency enforcement, including important information and transparency requirements that enable participants to find information in DCG filings regarding their particular plan. This approach also responds to public comments that asked the Departments to reconsider some of the proposed conditions for DCG reporting in an effort to reduce the costs and administrative burdens, particularly with respect to audit costs and for smaller plans, while continuing the benefits of having appropriate financial transparency and accountability for plans participating in, and persons managing and operating, DCG reporting arrangements.[22]

b. Eliminating the Single DCG Trust, DCG Trust Audit, and ''Eligible Plan Assets'' Requirements for All Investments in DCG Reporting Arrangements

The September 2021 Proposal included conditions that the investment assets of the plans participating in the DCG would have to be held in a single trust and the consolidated Form 5500 Annual Return/Report filed by the DCG would have to include an audit of the single trust's financial statements. The proposal also required that all investments of the participating plans be 100% invested in certain secure, easy to value assets that are treated as having a ''readily determinable fair market value'' under 29 CFR 2520.103–1(c)(2)(ii) and that participating plans satisfy the small plan audit waiver under 29 CFR 2520.104–46 by virtue of having 95% or more of their assets as ''qualifying plan assets'' and not by virtue of enhanced bonding. For the reasons discussed below, these conditions are revised in the final forms revisions and rule. The DCG reporting arrangement may, but is not required to, use a single trust to satisfy the SECURE Act condition that all plans in the DCG have the ''same trustee.'' Rather, the plans participating in the DCG must instead hold all plan assets in trust by one or more trustees in accordance with section 403(a) of ERISA,[23] with the condition that such trustee(s) be the same, *i.e.,* a common trustee, for all plans participating in the DCG. The common trustee or trustees are required to be either named in the trust instrument or in the plan instrument or appointed by a person who is a named fiduciary of the participating plan. Upon acceptance of being named or appointed, such trustee or trustees must have exclusive authority and discretion to manage and control the assets of the plan, except to the extent that the authority to manage, acquire, or dispose of assets of the plan is delegated to one or more investment managers pursuant to section 402(c)(3) of ERISA or the plan expressly provides that the trustee or trustees are subject to the direction of a named fiduciary who is not a trustee (in which case the trustees must be subject to proper directions of such fiduciary which are made in accordance with the terms of the plan and which are not contrary to ERISA).

With respect to requiring use of a single trust, several commenters argued that nothing in the SECURE Act limits DCGs to only those plans that utilize a single group trust arrangement, noting that the statute directive was to use the ''same trustee.'' Two commenters argued that there were no strong practical or policy reasons for treating sub-trusts of a single trust as qualitatively different from separate trusts with the same trustee for DCG eligibility purposes. Two commenters noted that some DCG structures may want to use a master trust, with sub-trusts for each individual plan in the DCG, while other DCGs may use pre-approved plan documents and identical trust documents that name the same entity as trustee. Another commenter pointed out that many trust agreements are negotiated in a custom way to fit a particular employer's requirements, so that requiring all employers in a particular DCG to be bound by the same trust terms is unnecessarily restrictive. One commenter expressed concern

[21] After the final rule had been submitted to OMB on November 21, 2022, for review under Executive Order 12866, the SECURE Act 2.0 of 2022 (SECURE Act 2.0) was signed into law on December 29, 2022, as Division T of the Consolidated Appropriations Act, 2023, H.R. 2617, as amended. The SECURE Act 2.0 includes a specific direction to the DOL and the Treasury Department on audit requirements for the DCG consolidated Form 5500 reporting option. Specifically, section 345 of SECURE Act 2.0 provides that with respect to the IQPA audit provisions in section 103 of ERISA ''any opinions required by section 103(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1023(a)(3)) shall relate only to each individual plan which would otherwise be subject to the requirements of such section 103(a)(3).'' This final forms revisions notice and the related final rule notice being published concurrently include DCG plan-level audit provisions that are consistent with the SECURE Act 2.0 direction.

[22] See also discussion in DOL-only final rule being published concurrently in this issue of the **Federal Register** titled ''Annual Reporting and Disclosure'' that adopts a new regulatory section at 29 CFR 2520.104–51 to set forth, for ERISA Title I purposes, the DCG eligibility and plan participation conditions.

[23] Section 403(a) of ERISA states that, except as provided in ERISA section 403(b), all assets of an employee benefit plan shall be held in trust by one or more trustees. The issue of Code section 403(b) plans' ability to participate in a DCG is discussed in detail in a subsequent part of this **Federal Register** notice.

about the potential inapplicability of section 3(a)(2) of the Securities Act of 1933 and section 3(c)(11) of the Investment Company Act of 1940, which contain similar registration exemptions for interests and participations in a single trust fund issued in connection with ERISA plans and for collective trust funds maintained by a bank through the exercise of substantial investment authority over trust assets. The commenter argued that SEC staff has historically taken the view that, for purposes of both exemptions, a single trust fund must be maintained in connection with a single-employer plan or in connection with plans sponsored by a group of commonly controlled or otherwise closely related plan sponsors. The commenter expressed concern about additional costs and burdens for DCG arrangements if the SEC registration exemptions are unavailable to a DCG ''single trust.'' Finally, a commenter suggested that, as an alternative to requiring use of a single trust, the DOL revise the proposal to permit both use of a single trust or multiple trusts.

With respect to the audit requirements, one commenter supported both the trust level audit and the separate audit requirement for any large plan that elects to participate in a DCG and rely on the DCG's consolidated Form 5500 to satisfy the plan's annual reporting obligation. One commenter opposed the concept of auditing different types of plans together on the basis that there are significant differences in the standards for and operation of plans so that they should not be treated the same and not audited together. Most commenters, however, raised various concerns regarding the cost and administrative burdens related to obtaining IQPA audits. Some commenters claimed that the cost of a plan-level audit would be in the range of an average of $15,000–$25,000 per plan and complained that this cost would negate cost savings that a DCG consolidated reporting option was supposed to provide. One commenter argued that the objectives of an audit to validate funds flowing in and out of the plan, identify late or missing contributions, obtain confirmation that the plan has sufficient controls to prevent and detect errors, and confirm compliance with DOL rules generally can be achieved through other less expensive means. A few commenters argued that they read the SECURE Act's provisions on a consolidated or aggregated annual report as envisioning some type of consolidated or aggregated audit as part of the DCG filing and, based on that premise, argued that requiring any individual plan audits would frustrate the SECURE Act's goal of easing administrative burdens associated with the Form 5500 filing requirement. Several other commenters suggested the DOL should allow for a ''consolidated audit'' of all the plans participating in a DCG reporting requirement, rather than requiring separate audits by each participating plan. One commenter argued that requiring plan-level audits puts DCGs at a commercial disadvantage relative to PEPs and MEPs because under Generally Accepted Auditing Standards (GAAS), PEPS and MEPS are subject to a single audit of the single plan. One commenter suggested that separate audits should be required only when the auditor discovers something in a consolidated audit requiring further investigation at the individual plan level. Some commenters supported a consolidated trust audit but only in lieu of individual plan audits if the single trust condition was retained. Another commenter suggested DOL consider an alternative where DCGs are treated similar to a master trust (or MTIA), which itself is not subject to audit and, if each plan within a master trust has fewer than 100 participants and otherwise meets the requirements to be exempt from audit, there would be no audit at the plan or master trust level. A commenter suggested that the new Schedule DCG for Form 5500 could require additional information from the plan administrator that would provide transparency and accountability at a lower cost than a plan-level audit.[24]

With respect to the requirement that participating plans be 100% invested in ''eligible plan assets,'' some commenters argued that the DOL exceeded its statutory authority claiming that the SECURE Act limit is that investments or investment options be the same for each DCG participating plan. Another argued that the requirement hindered cost efficiencies for large plans that participate in a DCG, hampered an investment fiduciary's ability to prudently select investment alternatives for participants, and placed indirect restrictions on the range of plans that could join DCGs by prohibiting individual account plans that use ''white label'' funds from joining a DCG.

In the September 2021 proposal, the DOL explained that the single trust requirement was designed to allow for DCG reporting arrangements to have a single trust level audit, and also to reflect DOL's thoughts that a trust level audit would provide important financial accountability and oversight protections for arrangements that may be reporting on very large sums of plan assets in the aggregate. The DOL also explained that the ''single trust'' structure was based in part on the single trust structure used by plans of unrelated small businesses that adopt a plan offered by the same provider that has received approval from the IRS as to its form through the IRS Pre-Approved Program (pre-approved plan).[25] The DOL also noted that an efficiency that would flow from an audit of a DCG single trust would be that the versions of the separate schedules referenced in ERISA section 103(a)(3)(A) and 29 CFR 2520.103–10(b) filed as part of the DCG consolidated Form 5500 would be treated as ERISA section 103(b)(3) supplemental schedules for purposes of the required IQPA's opinion on whether those schedules were presented in conformity with DOL rules and regulations, including the delinquent participant contributions schedule filed by the DCG in connection with line 4a of its Form 5500, Schedule H. The single trust, taken together with the condition that

[24] One commenter appears to have misunderstood the SECURE Act provision giving the DOL the discretionary authority to decide whether to provide a simplified reporting option for MEPs with fewer than 1,000 participants in total as long as each participating employer has fewer than 100 participants. The SECURE Act did not establish a new audit threshold for MEPs. Rather, section 101 of the SECURE Act amended ERISA section 104(a)(2)(A) to permit the Secretary of Labor to prescribe by regulation simplified reporting for MEPs subject to ERISA section 210(a) with fewer than 1,000 participants in total, as long as each participating employer has fewer than 100 participants. The DOL explained in the September 2021 proposal that it was not proposing to amend the current reporting rules to establish a ''simplified report'' for such plans. The DOL asked interested stakeholder for comments on why MEPs should be subject to different reporting requirements than single-employer plans that cover fewer than 1,000 participants and, if they thought there were reasons for different treatment, to identify appropriate conditions and limitations for such a simplified report that would ensure transparency and financial accountability comparable to that for other large retirement plans. Thus, contrary to the commenter's suggestion, there is no 1,000 participant audit threshold for MEPS. Further, the SECURE Act's grant of discretionary authority for MEPs does not include DCG reporting arrangements.

[25] In the September 2021 proposal, the Departments noted that, historically, IRS conditions applicable to many pre-approved plans required that employers who used what was known as a ''master'' plan were required to use the same trust or custodial account, whereas each employer had a separate trust or custodial account in a ''prototype plan.'' Under the proposal, the ''same trust'' requirement for the consolidated report would have been satisfied by the same trust structure historically used by employers using ''master'' plans. The proposal also provided that use of sub-trusts of the DCG trust would be permitted, but that separate plans using a separate trust for investments would not be permitted. The final rule changes the proposal's restrictions on single trusts and sub-trusts.

plans relying on the DCG consolidated Form 5500 report arrangement must be 100% invested in eligible plan assets and be eligible for the small plan audit waiver under 29 CFR 2520.104–46, but not by reason of enhanced bonding (which are current requirements for small plans being eligible to file the Form 5500–SF), was expected to simplify the audit requirement for the DCG single trust and the audits of participating plans subject to a separate plan-level audit because all the investments would be secure, easy-to-value assets.

In the September 2021 proposal, the DOL also explained that an audit of a DCG trust would not be an adequate substitute for plan-level audits of the plans relying on the DCG consolidated Form 5500 filing. Although the line items on the trust's financial statement would be audited, the underlying participating plans themselves would not be audited, so that compliance with the provisions of the plans that are invested in and funded by the trust would not be audited. In a trust audit, the amount of contributions received by the trust might be tested against the contributions remitted by participating plans, but, whether those contribution amounts remitted are in accordance with the individual plan provisions would not be tested, as they would be tested in an audit of the plan. There could be undisclosed, material errors in the amount of contributions remitted to the trust versus what should have been remitted. Similarly, in a trust audit, the benefit payments to participants might be tested in terms of amounts paid and whether they were authorized, but whether such payments were in compliance with plan provisions, such as vesting provisions, would not be tested as they would be tested in a plan's audit. In a plan audit, participant data is tested. Participant data testing involves determining whether employees are properly included or excluded from participating and whether the census data upon which eligibility for certain contributions and distributions are made is accurate. The audit of a trust would not test this at all. Finally, the materiality threshold for a trust audit could be significantly higher than that which would apply in the case of an individual participating plan because the trust threshold would be based on total assets in the trust rather than assets in each individual plan.

Although the DOL continues to believe that the single trust proposal carried reporting and efficiency benefits, the DOL also agrees that adopting an alternative approach suggested by some commenters that permits use of either a single DCG-level trust or multiple plan-level trusts would provide more flexibility to DCG arrangements in attempting to realize the operational efficiencies and cost savings for participating plans that DCGs were intended to achieve.

Thus, the final rule addresses commenters' concerns by providing flexibility to utilize one or more separate trusts as part of a DCG reporting arrangement, including trusts that may be set up for particular employers. It similarly removes the restriction on types of sub-trusts that can be used, should a particular DCG choose to utilize a single trust. The above structure serves to treat plans that join a DCG, versus those that do not, on a level playing field with respect to audits, and will support plans freely entering and exiting DCG reporting arrangements according to plan needs and in the best interests of plan participants and beneficiaries. Although the ''eligible plan asset'' restriction on investments is not being adopted as part of the final forms revisions, the Departments expect that the SECURE Act requirement that all plans participating in the DCG reporting arrangement have the same investments or investment options, together with the requirement for a plan-level audit for small plans that do not meet the conditions for the DOL small pension plan audit waiver regulation, will likely result in DCG reporting arrangements requiring participating small plans to invest in ''eligible plan assets'' in any event. Thus, it is expected that plan assets covered by the DCG report would generally be held by regulated financial institutions.

However, consistent with the September 2021 proposal, this final rule retains the requirement that a large plan that elects to participate have a plan-level audit. Also, the final rule requires that small plans participating in the DCG either separately meet the audit waiver conditions or have a plan-level audit and attach the audit report to the DCG's consolidated Form 5500 filing.[26]

As explained in the September 2021 proposal, the DOL views an IQPA audit at the plan level as an important financial transparency and accountability condition for DCG reporting arrangements. Generally, pension plans and funded welfare plans with 100 or more participants are required to have an audit of the plan's financial statements performed by an IQPA. The DOL explained that in an audit of the DCG trust, the line items on the trust's financial statement are audited, but, because the underlying participating plans themselves are not audited, compliance with the provisions of the plans that are invested in and funded by the trust are not audited. Therefore, in a trust audit, the amount of contributions received by the trust might be tested against the contributions remitted by participating plans, but, whether those contribution amounts remitted are in accordance with the individual plan provisions would not be tested, as they would be tested in an audit of the plan. There could be undisclosed, material errors in the amount of contributions remitted to the trust versus what should have been remitted. Similarly, in a trust audit, the benefit payments to participants might be tested in terms of amounts paid and whether they were authorized, but whether the payments were in compliance with plan provisions, such as vesting provisions, would not be tested as they would be tested in an audit at the plan level. In a plan audit, participant data is tested. Participant data testing involves determining whether employees are properly included or excluded from participating and whether the census data upon which eligibility for certain contributions and distributions are made is accurate. The audit of a trust would not test this at all. Finally, the materiality threshold for a trust audit could be significantly higher than the threshold that would apply in the case of an individual participating plan. This is because the trust threshold would be based on total assets in the trust rather than assets in each individual plan. In comparison, under Statement on Auditing Standards No. 136 (SAS 136), *Forming an Opinion and Reporting on Financial Statements of Employee Benefit Plans Subject to ERISA,* independent qualified public accountants are required to consider relevant plan provisions that affect the risk of material misstatement for various transactions, account balances, and related disclosures. Areas such as participant eligibility, plan contributions, benefit payments and participant loans are all covered as part of a plan-level audit. Additionally, auditors are required to communicate

[26] As discussed below, the final forms revisions and the related amendment to the DOL annual reporting regulations includes a change in the methodology of counting participants for purposes of determining eligibility for certain simplified reporting options for small plans, which is based on whether the individual has an account balance rather than whether the individual is eligible to participate in the plan, even if the individual does not choose to participate. Thus, plans participating in the DCG will be able to rely on that new counting methodology for determining whether the plan is able to use the conditional audit waiver.

reportable findings to the plan that are identified during the audit of the plan. For example, it has been the DOL's experience that plan audits lead to increased reporting of prohibited transactions, such as identifying and disclosing delinquent participant contributions. The DOL has not changed its views in this regard and disagrees with the commenter who suggested that the IQPA audit could be replaced with lesser safeguards and reliance on certain other filings to report plan noncompliance with specific plan asset requirements.

Thus, after considering the public comments, the DOL continues to believe that a plan-level audit in accordance with the requirements of section 103 of ERISA, and accompanying regulations, is necessary and appropriate for plans participating in a DCG unless the plan individually meets the conditions for an audit waiver under the DOL's regulations.[27] The final rule, however, does not require that all plans (both large and small) be 100% invested in the types of assets that are required for a plan to be able to file the Form 5500–SF. The final rule also does not include the requirement that plans must be eligible for the small plan audit waiver by virtue of having 95% or more of its assets invested in ''qualifying plan assets'' under 29 CFR 2520.104–46(b)(1)(i)(A)(1), and not by reason of enhanced bonding. These elements of the proposal have not been included in the final changes and have been replaced with a more ''audit neutral'' approach to the DCG reporting arrangement requirements under which an IQPA audit and IQPA audit report are required unless the plan meets the conditions for the existing small plan audit waiver that would be available to any small plan, regardless of whether the plan participates in a DCG reporting arrangement.

With respect to the commenters who argued that the SECURE Act's provisions on a consolidated or aggregated annual report envision some type of consolidated or aggregated audit as part of the DCG filing, the DOL disagrees. The September 2021 proposal explained that it was not possible under GAAS to have a consolidated audit of all the participating plans in the DCG reporting arrangement. Rather, for a GAAS audit, the audit would have to be of the participating plans in the DCG reporting arrangement. Comments submitted by accounting industry stakeholders confirmed that conclusion. Nothing in the SECURE Act indicates that Congress intended to make wholesale changes to ERISA's GAAS and Generally Accepted Accounting Principles (GAAP) requirements applicable to plan audits and opinions of plan financial statements. The DOL also does not interpret the SECURE Act to provide for any new IQPA audit exceptions or exclusions for plans in a DCG. The statute directs the Departments to jointly modify requirements under Code Section 6058 and ERISA Section 104 to allow a group of plans to file a single aggregated return or report that meets the requirements of both sections. Section 202 of the SECURE Act makes no mention of audit relief for plans participating in a DCG. It also does not amend sections 103 or 104 of ERISA for DCG reporting arrangements, which set forth the generally applicable plan audit requirements and authorizes the DOL to provide conditional audit waivers through regulation.[28] To the contrary, SECURE Act section 202(b) specifically provides the Departments with authority to include any information regarding each plan in the DCG reporting arrangement determined to be necessary or appropriate for enforcement and compliance with the Code and ERISA.

As for commenters arguing for DCGs receiving analogous audit requirements to those applicable to MEPS, including PEPs, the DOL does not view DCGs as analogous to MEPs for audit purposes. Unlike MEPs, which are single plans subject to a single plan audit, DCGs are a collection of separate plans. Further, as described above, under GAAS, which is expressly incorporated into ERISA as the source of audit standards for plans, it is not possible to have a consolidated audit of all the individual plans in the DCG reporting arrangement. Commenters also provided no substantial evidence that a DCG consolidated report would provide better or different protections for plan participants with regard to risks a plan audit addresses, such as financial misstatements in plan books and records or plan-level failures to comply with applicable Code or ERISA Title I requirements.[29]

Thus, the final forms revisions do not provide for a ''consolidated audit'' of all the plans in the DCG for purposes of complying with ERISA IQPA audit and reporting requirements.

c. Content Requirements for DCG Form 5500

The final forms notice also adopts content requirements for the consolidated Form 5500 return/report filed by the DCG reporting arrangement that, except for the single trust and audit provisions described above, are largely unchanged from the proposal. Under the final forms revisions, DCG reporting arrangements must file a Form 5500 Annual Return/Report that includes largely the same information that large pension plans and other DFEs are required to file, except that a DCG reporting arrangement would also be required to include in its annual report a Schedule DCG (described below) to report individual participating plan information for each plan that is a part of the DCG reporting arrangement. One commenter expressed support for a separate Schedule DCG for each plan saying it allows for participants to know where they stand in relation to their separate plans; but otherwise cautioned against too much streamlining in other DCG reporting areas. Another commenter urged individual plan disclosures on DCG be as streamlined as possible, saying most questions should be answered on a group basis and asserting that supplemental information should only be supplied with respect to plans with compliance issues, rather than requiring broader disclosures. Another commenter expressed concerns with reconciling plan-level information on Schedule DCG, suggesting development of a separate schedule or attachment, similar to Schedule MEP, for DCG participating employers. As discussed below, the final forms revisions attempt to strike a balance between important plan information required to be disclosed on Schedule DCG, and other information that is disclosed on an aggregate basis on Form 5500 and specified Schedules as applicable to particular DCG filings.

Specifically, the content of the DCG annual return/report would include a Form 5500 Annual Return/Report of Employee Benefit Plan and any statements or schedules required to be attached to the form for such entity, completed in accordance with the instructions for the form, including Schedule A (Insurance Information), Schedule C (Service Provider Information), Schedule D (DFE/Participating Plan Information), Schedule G (Financial Transaction Schedules), Schedule H (Financial Information), Schedule DCG (Individual

[27] See, 29 CFR 2520.104–41; 29 CFR 2520.104–46.

[28] Section 104(a)(2) of ERISA sets forth reporting requirements for employee benefit plans and includes a grant of regulatory authority to the DOL to provide for simplified annual reporting by small pension plans. Section 103(a)(3)(A) of ERISA permits the DOL Secretary to waive audit requirements for small plans that are eligible for simplified reporting under Section 104(a)(2).

[29] Some commenters did cite duplication of audit procedures at the trust and plan level, but with the removal of the trust level audit in this final rule, that objection is rendered moot.

Plan Information), schedules described in § 2520.103–10(b)(1) and (b)(2) with information aggregated for all the participating plans unless otherwise provided in the instructions to the Form 5500, and, for DCG consolidated Form 5500 filings that cover large plans (generally those with 100 or more participants) and small plans that do not meet the regulatory conditions for the small pension plan audit waiver, an IQPA audit report and the related financial statements for each such plan, attached to the Schedule DCG for the plan. This would include separate financial statements described in ERISA section 103(a)(3)(A) and § 2520.103–1(b)(2) if such financial statements are prepared in order for the independent qualified public accountant to form the required opinions on the individual participating plans subject to the audit requirement.

Information reported on the various schedules to the Form 5500, other than Schedule DCG, would be reported for all participating plans in the aggregate. Thus, a Schedule A would be required for all insurance contracts that constitute one of the common investments or investment alternatives available to the participants in all the participating plans, regardless of whether certificates were to be issued to individual plans or participants upon selection of that option by a participant. Similarly, service providers to the DCG arrangement and to each of the participating plans would all be reported on Schedule C, even if the service provider did not actually provide services or charge fees to a particular plan because, for example, the service provider provided investment management services with respect to a particular investment option that was not selected by any of the participants in a particular plan. The $5,000 threshold for a service provider to be reported on Schedule C would be based on the total amount received by the service provider from all sources, not broken down and measured on a per plan or other allocated method. For example, reporting on Schedule C would still be required if the total amount was $5,000 or more, even if the amount paid by or charged against the assets of each of the participating plans or otherwise allocated to each plan was less than $5,000 per plan. Reportable transactions on Schedule G would include all reportable transactions for all the participating plans. For reporting delinquent participant contributions on Schedule H, Line 4a, the DCG filing would be required to answer ''yes'' and report the aggregate of all delinquent participant contributions for all the plans covered by the DCG filing, but would not file a Schedule of Delinquent Participant Contributions. The individual plans would report delinquent participant contributions for the plan on the plan's Schedule DCG, and plans subject to the IQPA audit requirements would attach a Schedule of Delinquent Contributions to their Schedule DCG. For Schedule H, Line 4i, Schedule of Assets information is reported on a consolidated basis for all plans in the DCG reporting arrangement; some of that information would come from the Schedule of Assets attached to Schedule DCG for those plans required to have an audit. For plans not subject to an audit, the common plan administrator would maintain the necessary records to prepare the consolidated Schedule of Assets, showing all plans' assets, that is attached to Schedule H of the DCG reporting arrangement's Form 5500.

The Departments expect that this will help streamline the process of answering compliance questions by having the question answered on a group basis rather than by each plan and allowing the common administrator of all the participating plans to use a consolidated supplemental schedule to identify only the plans with compliance issues.

d. Schedule DCG (Individual Plan Information)

Section 202(b) of the SECURE Act specifically provides that the Departments may require the consolidated Form 5500 return/report filed by the DCG reporting arrangement to include any information regarding each plan in the group as IRS and DOL may determine necessary or appropriate for the enforcement and administration of the Code and ERISA. The IRS examines individual plans, not groups of plans, to ensure that plan sponsors and/or employers comply with the tax laws governing retirement plans, and to help protect the retirement benefits of participants and beneficiaries. Although various provisions of Title I of ERISA, including the fiduciary responsibility provisions, apply to investments and financial and administrative services providers, the DOL similarly focuses much of its enforcement and oversight on plan level compliance. The Departments concluded that it is necessary and appropriate for their enforcement and administration of the Code and ERISA to require information with respect to a plan's qualification, investments, financial condition, and operation on a separate basis for each plan relying on the DCG consolidated Form 5500. Thus, consistent with the proposal, the final forms revision provides that a separate Schedule DCG is required for each individual plan relying on the DCG consolidated Form 5500 to satisfy their annual return/report filing obligation. The Schedule DCG includes:

- Part I—DCG Information includes the DCG name, EIN, and plan number. Information in Part I must match the DCG information reported on Part II of the consolidated Form 5500.
- Part II—Individual Schedule DCG Information includes checkboxes to confirm that the plan for which the Schedule DCG is being filed is a single-employer plan (as noted above, MEPs and multiemployer plans may not participate in a DCG) or a collectively bargained plan; and checkboxes to indicate if the Schedule DCG is a first filing, an amended filing, or a final filing.
- Part III—Basic Individual Plan Information, including the plan name, plan number, plan effective date; plan sponsor's information (name and address, EIN, telephone number, and business code); plan administrator's information (name and address, EIN, and telephone number); total number of participants; total number of active participants; number of participants with account balances; and number of participants who terminated employment during the plan year with accrued benefits that were less than 100% vested.
- Part IV—Plan Financial Information, including total plan assets (including participant loans); total plan liabilities; net plan assets; contributions received or receivable in cash from the employer, participants, and others; noncash contributions and total contributions; benefit payments; corrective distributions, and certain deemed distributions of participant loans; direct expense information; net income; and assets transferred to (from) plans.
- Part V—Plan Characteristics, including two-digit boxes for entry of all applicable codes in the List of Plan Characteristics Codes in the instructions to the Form 5500.
- Part VI—Compliance Questions, including delinquent participant contributions, nonexempt transactions, plan assets/liabilities transferred from the plan, indication of whether the plan is a defined contribution plan subject to section 412 of the Code, plan coverage and nondiscrimination information, and whether a plan is a pre-approved plan that received a favorable IRS Opinion Letter.

• Part VII—Accountant Opinion Information for Participating Plans, including questions regarding the required individual IQPA report and financial statements that must be filed with the Schedule DCG filed for participating large plans (generally, plans that cover 100 or more participants with account balances as of the beginning of the plan year) and small plans that do not meet the audit waiver conditions.

One commenter expressed support for the DCG reporting proposal, saying a separate Schedule DCG allows participants to know where they stand in relation to their plan, adding that the Schedule DCG requires less information than a plan would provide on a single Form 5500. Another commenter said the DCG schedule will create more work for auditors because they must separately review each Schedule DCG and reconcile the form at the plan level. The commenters argued that this will require more audit work and more work by record keepers to provide the data. They suggested the DCG file a new consolidated attachment for all the participating plans using a schedule similar to Schedule MEP for employers participating in a multiple-employer plan.

The Departments view the Schedule DCG as consistent with and supported by the SECURE Act's express direction to provide a consolidated filing option in a way that enables participants to find information on their plan. The Departments agree with the commenter supporting the new Schedule DCG as providing participants with important and streamlined information regarding their plan. Further, as previously mentioned, the consolidated filing for DCG reporting arrangement is different from a MEP filing since it essentially aggregates the information of many separate plans, as opposed to the MEP which is one plan with multiple participating employers. Moreover, since there is a plan at the MEP level, MEP level information, with a supplementary schedule showing a list of participating employers and certain information on each employer's account balances and other specific data items is what the SECURE Act section 101 requires for MEPs.[30] For a DCG reporting arrangement, since it is an aggregate report on many different separate plans, the additional details in Schedule DCG provide important plan-level information for purposes of DOL and IRS oversight and enforcement obligations and also provide a straightforward way for participants in a plan relying on the DCG consolidated Form 5500 to find information on their particular plan.

Another commenter recommended that the agencies allow a DCG to file a single Form 8955–SSA, *Annual Registration Statement Identifying Separated Participants with Deferred Vested Benefits,* on behalf of all individual plans filing a Form 5500 as part of a DCG reporting arrangement. The commenter also suggested that filing of the Form 8955–SSA be incorporated into the DOL EFAST2 system, because, according to the commenter, the EFAST2 system is a more scalable, robust system and better suited for enterprise-level processing. Section 202 of the SECURE Act provides for the filing of a combined annual report for a group of plans that satisfies the annual reporting requirements under Code section 6058 and ERISA section 104. Section 202 of the SECURE Act does not apply to the annual registration statement (Form 8955–SSA) that is required under Code section 6057.[31] Accordingly, the IRS declined to provide for the filing of a combined annual registration statement for the Form 8955–SSA as part of the DCG consolidated reporting option.

e. Other DCG Participating Plan Conditions

i. Same Fiduciary

The September 2021 proposal included the SECURE Act section 202 condition that plans in a DCG reporting arrangement must have the ''same one or more named fiduciaries.'' ERISA section 402 separately provides that every employee benefit plan shall be established and maintained pursuant to a written instrument and that the ''named fiduciaries'' must be identified in that instrument.[32] The DOL stated in the proposal that they understand that it is customary for the employer/plan sponsor to be a named fiduciary of the employer's plan and do not believe the SECURE Act intended that each employer in a group of plans be a named fiduciary of every plan in the group. The proposal included an exception under which the employer/plan sponsor can be a named fiduciary of each employer's own plan, provided that the other named fiduciaries under the plans are the same and common to all plans. There were no significant comments on this requirement or the exception. Accordingly, this requirement is being adopted in these final forms revisions unchanged from the proposal.

ii. Same Plan Administrator

The SECURE Act requires that all the plans have the same administrator as defined in section 3(16)(A) of ERISA and plan administrator as defined in Code section 414(g). As explained in the September 2021 proposal, in general, under ERISA and the Code the ''plan administrator'' or ''administrator'' is the person specifically so designated by the terms of the instrument under which the plan is operated. If an administrator is not so designated, the administrator/plan administrator is the plan sponsor, as defined in ERISA section 3(16)(B). The Departments explained that they do not believe that the default ''plan sponsor'' provision is workable in the context of a statutorily mandated construct for a consolidated annual report covering multiple separate plans. No significant comments were received

[30] Section 101 of the SECURE Act amended ERISA section 103(g) for MEPs. Section 103(g) of ERISA requires that the annual return/report of a MEP generally include a list of participating employers and a good faith estimate of the percentage of total contributions made by each participating employer during the plan year. The SECURE Act amended section 103(g) to expand the participating employer information that must be reported on the Form 5500 Annual Return/Report by requiring reporting of the aggregate account balances attributable to each employer in the plan (determined as the sum of the account balances of the employees of each employer and the beneficiaries of such employees), and applied section 103(g) to retirement plans that currently meet the definition of a MEP under ERISA section 210(a), including any pooled employer plans, for plan years beginning on or after January 1, 2021. With respect to a pooled employer plan, section 103(g) further requires that the annual return/report must include identifying information for the person designated under the terms of the plan as the pooled plan provider.

[31] Form 8955–SSA is an IRS form used to satisfy the reporting requirements of Code section 6057(a). The information reported on Form 8955–SSA is transmitted to the Commissioner of Social Security, as required by Code section 6057(d). The Social Security Administration (SSA) is then able to provide this information, in accordance with section 1131(a) of the Social Security Act, to individuals and beneficiaries who apply or are eligible for social security benefits or hospital insurance benefits. Form 8955–SSA currently can be filed electronically through the IRS ''Filing Information Returns Electronically'' (FIRE) System, which provides for data transmittal to SSA. Thus, Form 8955–SSA is not part of this final rulemaking.

[32] ERISA section 402 requires that such instrument shall provide for one or more named fiduciaries who jointly or severally have authority to control and manage the operation and administration of the plan. Section 402 of ERISA further provides that the term ''named fiduciary'' means a fiduciary who is named in the plan instrument, or who, pursuant to a procedure specified in the plan, is identified as a fiduciary (A) by a person who is an employer or employee organization with respect to the plan or (B) by such an employer and such an employee organization acting jointly.

raising concerns with the proposal or suggesting alternatives. Accordingly, the final forms revisions require that there be a designated common plan administrator for all the participating plans of the DCG reporting arrangement and that the common plan administrator (which is expected to be an entity or organization) must be identified as the administrator on the DCG Form 5500 and any applicable schedules pursuant to the Form 5500 instructions, which have been updated to accommodate DCG filers.

iii. Same Investments or Investment Options

The SECURE Act further requires that all the participating plans of the DCG provide the ''same investments or investment options'' to participants and beneficiaries to be able to rely on the DCG consolidated Form 5500 as satisfying their annual reporting obligation. In the Departments' view, the ''same investments'' requirement covers individual account plans in which some or all of the investments are not subject to participant direction, and the ''same investment options'' requirement applies to those aspects of the plan's investments that are subject to participant direction. This statutory requirement was, in part, intended to allow for appropriate transparency in the aggregated financial information that will be filed by the DCG consistent with the objective of the DCG to provide plans with a more efficient and less burdensome filing alternative. The Committee Report of the House Ways and Means Committee for the House version of the SECURE Act expressly states that the DCG provisions were intended to apply to identical plans: ''The Committee believes that, in the case of identical plans (that is, plans with the same plan year, trustee, administrator and investments) maintained by unrelated employers, permitting a single Form 5500, containing information specific to each plan, rather than requiring a separate Form 5500 for each plan as under present law, can reduce aggregate administrative costs, making it easier for small employers to sponsor a retirement plan and thus improving retirement savings.'' [33]

Commenters did not raise objections or concerns with this ''common investments'' condition in general, but some commenters did raise questions regarding whether there would be further clarifications or examples provided regarding the criteria for the offering of the ''same investments or investment options,'' with one specifically asking about use of investment platforms that allow participating plans to choose investments to offer their participants from a menu of available investments. The commenters suggested that DOL should clarify that the ''same investments or investment options'' condition is met in the case of a common investment platform in which participating plans may select from available investments but each participating plan is not required to make all available investments available to their participants. A few commenters focused on the related provision in the proposal that prohibited the use of brokerage windows and investments in employer securities, saying that the proposal inappropriately limited these plan features from the DCG reporting arrangement and urged the Agencies to reconsider.

On the brokerage window prohibition in the proposal, one commenter opposed inclusion of brokerage windows in DCG reporting arrangements. That commenter believes the type of disclosures necessary are unworkable in group reporting arrangements and that plans with brokerage windows would not meet the ''same investment option'' requirement the commenter deems crucial to DCG reporting requirements because of the wider range of investments in brokerage windows. Most commenters, however, cited varying reasons for supporting inclusion of brokerage windows, also known as self-directed brokerage accounts (SDBAs), including arguments that: (1) a wider choice of investments improves participant engagement with the plan, (2) allowing a brokerage window allows plan sponsors to otherwise offer a smaller menu of plan investments, (3) almost half of defined contribution pension plans use SBDAs, and (4) SBDAs are considered an important retirement plan offering.

Commenters that supported allowing brokerage windows argued that the brokerage window itself, not each underlying investment available through the window, should be classified as the ''investment or investment option.'' [34] However, views diverged as to whether all plans within a DCG must offer brokerage windows to their participants and whether the investment options offered through brokerage windows must be the same for each plan participating in a DCG. One commenter argued that a SDBA with a designated brokerage provider with the same types of investments for all the plans within a DCG should be seen as meeting the SECURE Act requirement. This commenter also recommended that ''Qualifying SDBA'' should be defined as: a self-directed brokerage account or window available to all plans in the DCG as an investment alternative in addition to other investment options offered to such plans and that meets the following conditions: (1) it is provided by a single designated registered broker-dealer, and (2) the only permitted investments in the Qualifying SDBA are assets with a readily determinable fair market value as described in 29 CFR 2520.103–1(c)(2)(ii)(C).[35] Other commenters suggested that the SECURE Act's investment commonality requirement could be achieved if all individual plans within a DCG were offered the same brokerage window; but that each such individual plan should not be required to make all of the investments in the brokerage platform available to its participants. One association commenter stated that some of its members believe commonality would be achieved only if all individual plans within a DCG offer a brokerage window, while other members believe commonality would be achieved if each such individual plan within a DCG has

[33] H.R. Report No. 116–65 Part 1 at pages 81–82 (2019).

[34] As an alternative interpretation of Section 202 of the SECURE Act, a commenter suggested considering brokerage windows a ''valuable service to a participant offered through a broker dealer, rather than an investment or investment option,'' as supposedly consistent with DOL guidance that brokerage windows are not designated investment alternatives. The DOL does not believe that this is a viable interpretation of the SECURE Act, especially if the brokerage window ''service'' allows for non-uniform investment options for different participating plans. Such an interpretation could authorize a DCG reporting arrangement to have plans that only provide a ''brokerage window'' service and effectively read out of the statute the requirement that participating plans have the same investment or investment options.

[35] 29 CFR 2520.103–1(c)(2) sets forth conditions for small pension plans to be eligible to file the Form 5500–SF, including requirements in 29 CFR 2520.103–1(c)(2)(ii)(C) that focus on whether the plan's investments are in assets that have a readily determinable fair market value. The regulation generally defines assets that have a readily determinable fair market value as shares issued by an investment company registered under the Investment Company Act of 1940; investment and annuity contracts issued by any insurance company (subject to certain state business qualification and valuation disclosures), bank investment contracts issued by a bank or similar financial institution (See, 29 CFR 2550.408b–4(c)) subject to annual valuation disclosures, securities (except employer securities) traded on a public exchange; government securities issued by the United States or by a State; cash or cash equivalents held by a bank or similar financial institution (See 29 CFR 2550.408b–4(c)) by an insurance company, by a registered broker-dealer under, or by any other organization authorized to act as a trustee for individual retirement accounts under Code section 408; and any loan meeting the requirements of ERISA section 408(b)(1), and the regulations issued thereunder.

the option of whether to make the brokerage window available to its participants.

One commenter supporting inclusion of SBDAs did not support any changes to the Form 5500 requiring additional information regarding SDBAs, participants using SDBAs, or the individual assets held by plans as a result of investments made through SDBAs, assuming the DOL adopts the commenter's definition for ''Qualifying SDBAs.'' Under that definition, as described above, a ''Qualifying SDBA'' would not include tangible personal property, loans, partnerships or joint-venture interests, real property, employer securities, or investments that could result in a loss in excess of the account balance of the participant or beneficiary who directed the transaction. Those are the classes of assets that the Form 5500–SF currently requires to be reported separately even if held through a brokerage window. Other commenters argued that assets in brokerage window investments should be reported in the aggregate generally as one asset held for investment purposes and that brokerage window investments should not be broken down further. The commenter argued that further detail would be too costly due to the need to involve third parties and also asserted that more detailed information would not provide valuable information to the Agencies.

With respect to allowing employer securities as a DCG investment option, one commenter expressed support for the restriction on the holding of employer securities as an investment and three others supported allowing employer securities as an investment. The commenters stated that the proposal would exclude existing plans that offer employer securities to its participants from participating in DCGs. One of those commenters cited the example of the separate retirement plans of a parent company and its subsidiaries that would qualify to file a consolidated report except for the presence of one plan in the group that offers employer securities. That same commenter also was concerned that employers should not be forced to choose between making employer securities available as an investment option (which ERISA specifically contemplates and encourages) and participating in a DCG reporting arrangement. All of the commenters who addressed the employer security issue argued that indirect holding of employer securities in a bank collective investment fund or insurance company pooled separate account should not preclude a plan from joining a DCG reporting arrangement. The commenters asked the DOL to clarify that a plan with a diversified pooled investment fund, such as a collective investment trust, under which participants may indirectly invest in employer securities, would be eligible to participate in a DCG arrangement, as long as the diversified pooled investment fund option is offered to all plans in the DCG.

The DOL disagrees with commenters who argued that the SECURE Act precludes the exercise of regulatory discretion to place reasonable guardrails on the use of the DCG alternative reporting method, given the cited authorities under SECURE Act Section 202(b) and ERISA section 110. Rather, under existing ERISA authorities, the DOL must find that a simplified reporting option is ''appropriate'' under ERISA's protective provisions. Similarly, for the DOL to establish an alternative method of complying with the generally applicable annual reporting requirements under ERISA, the DOL would need to make findings that: (1) the alternative method provides adequate disclosure to participants and beneficiaries and adequate reporting to the Secretary; (2) the application of the requirement of part 1 of Title I of ERISA would (A) increase the costs to the plan, or (B) impose unreasonable administrative burdens with respect to the operation of the plan; and (3) the application of part 1 would be adverse to the interests of plan participants in the aggregate. The Departments do not view the SECURE Act as directing them to ignore the protective conditions of ERISA and look only to the specific enumerated criteria in section 202(b) of the SECURE Act in establishing a consolidated reporting option for DCGs. Rather, such a reading of the SECURE Act would compromise enforcement and administration of ERISA and the Code and impair the disclosure interests of plan participants and beneficiaries in plans that rely on a DCG consolidated return/report.

The DOL also is not persuaded by commenters arguments that Congress' direction of ''sameness'' for investments, and other indications that a DCG is intended for essentially ''identical'' plans, should be ignored in favor of allowing substantial variation in the menu of investment options available to participants in different plans covered by the DCG Form 5500, including employer securities. In the DOL's view, allowing substantial variation in the investments or investment options of participating plans is not an appropriate reading of the SECURE Act terminology requiring the ''same'' investments or investment options. That kind of investment structure also would require more detailed financial reporting at the plan level on the Schedule DCG to provide appropriate oversight and accountability and, therefore, would be inconsistent with the objective of reduced aggregate administrative costs of annual reporting for plans in DCG reporting arrangements. Accordingly, the final forms revisions and related final rule would not permit a DCG to satisfy the same investments or investment options requirement by offering a common investment platform with a broad array of available investments with each participating plan potentially having unique investment option menus selected from that broad platform. Further, the Departments note that a DCG is just one alternative reporting method that eligible plans may use. Separate annual reporting alternatives remain in place for plans that would prefer a broader range of investment choices or a more customized plan design. The fact that certain types of plans might not be able to file as part of a DCG based on types of investments they wish to offer as options does not outweigh the interest in following Congress' directive to develop a new filing option aimed at simplifying filing and reducing costs (while still meeting important transparency safeguards) for plans with key common characteristics, including plan investments, plan trustees, plan fiduciaries and plan administrators.

Nonetheless, the Departments agree that some modifications to the proposal regarding brokerage windows and employer securities could be adopted that would provide more flexibility to plans and DCGs while still providing for an adequate level of uniformity, financial transparency and accountability. Specifically, the DOL and IRS concluded that they could permissibly interpret the SECURE Act to classify a brokerage window as the ''same investment option'' provided that: (1) the brokerage window is available through a single designated brokerage window provider that is a registered broker-dealer, and (2) the only permitted investments in the brokerage window are assets with a readily determinable fair market value as described in 29 CFR 2520.103–1(c)(2)(ii)(C). Also, the Departments agree that publicly traded securities of a particular employer held in a DCG common investment option, such as a mutual fund or some type of collective trust or pooled account investment option, that is otherwise a prudent plan option and is an available option to all

DCG participating plans, would not preclude a plan sponsored by the issuing employer from being included in the DCG reporting arrangement, provided all other DCG structural requirements are met. In this case, the DOL views the indirect holding to be part of the otherwise ''same investment'' option holding such security, rather than being the investment option itself. The Departments are not adopting the commenters' other suggested loosening of the ''same investments or investment options'' because the Departments concluded that the suggested further loosening was not consistent with the SECURE Act requirements and underlying goal of improving the administrative simplicity and efficacy of annual reporting for plans in a DCG reporting arrangement.

f. DCG Eligibility for Plans Without a Trustee

Although, as described above, section 202 of the SECURE Act includes a requirement that eligible plans must have the same ''trustee'' as described in section 403(a) of ERISA, the DOL and IRS note that it is commonplace for ERISA-covered plans to use insurance (*e.g.,* individual account plans using variable annuity structures and Code section 403(b)(1) plans) and custodial accounts (*e.g.,* Code section 403(b)(7) plans) as funding vehicles. ERISA section 403(b) includes explicit exceptions to the trust requirement for such plan designs. There is no legislative history for SECURE Act section 202 discussing why the provision was limited to plans with ''trustees.'' Although, in the September 2021 proposal, the DOL and IRS expressed concern about whether the SECURE Act section 202 requirement for a ''trustee'' could be read to include plans without trustees funded by insurance or custodial accounts pursuant to the trust exceptions in ERISA section 403(b), the DOL and IRS specifically solicited comments on whether they should, pursuant to their general regulatory authority, provide a consolidated reporting option for plans that use the same custodial account or insurance policy as the funding vehicle for their plans, and if so, whether special conditions should apply in light of the absence of a trustee or trustees.

A number of commenters responded to the request and said they support and encourage expanding DCG reporting to 403(b) plans, even though they technically do not have trustees but instead use annuities or custodial accounts. Notwithstanding the explicit trust requirement in the statutory provision, a number of commenters said there was no evidence of intent by Congress to exclude 403(b) plans and urged the DOL and IRS to allow 403(b) plans to participate in DCGs.[36] Several commenters said the Departments have the regulatory authority to expand access to 403(b) plans and encouraged exercising it in this instance. Several commenters said that such plans that use the same insurance company or the same custodian are functionally equivalent to groups of plans that have a common trustee, and another commenter said limiting DCG reporting to only trusteed plans was unnecessarily restrictive. Other commenters cited section 403 of ERISA and 401(f) of the Code as providing support for custodial accounts and contracts to be treated similar to trusts for DCG purposes, since they are treated similar to trusteed plans in other contexts. Notwithstanding the fact that section 202(c)(2)(A) of the SECURE Act requires all plans in a DCG to have ''the same trustee (as described in section 403(a) of [ERISA] . . .),'' one commenter said they found no legal or policy basis to preclude such plans from the cost efficiencies that SECURE Act section 202 was intended to offer.

After considering the comments, the Departments continue to believe that the SECURE Act provision is limited to plans with trustees but agree that it may still be possible pursuant to their general regulatory authority to provide a DCG reporting option for 403(b) plans notwithstanding the fact that the plans' assets are held by an insurance company or a custodian rather than a trustee. However, the Departments anticipate that any rules that would permit 403(b) plans to participate in a DCG would require a DCG to consist of only 403(b) plans because it does not appear to be possible for a 403(b) plan to meet the commonality requirements of SECURE Act section 202 with 401(a) plans participating in a DCG. There may be other unique complications with properly structuring a DCG reporting option for 403(b) plans that need to be identified and addressed. Accordingly, before exercising any regulatory authority to permit 403(b) plans to participate in a DCG, the Departments request comments on how such an arrangement would be implemented. The Departments are particularly interested in comments (1) concerning whether a 403(b) plan DCG should include (a) only 403(b) plans consisting of only Code section 403(b)(1) annuity contracts offered by the same insurance company or of only Code section 403(b)(7) custodial accounts maintained by the same custodian, or (b) a group of 403(b) plans, each of which consist of both annuity contracts under Code section 403(b)(1) offered by the same insurance company and custodial accounts under Code section 403(b)(7) maintained by the same custodian, (2) concerning arrangements described in (1)(b) above, (a) views on how the SECURE Act's investment commonality requirement would be met given that, unlike trustees in 401(a) plans, the insurance companies and custodians that hold plan assets in 403(b) plans also are responsible for deciding the investments available under the plan, and (b) views on how the common plan administrator requirement will be satisfied if the insurance company and custodian are not related entities.

[36] Several commenters argued that it is a permissible reading of the statute to say that Congress by requiring the ''same trustee'' meant to include plans that lack a trustee because having ''no trustee'' is the ''same trustee'' (*i.e.,* none). The Departments are not prepared to conclude that the identical plan conditions in the SECURE Act can reasonably be read to say that a plan having no trustee is the same as that plan having the same trustee or trustees as other plans participating in the DCG.

g. No DCG Participation by Multiemployer Plans or MEPs

With respect to the condition in the proposal that prohibited multiemployer plans and MEPs from being part of DCG reporting arrangements, the September 2021 proposal solicited public comments on whether the final rule should include multiemployer plans and MEPs, and if so, what conditions should apply to DCG reporting arrangements that would include such plans. Two commenters supported the restrictions on the ability of multiemployer plans' and MEPs' to participate in a DCG. One representative of audit professionals cited complicating audit procedures as a reason for such exclusion. No comments raised substantial concerns or proposed alternatives. The DOL and IRS do not believe that section 202 of the SECURE Act was focused on allowing groups of multiemployer plans or MEPs, which already file a single Form 5500 that covers all of the employers that participate in the plan, to file a single consolidated Form 5500 covering the group of multiemployer plans or MEPs. Further, the DOL and IRS are concerned that allowing a single consolidated Form 5500 in the case of such plans, for example, in the case of a group of multiemployer section 401(k) plans, could result in an undesirable reduction in transparency and financial accountability. Accordingly, the DOL and IRS retain this restriction in the final forms revisions.

h. Form 5558 Extension for DCG Reporting Arrangements

The September 2021 proposal did not expressly allow for plans participating in a DCG reporting arrangement to use a single filing of a Form 5558 to obtain an extension of the due date for their annual return report. The proposal did, however, request public comments on that issue. The current Form 5558, *Application for Extension of Time To File Certain Employee Plan Returns,* is the IRS Form used by a plan sponsor to apply for an extension of time to file a Form 5500 series return, Form 8955–SSA, and Form 5330. The commenters expressed concerns that requiring a separate Form 5558 for each participating employer would be burdensome, be likely to result in inadvertent mistakes by plan sponsors who were relying on the DCG to satisfy their plan's annual reporting obligations, and not be necessary to ensure appropriate accountability. The commenters on this issue recommended that the Agencies permit a DCG reporting arrangement to file a single Form 5558 requesting an extension of time to file the Form 5500 for all plans that participate in the DCG reporting arrangement. The commenters further recommend that a list of participating employers' EINs and plan numbers be attached to the single Form 5558. The Agencies agreed that the commenters' recommendation would reduce burdens and still provide appropriate accountability. Accordingly, the final forms revisions permit a DCG reporting arrangement to file a single Form 5558 for an extension of time to file a Form 5500 return that includes a list of the individual plans participating in the DCG reporting arrangement covered by the single Form 5558 request for an extension. Form 5558 is also revised to allow electronic filing with EFAST2.

i. No Form 5500–SF or Form 5500–EZ Filing Options for DCGs

The September 2021 proposal noted the Departments' expectation that savings for plans relying on a DCG filing compared to plans filing separately would generally only begin to emerge when the DCG collectively exceeds an aggregate participant count of 100 participants. In other words, it was not expected that a DCG filing would provide meaningful cost savings for plans, as compared to the plans filing their own annual report, in the case of DCG arrangements with an aggregate participant count of under 100 participants. Rather, it was expected in such cases involving participant counts of under 100 participants that the individual plans would likely qualify to file on Form 5500–SF and that they would likely find it more cost effective to file their own separate Form 5500–SF rather than relying on a DCG filing.[37] Accordingly, the proposed rule did not provide any ''small plan'' option for a DCG consolidated annual report. The September 2021 proposal, however, solicited comments on whether stakeholders expect there to be ''small'' DGCs, whether a ''small'' DCG alternative should be made available, and what the content requirements for such an alternative should be, *e.g.,* whether the content of the ''small'' DCG annual return/report should include Schedule I instead of Schedule H, whether it should include the IQPA audit report on the DCG trust, and whether it should include the Schedule C.[38] One commenter opposed simplified DCG reporting as a general matter and also specifically opposed allowing DCGs to file as small plan filers, citing a lack of transparency regarding plan information that could occur should that be permitted.

The final forms revisions do not include an option under which such a ''small'' DCG could file as a small plan filer. The final rule also does not adopt a separate DCG reporting arrangements for one-participant plan sponsors. Two commenters provided input regarding whether the IRS should establish a separate DCG reporting arrangement for one-participant plan sponsors that file the Form 5500–EZ. One commenter did not think any of their clients currently filing Form 5500–EZ would be interested in participating in a DCG reporting arrangement. This is because investments in the commenter's clients' one-participant plans are typically customized to meet the needs of the single participant and differ from investment alternatives under a plan with participant-directed investments. Another commenter encouraged the IRS to develop a DCG reporting arrangement for Form 5500–EZ filers—particularly a structure under which Form 5500–EZ filers would be permitted to file as part of a group consisting only of Form 5500–EZ filers. As discussed in the September 2021 proposal, the IRS views the current Form 5500–EZ as a simple and streamlined method for one-participant plan sponsors to satisfy the annual reporting requirement under Code section 6058. Consequently, creating a separate DCG reporting arrangement for one-participant plan sponsors would not effectively reduce filing burdens and would be unlikely to generate the administrative efficiencies and cost-savings that were the purpose behind the inclusion of a consolidated group filing structure in the SECURE Act. The information requested on the Schedule DCG that is required to be completed by each individual plan participating in a DCG reporting arrangement would be almost identical to the information requested on the current Form 5500–EZ. Additionally, the IRS would incur significant costs and use substantial resources to develop and process a separate DCG reporting arrangement for the Form 5500–EZ filers. The IRS will continue evaluating and communicating with stakeholders to determine if it is in their best interests to have a DCG reporting arrangement for one-participant plan sponsors in the future and will consider revisiting its decision not to have a DCG reporting arrangement for Form 5500–EZ filers, if stakeholders demonstrate a significant demand for this structure.

2. Schedule MEP (Multiple-Employer Pension Plan Information) and MEP Reporting

Consistent with the proposal, the final rule adds a new Schedule MEP (Multiple-Employer Pension Plan Information) to the Form 5500 Annual Return/Report, and also adds a limited number of additional data items elsewhere on the Form 5500 relevant to MEPs. The Schedule MEP will generally consolidate SECURE Act related reporting for a MEP filer in one easily identifiable schedule. The Schedule MEP will report information specific to MEPs, including the ERISA section 103(g) participating employer information and aggregate account information.[39] Questions intended to satisfy the SECURE Act's reporting requirements for PEPs and questions to link the Form PR (Pooled Employer Registration) and the Form 5500 for each plan operated by a PPP will also be on the Schedule MEP. A new checkbox will be added to the Form 5500 (Part II, line 10a(5)) to indicate that

[37] See Section III.A.1 of the September 2021 proposal, which discussed the Departments' view that creating a consolidated group filing for employers required to file a Form 5500–EZ is similarly unlikely to generate administrative efficiencies for those employers, as compared to continuing to file separately.

[38] Since the aggregate participant count of the entire DCG would be less than 100, there could be no ''large plans'' participating in such a ''small'' DCG, so the issue of an individual audit for a participating large plan would not arise.

[39] The requirement to add the aggregate account balance and the new PEP information was already implemented beginning with the 2021 forms pursuant to the Final Rule Phase I. The change being adopted in this final forms revision is to have the information reported in standardized format on the Schedule MEP itself, rather than as a non-standard attachment to the Form 5500.

Schedule MEP is attached to the Form 5500. The Schedule MEP will require information consistent with that which was required to be reported via attachment for 2021 and 2022 forms revisions, but will also accommodate certain SECURE Act 2.0 changes related to 403(b) plans, and will be largely consistent with the changes set forth in the proposal to create a new Schedule MEP. As discussed in more detail in later sections of the preamble, the DOL took into account commenters' input on certain items of information proposed on part III of Schedule MEP.

Schedule MEP, Part I, like the other schedules to the Form 5500, requires filers to enter identifying information (which must match the information entered on the Form 5500) and to indicate the plan type by checkbox. The instructions provide general definitions for purposes of annual reporting for the various categories of pension plans that must complete the Schedule MEP. The different types of MEP checkbox choices set forth in Part I of Schedule MEP are: (a) group or association retirement plans within the meaning of 29 CFR 2510.3–55(b) (*i.e.,* association retirement plans); (b) professional employer organization plans within the meaning of 29 CFR 2510.3–55(c) (*i.e.,* PEO plans): (c) pooled employer plans within the meaning of ERISA section 3(43) (PEPs); and (d) other MEPs covering the employees of two or more employers that are not single or multiemployer plans for annual reporting purposes. Multiemployer plans, as defined under section 3(37) of ERISA, are not required to complete the Schedule MEP.[40]

Schedule MEP, Part II includes a repeating line item on which all MEPs would report information under ERISA section 103(g) regarding participating employers, including employer/plan sponsor name, EIN, the percentage of total contributions to the plan or arrangement by each participating employer, and, for defined contribution plans only, the aggregate account balances information the SECURE Act added to ERISA section 103(g). That information is currently collected for MEPs as a non-standard attachment to the Form 5500 and Form 5500–SF, including, pursuant to the SECURE Act, the new data element added by the Final Rule Phase I to require reporting of the aggregate account balances for each participating employer in defined contribution MEPs only. Thus, the final forms revisions continue the provision in the September 2021 proposal and Final Rule Phase I confirming that defined benefit MEPs are not required to report the aggregate account balances. Also, consistent with the September 2021 proposal, Part II includes special instructions and questions 2(e) through 2(g) for ''working owners'' (see 29 CFR 2510.3–55(d)(2)) or other individuals who are participants or beneficiaries who are no longer associated with a participating employer or participating employer plan.[41]

Schedule MEP, Part III is comprised of only the two questions that were added to the annual report by the Final Rule Phase I as information reported via non-structured attachment (*i.e.,* for form years 2021 and then until further notice). This final forms revisions transfers that data collection from being reported on a non-structured attachment to being reported on the Schedule MEP, Part III, Line 3. On Line 3, PEPs are required to indicate whether they are in compliance with the Form PR registration requirements and provide the Ack ID number for their latest Form PR filing.[42]

Two commenters expressed support for a separate Schedule MEP. One commenter pointed out that a new Schedule MEP makes it possible to systematically track and evaluate recently established plan types; significantly improves the disclosure and reporting regime for all plans (including MEPs), and eases access to, and use of, Form 5500 information. Another commenter agreed, noting that a new Schedule MEP is consistent with changes necessary under the SECURE Act. Some commenters opposed a Schedule MEP as singling out PEPs for special reporting requirements that are not imposed on other MEPs. Others did not object to the idea of a Schedule MEP in general but expressed concern about some elements of Part III of the proposed Schedule MEP.[43] Comments raising concerns with reporting on Form PR compliance were addressed in the Final Rule Phase I,[44] and will not be revisited here as this final forms revisions notice simply transfers those questions regarding Form PR compliance from being answered in a non-standard attachment to the Schedule MEP without substantive change to the questions (*i.e.,* simply renumbering to conform to the Schedule MEP format). The remaining comments on other questions proposed in 2021 for Schedule MEP, Part III are set forth below.

In the Final Rule Phase I, the DOL stated it read certain commenter's questions as primarily directed at issues that may arise in the context of a standardized Schedule MEP structure for reporting this information. One commenter said that the instructions to Part II should be clarified. The amounts listed in line 2c and line 2f must equal 100% (with a permitted variance of less than 1% due to rounding). The amounts listed in line 2d and 2g must equal the amount listed on line 1l(b) of the Schedule H or on line 1c(b) of the Schedule I (with a permitted variance of less than 1% of the amount from Schedule H or Schedule I due to rounding). Another commenter requested clarification of the requirement to report the ''Percentage of Total Contributions for the Plan Year'' on line 2c (element 3 for the 2021 non-standard attachment). Specifically, the

[40] Multiemployer defined benefit pension plans are required to provide on Form 5500, Schedule R (Retirement Plan Information), identifying information and the percentage of contributions for those plans that are five percent or more contributors for the plan year being reported.

[41] As noted above, the September 2021 proposal included changes that would have transferred to the DOL Form M–1 (Report for Multiple Employer Welfare Arrangements (MEWAs) and Certain Entities Claiming Exception (ECEs)) (Form M–1) participating employer information for multiple-employer welfare arrangements that are required to file the Form M–1. The public comments on the proposal were mixed. Some supported the reporting of participating employer information by MEWAs, including plan and non-plan MEWAs, and the transfer of the reporting requirement to the Form M–1 for MEWAs that are group health plans and non-plan MEWAs that provide benefits consisting of medical care. Others, however, opposed both the collection in general and the transfer to the Form M–1 citing alleged absence of statutory authority to require such reporting either as part of the Form 5500 or the Form M–1 and privacy concerns with the reported information being included in the web available copies of filed Form 5500 and Form M–1 reports. After considering the public comments, the DOL decided to defer any transfer of the reporting requirement to the Form M–1 and to consider that change as part of the Agencies' broader Form 5500 improvement project. The DOL's semi-annual regulatory agenda describes the improvement project as including potential changes to group health plan annual reporting requirements. The DOL concluded that changes to the current requirements relating MEWA reporting of participating employer information would be better considered as part of that broader initiative. The Department, however, does not agree with the commenters who claimed the DOL lacked statutory or regulatory authority to require MEWA plans, including multiple employer group health plans, to report participating employer information as part of the Form 5500. The DOL's position on its legal authority was set forth in the September 2021 proposal. Accordingly, multiple-employer welfare plans required to file a Form 5500 are required to continue to report the participating employer information as an attachment to the Form 5500.

[42] Ack ID is the acknowledgement code generated by the IRS in response to a completed filing for the most recent Form PR submitted. The instructions to the Form PR advise the pooled plan provider that it must keep, under ERISA section 107, the electronic receipt for the Form PR filing as part of the records of each pooled employer plan operated by the pooled plan provider.

[43] Several had more general concerns regarding audits of PEPs that were previously addressed in the 2021 Final Forms Revisions. See Final Rule Phase I, 86 FR 73976, 73977 fn.7 and related text (Dec. 29, 2021).

[44] 86 FR 7396, (Dec. 29, 2021).

commenter asked whether the total of all participating employers must equal 100 percent, and whether it will cause red flags with the DOL/IRS if it does not. They also asked whether filers should round the percentage entry for each employer to decimal places, and if so, how many. Two commenters noted that the information on participating plans will be reported in a structured format on Schedule MEP and recommended DOL consider implementing checks within the filing system to ensure these summations are valid before accepting filings to reduce errors and align with the instructions. The Agencies have taken into account these comments in designing the form and developing appropriate instructions and edit tests consistent with principles on rounding set forth in the 2021 Final Forms Revisions.[45] The DOL also reiterates that the SECURE Act expressly states that the aggregate account balances information should be determined as the sum of the account balances of the employees of the employer and the beneficiaries of such employees. In the DOL's view, an end-of-year valuation is an appropriate reporting requirement, as it will provide the most up-to-date value for the plan year covered by the Form 5500 report. The final instructions for the 2023 Form 5500 include directions to that effect. Further, rounding to the nearest dollar, as with the financial reporting on other parts of the Form 5500 and schedules, will be used for data entered on Schedule MEP. The final instructions to 2021 Form 5500 were revised to provide this clarification as well.[46]

Some commenters opposed new PEP specific questions arguing that their inclusion without specific guidance on PEP's administrative duties under section 3(44)(C) is beyond the scope of Congress' directive to the Agencies (specifically DOL) and also not supported by the text of the SECURE Act. For example, one commenter said that the question regarding whether the PPP operating the plan is in compliance with the PPP registration statement is ambiguous and unclear, including due to pending agency rulemakings (*e.g.,* IRS one bad apple guidance). That commenter, and others, also indicated that, while the SECURE Act adds specific disclosures for PEPs, it does not include a special reporting standard for PEPs. They claimed subjecting a PEP to heightened reporting requirements, when other plans treated as single plans are not, is arbitrary and unsupported by statute. As indicated below, the final Schedule MEP, Part III, includes only questions already added in 2021 and 2022 by the Final Rule Phase I regarding Form PR compliance for reasons articulated in the Final Rule Phase I.

The largest number of commenters expressed a concern with adding questions regarding prohibited transactions before guidance is issued, with one saying ERISA section 3(44)(D) specifically provides for a good faith reliance standard before ERISA section 3(44)(C) statutory guidance is issued. One commenter said that Schedule H already requires the disclosure of any nonexempt transactions with any party-in-interest and noted that adding required disclosures on the subject on the Schedule MEP would be burdensome on businesses, including small businesses entering the PEP service provider market. Four commenters said that adding Part III, Line 6, of the proposed Schedule MEP provides little benefit and that this line should not be added before issuing additional guidance. Five commenters said not to add questions before DOL addresses the issues raised in the RFI related to PEPs, which specifically requested information relating to conflicts and prohibited transaction exemptions (PTEs). One commenter argued that the prohibited transaction rules are complex. Requiring a disclosure that boils complex legal opinions down to a few sentences will likely result in many disclosures that are confusing and potentially misleading. One commenter had very specific concerns for PEO compliance with Part III of Schedule MEP, saying it introduces requirements that would apply only to a subset of multiple-employer retirement plans. That commenter said that the proposed rule would have the effect of establishing different sets of reporting requirements for PEOs, depending on whether the PEO is sponsoring a MEP or acting as a PPP for a PEP. For the latter, the proposed Schedule MEP would require completion of Part III of Schedule MEP. Among other requirements, the commenter noted that, as proposed, Part III would have obligated a PEP to indicate whether the PPP has complied with the registration requirements for PPPs and to indicate whether certain services were provided by an affiliate and, if relying on a PTE for the use of an affiliate, to identify the prohibited transaction exemption. Finally, two commenters pointed out that the instructions for the proposed Part III PPP questions included a reporting requirement related to ''affiliates or other related parties'' to the PPP that did not define ''other related parties.'' They noted that to the extent that ''related party'' is intended to encompass any entity in which the PPP may have an interest which may affect its best judgement as a fiduciary, this is a very intensive facts and circumstances inquiry for which even DOL itself will not issue advisory opinions.

After considering the public comments, the DOL decided to not include some questions originally proposed for Part III on the final Schedule MEP. Some questions regarding Form PR compliance were already added to the Schedule MEP, Part III, by the Final Rule Phase I on 2021 form changes. This final forms revision transfers those two PEP specific questions from Form 5500, Part I, Line A checkbox instructions to Schedule MEP, Part III, Line 3a and Line 3b, starting with the 2023 Form 5500 Annual Return/Report. The specific changes to accomplish this transfer can be found in Appendix A, which sets forth the new Schedule MEP and related instructions, and Appendix F, dealing with conforming and other miscellaneous changes to forms and instructions.

In the September 2021 proposal, the DOL solicited comments on enhancing fee transparency, specifically on whether more tailored questions should be added, in addition to those already on the Schedules C and H, to report fee and expense information on PEPs and other MEPs, including information on how fees and expenses are allocated among participating employers and among covered participants and beneficiaries. Two commenters expressed opposition to more questions on fees and expenses. One simply opined that currently required fee and expense reporting and disclosure is sufficient for MEPs. The second commenter provided a more detailed comment stating that in the case of a defined benefit MEP, generating and

[45] The 2021 Final Forms Revisions provided that, for the 2021 reporting year, it would be acceptable for filers to round to the nearest whole number similar to rounding conventions that apply to the Form 5500 financial statements and schedules. It further stated that to the extent the filer's concern is whether rounding could result in the total reported percentage either slightly above or slightly below 100 percent, the filer can indicate that on the non-standard attachment as part of its filing.

[46] The DOL understands from some comments on the proposal that, depending on the treatment of receivables and forfeitures by the plan, the sum of the account balances of the employees of each employer and the beneficiaries of such employees may not match the net asset value reported on Schedule H or I. The DOL believes that the aggregate account balance information should be calculated and reported in accordance with the statutory direction in the SECURE Act. Filers can attach an explanatory statement to the extent they wish to explain any difference between that sum and other total asset values reported on the Form 5500.

reporting an expense amount per participant would be particularly unhelpful because expenses do not reduce or affect the benefit to which a participant is entitled, and requiring disclosure of expenses with respect to each employer would require that this amount be calculated, as it is not currently a metric used or found useful by such plans. One commenter supporting the DOL's proposal for more disclosures on fees and expenses, noting that research suggests that for multiple-employer plans disclosure about services provided by affiliates, as well as comprehensive disclosure about the allocation of fees and expenses, is critical for effective monitoring and oversight. The commenter identified a variety of PEO situations involving PEO MEPs, saying it is necessary to consider how the bundling of services and costs for a variety of HR services may affect the required disclosures on Form 5550. The commenter noted that PEOs may offer various benefits, including retirement plans, health insurance, workers' compensation, and unemployment insurance policies. In this capacity, the PEO may pay itself or an affiliated entity for the provision of administrative or investment services to a plan, charge a markup on rates that the ''pool'' can obtain, and pay itself insurance broker fees. This commenter noted that individual client employers, meanwhile, may have limited ability and incentive to monitor their PEO-sponsored benefit plans, particularly if the fees for various HR services and benefits are bundled, and if leaving a PEO entails high switching costs. This final forms revision does not include such additional PEP and other MEP specific disclosures, but does include some enhancement of fee disclosures on administrative expenses for all filers, including MEP and PEP filers. Those enhancements are discussed below in the section on breaking out certain administrative expense categories on Schedule H.

Further, as finalized for the 2021 Forms and instructions, the Schedule MEP and related Form 5500 and Form 5500–SF instructions will provide that all PEPs, similar to the current rule for multiemployer plans (and for DCGs as provided elsewhere in this final rule), file the Form 5500 regardless of whether they would otherwise be eligible to file the Form 5500–SF. Making the filings across plan types more uniform provides more consistent and informed oversight of collective retirement arrangements. Small PEPs, like other small plans that file the Form 5500, could file the Schedule I instead of the Schedule H and its financial attachments, are not required to complete the Schedule C or Schedule G, and may file without having an IQPA audit and attaching an IQPA report if the PEP meets the conditions for the small plan audit waiver.

One commenter noted that while PEPs currently can only be offered as 401(a) plans, there are legislative proposals that, if enacted, would allow for 403(b) plan PEPs.[47] The commenter urged agencies to finalize the Schedule MEP and instructions in a way that would make it easy for 403(b) plan PEPs to fill out Form 5500, should that bill be enacted into law. As noted above in the overview section, the SECURE Act 2.0 of 2022 (SECURE Act 2.0), which was modeled in some aspects on H.R. 2954, was signed into law on December 29, 2022, and included changes to the Code and ERISA that would permit 403(b) plans meeting certain criteria to participate in PEPs for plan years beginning after December 31, 2022. This final forms revision amends the definition of a PEP in the Schedule MEP instructions to reflect that change.

3. Internal Revenue Code Compliance Questions

A limited number of new IRS tax compliance questions are being added to the forms, schedules, and instructions beginning with the 2023 plan year reports, including questions on the new Schedule DCG that are answered at the individual plan level (not the DCG level). The changes are largely unchanged from the September 2021 proposal and are in three major areas:

- Add a nondiscrimination and coverage test question to Form 5500–SF, Schedule R, and new Schedule DCG. The question asks if the employer aggregated plans in testing whether the plan satisfied the nondiscrimination and coverage tests of Code sections 401(a)(4) and 410(b).[48]
- Add a question to Form 5500–SF, Schedule R, and new Schedule DCG, for section 401(k) plans, asking whether, if applicable, the plan sponsor used the design-based safe harbor rules or the ''prior year'' or ''current year'' ADP test.
- Add a question to Form 5500–SF, Form 5500–EZ, Schedule R, and new Schedule DCG asking whether the employer is an adopter of a pre-approved plan that received a favorable IRS Opinion Letter, the date of the favorable Opinion Letter, and the Opinion Letter serial number.[49]

a. Revisions to IRS Tax Compliance Questions for Coverage, Nondiscrimination Testing, and Safe Harbor Status

With respect to adding tax compliance questions, fifteen commenters submitted views on additional IRS tax compliance questions and other IRS-related changes that were included in the September 2021 proposal. Some of those commenters strongly supported the IRS including the tax compliance questions and recommended adding more questions. Other commenters recommended revising the IRS compliance questions to capture more accurately the information sought and to streamline data capture. One commenter recommended specifically that questions relating to coverage and nondiscrimination testing reflect that a plan may comply with nondiscrimination testing using multiple testing methods for different portions of the plan. The IRS revised the questions and instructions to gather information with respect to different testing methods used for different portions of the plan.

One commenter recommended exempting multiple-employer 401(k) plans from answering nondiscrimination questions because these plans may have many participating employers, each of which is required to pass nondiscrimination testing separately. The commenter further noted that participating employers in a MEP, including in a PEP, may use different methods to separately satisfy nondiscrimination requirements. The IRS revised the instructions to exempt MEPs and PEPs from answering certain nondiscrimination questions.

That same commenter also recommended simplifying the nondiscrimination questions by asking whether a plan uses ADP or ACP testing without regard to whether the testing is based on prior-year or current-year testing. The IRS is not adopting this recommendation. This nondiscrimination testing information enables the IRS to more precisely select issues and returns for audits and assists IRS agents in performing pre-audit

[47] The commenter points to the Securing a Strong Retirement Act of 2021, H.R. 2954 § 103, as an example of such legislation.

[48] This question was on Schedule T before that schedule was eliminated from the Form 5500 Annual Return/Report beginning with 2005 plan year filings.

[49] The list of plan characteristics codes for Lines 8a and 8b of Form 5500 and Lines 9a and 9b of Form 5500–SF are being amended to add ''403(b)'' after ''403(a),'' to read as follows: ''3D: Pre-approved pension plan—A pre-approved plan under sections 401, 403(a), 403(b), and 4975(e)(7) of the Code that is subject to a favorable opinion letter from the IRS.''

analysis and preparing initial audit information and document requests.

One commenter expressed concern that completing the Code section 410(b) coverage and ADP test results reported on a Form 5500 may not match the Form 5500 reporting period. The IRS believes that the plan's coverage and nondiscrimination tests (such as the ADP test) must be reported for the plan year for which those tests are completed. For each plan year, a 401(k) plan that is not a safe harbor plan is required to perform ADP testing. In calendar-year 401(k) plans, the current-year ADP test for a plan year is usually performed around the end of January of the following plan year. The due date for filing Form 5500 for the plan year is the last day of the 7th calendar month after the end of the plan year, so the IRS expects that testing data will be available for reporting on the Form 5500 for that plan year.

The final revisions include an additional nondiscrimination and coverage test question for the 2023 Form 5500 and Form 5500–SF. The question asks whether a plan maintained by an employer that has aggregated plans in its testing group satisfies the nondiscrimination and coverage tests of Code sections 401(a)(4) and 410(b). Adding this question allows the IRS to identify plans that have an increased risk of being non-compliant. The question is also helpful to the IRS in performing pre-audit analysis and allows the IRS to focus audit inquiries on information that is specifically relevant to the plan sponsor. This question also reflects an increased need to gather specific testing-group information in light of the elimination of optional coverage and nondiscrimination demonstrations under the IRS determination letter process. *See* Rev. Proc. 2012–6, 2012–1 I.R.B. 235, and Announcement 2011–82, 2011–52 I.R.B. 1052.

The final revisions also include an additional question on the Form 5500 and Form 5500–SF, with respect to section 401(k) plans, that asks whether the plan sponsor used a design-based safe harbor approach or, if applicable, the ''prior year'' or ''current year'' ADP test. Adding this question will allow the IRS to distinguish between section 401(k) plans that use ADP testing and those that use designed-based safe harbor approaches. This question will also help the IRS perform pre-examination analysis and, for design-based safe harbor plans, verify whether safe harbor contributions comply with the terms of the plan and applicable safe harbor requirements.

b. Revisions to IRS Compliance Questions for Pre-Approved Plan Adopters

One commenter recommended that the IRS eliminate or delay a new question included in the NPFR requiring disclosure by the adopter of a pre-approved plan document of the date and serial number of the pre-approved plan document's favorable opinion letter, on the grounds that this information is not currently maintained in the adopter's recordkeeping systems. Further, the commenter urged that, if this question is added, that it be significantly delayed. The IRS does not agree with either of these recommendations. The IRS believes that a pre-approved plan document provider should make pre-approved plan information, including a favorable IRS opinion letter date and serial number, available to each adopting employer. Accordingly, the favorable opinion letter should be readily available when an adopting employer prepares a Form 5500 series return. Pre-approved plan information provided in response to the new question will assist the IRS in determining if the plan document is up to date for all required law changes.

Accordingly, the final forms revisions include an additional question on the Form 5500, Form 5500–SF, and Form 5500–EZ, which asks whether the employer is an adopter of a pre-approved plan that received a favorable IRS opinion letter, and the date and serial number of the favorable IRS opinion letter. This question will help the IRS identify whether an employer has adopted a pre-approved plan and to determine whether the plan was timely adopted and amended.

In addition, one commenter requested clarification in the instructions regarding whether an employer that makes modifications to a pre-approved plan document loses reliance on the favorable IRS opinion letter and, accordingly, is no longer a pre-approved plan adopter. The IRS agrees with the recommendation and revises the instructions to clarify that, pursuant to Revenue Procedure 2017–41, 2017–29 IRB 92, an adopting employer is an employer that adopts a pre-approved plan offered by a provider, including a plan that is word-for-word identical to, or a minor modification of, a plan of a mass submitter. If a pre-approved plan is modified in such a way as to lose reliance on the favorable IRS opinion letter for that plan, then the plan is treated as an individually designed plan and, consequently, the adopting employer is no longer a pre-approved plan adopter.

c. Trust Questions are Removed From the 2023 Form 5500 Series

As discussed in the NPFR, adding trust questions to the Form 5500 series would enable the Agencies to focus on compliance concerns more efficiently for retirement plan trusts, including those for PEPs and DCG reporting arrangements. The Agencies received several comments regarding the new trust questions. Some commenters agreed that information about trusts should be reported on the Form 5500 and recommended adding an additional trust question to increase transparency if plans utilize multiple trusts. Some commenters expressed concerns about administrative costs and burdens of answering the new trust questions, because trust EINs often are not used and distributions are typically reported under a service provider EIN, and requested that these questions either be eliminated or made optional. Additionally, commenters noted that certain plans that are required to file a Form 5500 do not have a trust, such as 403(b) plans subject to Title I of ERISA. For those plans, the plan sponsor cannot confirm the trust's EIN or whether the IRS has deactivated the trust's EIN. One commenter also expressed concern that the plan's trust EIN is not an item of information currently maintained in most recordkeeping systems. Another commenter requested elimination of the trust questions because Announcement 2007–63, 2007–30 IRB 236, eliminated the employee benefit trust reporting requirement that had been included in the now-discontinued Schedule P (Form 5500), *Annual Return of Fiduciary of Employee Benefit Trust.* Some commenters expressed concerns that trust questions do not fit the business model for insurance companies that provide recordkeeping services for retirement plans. Many of these commenters' clients utilize insurance company products, such as contracts with separate accounts, and do not have trusts. One commenter recommended that plans should be directed to skip these questions if the plans have engaged an insurance company to provide both insurance contract and recordkeeping services, because the trust-related questions do not fit an insurance-contract-only arrangement. One commenter requested clarification that leaving the trust questions blank in such cases would not increase the probability of an audit.

Under Announcement 2007–63, the IRS elected to treat a plan's Form 5500 series return as a filing for the plan's trust for purposes of starting the statute of limitations period under Code section

6501(g)(2). After consideration of all comments, the IRS has decided not to add trust questions to the 2023 Form 5500 series return. However, the IRS intends to continue evaluating possible alternative approaches for reporting trust information.

d. Declining To Add Certain New 403(b) Plan Questions To Form 5500 and Form 5500–SF

One commenter recommended adding two new questions to the Form 5500 and Form 5500–SF for 403(b) plans that would ask whether the 403(b) plan has notified all newly eligible participants of their eligibility to participate in the plan, and whether the 403(b) plan has communicated eligibility requirements annually to all eligible employees. This sort of additional annual reporting on 403(b) plans was not included in the September 2021 proposal, and would benefit from more public comment on the merits of asking such questions as part of an annual filing. Accordingly, although the Departments will continue to consider the relative costs and benefits of annual reporting on those subjects, such questions are not being added to the 2023 Form 5500 and Form 5500–SF.

e. Declining To Add New Questions for Qualified Plan Loan Offsets

Three commenters recommended adding qualified plan loan offset questions to Schedule H. Commenters expressed concerns that qualified plan loan offsets are a leading cause of premature distributions from 401(k) plans and other similar defined contribution retirement plans, but that these loan offsets are not separately reported on Form 5500. A plan loan offset occurs when, pursuant to loan terms, a participant's benefit is reduced to repay the loan. A plan loan offset is treated as a distribution for tax purposes. Form 1099–R and its instructions already provide information for plan distributions including qualified plan loan offsets (as qualified plan loan offsets are reported using Distribution Code M).

The Agencies note that in 2019 the Government Accountability Office recommended that DOL, in coordination with IRS, revise the Form 5500 to require plan sponsors to report qualified plan loan offsets as a separate line item distinct from other types of distributions to better identify the incidence and amount of loan offsets in 401(k) plans nationwide. In 2021, DOL advised GAO that a project to improve Form 5500 data reporting was being reopened and that the specifics of the project were still under development. As noted above, that Form 5500 general improvement project is on DOL's semi-annual agenda, and the DOL expects to focus on that project once final actions implementing the September 2021 proposal are completed.

The IRS considered the public comments submitted on this issue and concluded that it does not need this information on Form 5500 for compliance audit purposes. The September 2021 proposal did not include a proposed addition of a line item to report loan offsets for Form 5500 or Form 5500–SF filers. The DOL believes public comments on a proposal should be the next step and does not believe it is in a position to adopt such an annual reporting requirement as part of this final forms revisions notice. Accordingly, the Agencies are not adding such a question to the 2023 Form 5500, but DOL intends to consider GAO's recommendations and those of the public commenters noted above in connection with evaluating the specifics of its general Form 5500 improvement project.

4. Participant-Count Methodology for Determining Eligibility for Small Plan Simplified Reporting Options for Individual Account Plans

Both Form 5500 and 5500–SF and their instructions are being revised to reflect a change in the reporting methodology related to the number of participants used in the current threshold (*i.e.,* less than 100 participants) for determining when a defined contribution pension plan may file as a small plan. This change in methodology also includes eligibility for the waiver of the requirement for small plans to have an audit and include the report of an independent qualified public accountant (IQPA) with their annual report.

The September 2021 proposal included a proposed change to the method of counting participants for determining when a defined contribution pension plan would be eligible for small plan reporting options, including the conditional waiver from the IQPA audit and report requirements. Currently, defined contribution pension plans determine whether they may file as small plans and whether they qualify for an audit waiver based on the number of participants with plan accounts as of the beginning of the plan year and on the number of participants who are eligible to elect to have contributions made under a section 401(k) qualified cash or deferred arrangement, even if they have not elected to participate and do not have an account balance in one of these plans. Specifically, the Form 5500 instructions currently instruct filers to ''[u]se the number of participants required to be entered in line 5 of the Form 5500 to determine whether a plan is a ''small plan'' or ''large plan.'' Individual account plan filers are instructed to include on line 5 any individuals who are currently in employment covered by the plan and who are earning or retaining credited service under the plan. The instructions explain that ''[t]his includes any individuals who are eligible to elect to have the employer make payments under a Code section 401(k) qualified cash or deferred arrangement.'' [50] The ''Who May File'' section of the Form 5500–SF Instructions lists among the eligibility conditions for filing the Form 5500–SF that: ''The plan (a) covered fewer than 100 participants at the beginning of the plan year . . . '' and instructs filers to ''see instructions for line 5 on counting the number of participants.'' Those instructions instruct pension plan filers to include in their participant count ''any individuals who are eligible to elect to have the employer make payments under a Code section 401(k) qualified cash or deferred arrangement . . . .'' [51]

Under the September 2021 proposal, instead of using all those eligible to participate, filers would look to the number of participants/beneficiaries with account balances as of the beginning of the plan year (the first plan year would use an end- of- year measure). This change was proposed partly in light of section 112 of the SECURE Act, which provides that long-term, part-time workers that have reached specified minimum age requirements and worked at least 500 hours in each of three consecutive 12-month periods must be permitted to make elective contributions to a Code section 401(k) qualified cash or deferred arrangement for plan years beginning on or after January 1, 2024.[52] This could add to the number of participants who are eligible to, but might not, elect to participate in a plan, and carry the unintended consequence of having more plans with fewer than 100 active participants being subject to more extensive and costly annual reporting

[50] 2021 Form 5500 instructions at page 19.

[51] 2021 Form 5500–SF instructions at pages 4, 11.

[52] Under section 125 of SECURE Act 2.0, this three year measurement period is reduced to two years with the effect that long-term, part-time workers must be treated as meeting the time in service requirements to participate in Code section 401(k) qualified cash or deferred arrangements and, as added by section 125 of the SECURE Act 2.0, Code section 403(b) plans once they have worked two consecutive years (with at least 500 hours of service per year) effective for plan years starting on or after January 1, 2025.

obligations applicable to large plans merely as a result of a statutory requirement to offer plan participation to long-term part-time workers. The policy underlying the proposed change was to reduce expenses for small employers to establish and maintain a retirement plan, and as a consequence, encourage more employers to offer workplace-based retirement savings plans to their employees.[53]

The DOL received nearly 100 comment letters that included the issue of counting participants for plan audits, a large majority of those comments commented solely, or mainly, on this issue. Approximately one-third of those commenters, primarily benefit plan auditors and associations of audit professionals, opposed the September 2021 proposal with some commenters asking the DOL to, at a minimum, delay its implementation. The auditors and related associations argued the risks associated with this proposal exceed any potential savings. Generally, the commenters opposing the proposal expressed two main concerns: (1) small plans are particularly vulnerable to control, compliance, and operations errors, and it would leave them without adequate protections; and (2) it would discourage employers from encouraging eligible employees to participate in their plans in order to avoid an audit requirement.

Several commenters suggested that the DOL reevaluate the small plan audit waiver to consider adding additional conditions for eligibility to address control, compliance, and operations errors that are not currently addressed by the exemption and, at the least, make auto-enrollment a condition for eligibility for the waiver should this proposal go forward. Commenters also suggested the development of a cost-effective alternative to the IQPA audit for small plans that would focus more on operational and compliance issues rather than financial statements, with several suggestions for different types of periodic compliance assessments. Some commenters expressed concern with the timing of the proposal, stating that the pandemic has left small plans at heightened risk because of plan disruptions and difficulty hiring staff.

Conversely, about two-thirds of all commenters on audit issues, made up primarily of small plan sponsors, third party administrators (TPAs), and associations representing employers supported the September 2021 proposed changes. A few commenters also mentioned that employers could increase their contributions rather than incur the expense of an audit. Commenters also stated that the current audit requirement deters plan formation and results in inconsistent treatment of plans and that the proposal provides a clear and logical way for participants to be counted which will prevent counting mistakes and does not require new data elements. TPA commenters also took issue with auditor comments regarding TPA knowledge of ERISA and their ability to help plans with compliance and expressed a belief the auditor comments are self-serving because of the potential for business loss under the proposal. One commenter stated TPAs often know ERISA, the Code, and DOL regulations better than auditors and provide better value than an audit. Additionally, many small plan sponsors disputed auditor assertions that employers would discourage participation in their plans to avoid the audit. Several commenters argued that the expense and continual rising costs of getting an audit outweighs the benefit of an audit for small plans and that eliminating the audit will encourage smaller employers to establish retirement plans.

Several commenters suggested delaying changes not related to the SECURE Act to lessen cost and administrative burden impacts on plans that already will be making changes associated with the SECURE Act and, in some cases, to make it part of a larger Form 5500 reform project. However, others recommended immediate implementation because of their belief that no additional data elements would be required for forms in order to implement the change.

After considering the public comments, the Agencies decided to adopt the proposed counting method change for defined contribution individual account plans by adding a new line item on both the Form 5500 and Form 5500–SF for defined contribution pension plans to report participants with account balances at the beginning of the plan year (there already is a line item for reporting the number of participants with account balances at the end of the plan year). Instead of using all those eligible to participate, defined contribution plan filers will look at the number of participants/beneficiaries with account balances as of the beginning of the plan year (the first plan year would use an end- of- year measure) when determining if they are eligible for small plan reporting options, *e.g.,* the Form 5500–SF. Conforming changes are also made to the short plan year filings and the ''80–120'' Participant Rule instructions to reflect this new counting method. See Appendix C for details on changes to forms and instructions related to this audit-related participant counting method change.

The DOL believes it is striking the right balance among the interest in providing secure retirement savings for participants and beneficiaries, the interest in minimizing costs and burdens on small pension plans and the sponsors of those plans, and the interest in promoting the establishment of retirement plans, especially by small businesses, to provide a workplace retirement savings option for their employees.

As described in greater detail in the regulatory impact analysis, making this revision to participant counting methods would be expected to reduce expenses for a significant number of plans. That analysis estimates that there would be a reduction of 19,442 large plan filings for defined contribution pension plans. Each plan would save an estimated $7500 (or more) on audit expenses. The reduction in expenses could encourage more employers to offer workplace-based retirement savings plans to their employees and might free up resources for more generous employer contributions.

With respect to concerns that small employers may seek to avoid enrolling otherwise eligible employees in order to avoid an audit, the DOL has seen no evidence, other than conjecture on the part of some commenters, indicating that employers would purposely discourage enrollment in their plans if this change is implemented. However, the DOL does take commenters' concerns regarding this issue seriously and notes that in addition to enforcement actions the DOL and individuals have available under Section 502 of ERISA in cases where participants are denied benefits, Section 510 of ERISA specifically provides protections to participants against employers interfering with their rights to attainment of benefits by making it unlawful.

Some commenters suggested an alternative to the proposal that would ensure that eligible participants are provided with opportunities to enroll in their retirement plans, such as making automatic enrollment a condition for eligibility for the small plan audit waiver, at least for defined contribution plans. The DOL declines to implement such a condition as part of this regulatory action. The proposal did not include any provision similar to what the commenter suggested. Current

[53] See 86 FR 51284 at pages 51298–99 (DOL discusses burden change and how it is consistent with policy goal of ''pension plan establishment and maintenance, particularly in the small business community . . .'').

statutory provisions on automatic enrollment permit, but do not require, automatic enrollment for any size defined contribution retirement plan.[54] In the DOL's view, such a substantial departure from current statutory and regulatory provisions governing automatic enrollment, even if in the context of an additional condition for the small plan audit waiver, would require at least an opportunity for public comment and possibly a statutory amendment to alter the voluntary nature of that plan feature.

As to commenter concerns about compliance errors that might go undetected without an audit, that concern applies broadly to all small plans that are eligible for the audit waiver, not just on the plans that will be newly eligible for the conditional small plan audit waiver based on the new counting methodology. The DOL does not believe that it would be appropriate to eliminate the audit waiver for all small plans. Rather, the DOL concluded many years ago that a conditional audit waiver struck an appropriate balance for small plans.[55] Also, under the new counting methodology, plans with equal numbers of active participants would be treated similarly rather than one plan with fewer than 100 active participants being eligible for the audit waiver while another with an equal number of active participants being required to pay for an audit simply because in the latter case there are enough eligible but not participating employees to push the participant count to 100 or above.

5. Additional Defined Benefit Plan Reporting Improvements

On August 29, 2022, PBGC published a Proposed Submission of Information Collection for OMB Review at 87 FR 52822 (Aug. 29, 2022). PBGC received one comment, in support of the collection of information. On November 4, 2022, PBGC published a Submission of Information Collection for OMB Review at 87 FR 66762 (Nov. 4, 2022).

a. Schedule R Modifications

In summary, and as described in more detail below, the changes to Schedule R, line 19 and its instructions, include the following: (1) modify Schedule R, line 19a, to require that all defined benefit pension plans (except DFEs) with 1,000 or more participants at the beginning of the plan year show the end-of-year distribution of assets, broken down in seven reconfigured categories of plan assets, and provide clarification concerning classification of atypical investments; (2) modify Schedule R, line 19b, to change the available categories for current average duration; and (3) eliminate Schedule R, line 19c.

i. Line 19a—Percentage of Plan Assets Held by Category

Currently, line 19a of Schedule R requires that all defined benefit plans (except DFEs) that have 1,000 or more participants at the beginning of the plan year provide a breakdown of plan assets by reporting the percent of assets held in five categories of investments, with the percentages reported reflecting the asset allocation as of the beginning of the plan year. Currently, the five categories of investments are: Stock, Investment-Grade Debt, High-Yield Debt, Real Estate, and Other.

In the solicitation for public comment, PBGC proposed to reconfigure the categories to: Public Equity; Private Equity; Investment-Grade Debt and Interest Rate Hedging Assets; High-Yield Debt; Real Assets; Cash or Cash Equivalents; and Other. In addition, for certain investments, PBGC proposed to modify the instructions to clarify how certain atypical investments should be categorized for this purpose. For example, as currently drafted, it is not clear whether cash equivalents should be included in the ''Investment-Grade Debt'' category or in the ''Other'' category. Similarly, it is not clear whether infrastructure investments should be included in the ''Real Estate'' or the ''Other'' category. No comments were received. By expanding the list of categories and modifying the instructions, the more detailed information should be reported consistently, which will enable PBGC to better model important characteristics of plan portfolios. Accordingly, the Agencies are adopting these changes as proposed.

PBGC also proposed to modify the instructions for line 19a so that the percentages reported reflect the asset allocation as of the end of the plan year instead of the beginning of the plan year. No comments were received. Having more recent information will lead to better projections and more accurate analysis by PBGC, and because the Form 5500 isn't due until several months after the end of the plan year, this change should not create any timing issues for filers. Accordingly, the Agencies are adopting this change as proposed.

ii. Line 19b—Average Duration

Currently, line 19b of Schedule R requires applicable filers to check the box that shows the average duration of the plan's combined Investment-Grade and High-Yield Debt portfolio. In the solicitation for public comments, PBGC proposed changes to line 19b (average duration) and its instructions. Under modified line 19b, applicable filers would be required to check a box to indicate the average duration of the plan's Investment-Grade Debt and Interest Rate Hedging Assets portfolio, thereby replacing the current requirement to check the box that shows the average duration of the plan's combined Investment-Grade and High-Yield Debt portfolio. The average duration ranges were also adjusted from multiple 3-year periods to multiple 5-year periods, with the last choice being a period of 15 or more years. No comments were received. Accordingly, the Agencies are adopting this change as proposed.

iii. Line 19c—Duration Measure

Line 19c currently asks for the duration measure used to calculate line 19b. PBGC has proposed to eliminate line 19c in the solicitation for public comment. Because the alternative duration measures do not provide meaningfully different results, PBGC has proposed to eliminate line 19c. No comments were received. Accordingly, the Agencies are adopting this change as proposed.

b. Schedule SB Modifications

In summary, and as described in more detail below, the changes to Schedule SB include the following: (1) modify Schedule SB, line 6 (Target Normal Cost), and its instructions, to address a possible, albeit unlikely, situation in which the amount reported on line 6c would not be consistent with IRS regulations and the statute if the calculation was done in accordance with the instructions, (2) change the current instructions for line 26a to revise a line reference, and (3) change the current instructions for the Schedule SB, line 26b attachment (projected benefit payments), for situations where a plan assumes some, or all, benefits are paid in a lump sum, and uses the annuity substitution rule (26 CFR 1.430(d)–1(f)(4)(iii)(B)) to determine the funding target.

1. Line 6—Target Normal Cost

The Schedule SB for the 2022 plan year requires that two components of target normal cost be reported: (1) the present value of current plan year benefit accruals reduced by mandatory

[54] See 29 CFR 2550.404c–1, ERISA Section 404(c) Plans.

[55] The Department notes that these final forms revisions do not prohibit any particular plan or DCG provider from conducting annual or periodic audits or other agreed upon reviews of compliance issues.

employee contributions, but not below zero, and (2) the expected plan-related expenses. Those items are summed up and reported as the target normal cost on line 6c. In the solicitation for public comment, PBGC proposed modifications to Schedule SB, line 6 (Target Normal Cost), and its instructions, to address a possible, albeit unlikely, situation in which line 6c (Target Normal Cost) reported on Schedule SB would not be consistent with IRS regulations and the statute if lines 6a and 6b were determined in accordance with the current line 6 instructions. This situation would arise only if (1) a plan requires mandatory employee contributions and (2) the mandatory employee contributions for the plan year exceed the present value of benefits accruing during the plan year. PBGC's proposed changes to lines 6a and 6c of the instructions, and to line 6c of the Form, will rectify this situation by requiring that the amount to be reported in line 6a is the present value of expected benefit accruals (*i.e.,* not reduced by mandatory employee contributions) and by modifying the instructions for line 6c to require reporting the sum of lines 6a and 6b, ''reduced (but not below zero) by any mandatory employee contributions expected to be made during the plan year.'' No comments were received. Accordingly, the Agencies are adopting this change as proposed.

2. Line 26a—Schedule of Active Participant Data

The current instructions for Line 26a of Schedule SB provide that a plan reporting 1,000 or more active participants on line 3d, column (1), must also provide average compensation data. However, the correct line reference should be to line 3c, column (1). Accordingly, the Agencies are adopting this change with this final rule.

3. Line 26b—Projected Benefit Payments (Attachment)

Line 26b of Schedule SB currently requires plans covered by Title IV of ERISA that have 1,000 or more participants as of the valuation date to provide a 50-year projection of expected benefit payments and that, for purposes of the projection, benefits are assumed to be paid in the form assumed for valuation purposes. In the solicitation for comments, PBGC noted that, in situations where a plan assumes some, or all, benefits are paid as a lump sum, but uses the annuity substitution rule (26 CFR 1.430(d)–1(f)(4)(iii)(B)) to determine the funding target, those instructions suggest projected benefits be shown in a different form of payment than what was used to determine the funding target. To clarify that this was not the intent, PBGC proposed changing the instructions to provide that, in such situations, the attachment may show projected benefits payable in the annuity form instead of in the form of payment assumed for valuation purposes. PBGC did not receive any comments. Accordingly, the Agencies are adopting this change as proposed.

4. Schedule H Schedules of Assets Changes and Breakout Categories for Administrative Expense

a. Deferring Schedules of Asset Changes for Re-Proposal as Part of DOL's General Form 5500 Improvement Project

The September 2021 proposal included revisions to the content requirements for the ''Schedule of Assets Held for Investment'' and the ''Schedule of Assets Held and Disposed of within the Plan Year'' to modernize the data elements required to be reported about a plan's investments and to require that the schedules be filed electronically in a structured format so that they are data-minable. The proposed changes were designed to improve the consistency, transparency, and usability of information reported regarding plan investments. For example, there is no efficient method for the DOL to identify all of the ERISA plans that invest in a specific investment such as a collective investment trust, mutual fund, or limited partnership. Better data about plan investments would assist the DOL, IRS, and the PBGC more effectively and efficiently provide oversight, assist with compliance, and enforce the provisions of ERISA and the Code. Standardizing an electronic format for the plan's investment schedules would allow data aggregation and review, which could be used both by the DOL and IRS for enforcement and oversight, but also by private sector organizations.

The Agencies received several comments in response to this proposed change. While many commenters supported establishing a standardized electronic format for the plan's investment schedules, some said that further consultation with stakeholder groups is needed, especially custodians who would likely be called upon to provide asset information needed to satisfy the proposed new data elements on the Schedules of Assets. Several commenters requested delaying the effective date to give sufficient lead time for filers and service providers to implement the changes and update the recordkeeping systems. Some commenters opposed the proposed change, expressing concerns about potential burdens and costs associated with creating a mandatory electronic filing requirement for the Schedules of Assets, especially for large plans where information is not currently provided in a data-capturable format. Two commenters provided extensive comments regarding reordering and regrouping the data elements of the proposed Schedules of Assets to minimize confusion and variability in the data entries. Some commenters raised concerns regarding the proposed new checkbox to identify if an asset is a hard-to-value asset. Three commenters requested clarification and made suggestions on proposed elements to add legal entity and other industry and regulatory identifiers for investment assets. The Agencies also received comments on other proposed elements, including the checkboxes to identify if an asset is a designated investment alternative or qualified default investment alternative in a defined contribution plan.

After considering the public comments, the Agencies decided that the improved transparency and financial accountability goals of the September 2021 proposal would best be furthered by using the public comments to refine the Schedule of Asset changes and include them in the proposal that is part of the more general Form 5500 improvement project currently on the DOL semi-annual regulatory agenda.

b. Schedule H Breakout of Administrative Expenses Paid by the Plan

The final forms revisions update Schedule H to add new breakout categories to the ''Administrative Expenses'' category of the Income and Expenses section of the Schedule H balance sheet. As discussed in the NPFR, the Agencies have determined that to get a better picture of plan expenses, particularly those related to service providers, more detail in this category is warranted. The data element breakouts for Administrative Expenses will now be ''Salaries and allowances,'' ''Contract administrator fees,'' ''Recordkeeping fees,'' ''IQPA audit fees,'' ''Investment advisory and investment management fees,'' ''Bank or trust company trustee/custodial fees,'' ''Actuarial fees,'' ''Legal fees,'' ''Valuation/appraisal fees,'' ''Other Trustee fees/expenses,'' and ''Other expenses.''

Commenters complained that the new breakout categories are unnecessary and burdensome, and add layers of expense and difficulty to Form 5500 filing without added useful information. The

commenters argued that the DOL should justify, both on a substantive and economic basis, which breakouts are useful for the purpose of the annual return/report and eliminate those that are not useful. One commenter asserted that the proposed changes lack clarity, would require substantial additional information, and provide very little lead time to adjust systems and processes. Another commenter claimed that adding additional break-out categories to the expenses lines will significantly and unnecessarily heighten the risk of frivolous litigation because the plaintiffs' bar focuses on these lines for purposes of bringing litigation in connection with 401(k) fees. Another commenter expressed concerns with the two categories of data element breakouts to report fees related to trusts, saying the DOL should provide additional clarity on reporting by bank trustees vs. individual trustees, and also suggested that trustee fees exclude reporting of pass-through entity trustee fees relating to custody of assets.

Transparency and improved reporting of fees and expenses is an ongoing objective for the DOL and an important goal for continuing to improve the Form 5500 as a tool for financial transparency and accountability among employee benefit plans.

The new breakouts will also supplement and allow for some cross-testing of amounts that should be recorded as a payment of direct compensation to a service provider on line 2 of Schedule C, to the extent that the service provider receives more than $5,000 from the plan during the year. Since those amounts are already required to be reported on the Schedule C, it should be a relatively straightforward exercise in arithmetic to sum up the Schedule C entries for purposes of reporting them on the Schedule H expense statement. Also, the total currently reported on the Schedule H should include all of the items that would be reported in the new breakouts, so plans should already have collected and recorded those payments to satisfy current Schedule H requirements. To the extent filers believe that they may have challenges in classifying particular payments into one of the breakout categories, the instructions will provide that the administrator can use any reasonable method of classifying expenses into appropriate categories (although the categories are sufficiently distinct that the DOL does not expect plans to face significant difficulty in this area). Also, other than IQPA audit fees and bank or trust company trustee/custodial fees, the new breakouts are similar to breakouts of plan expenses that were reported for many years until the detail of expense reporting on the Schedule H was reduced as part of a paperwork reduction and reporting simplification project implemented with the 1999 Form 5500 in connection with the implementation of the first stage of the EFAST filing system.[56] The DOL did not observe plans having difficulty with this level of reporting at that time, and improvements in systems and technologies for plan administration since that time presumably should make it easier to report the required level of detail on expenses paid by the plan.

5. Miscellaneous and Conforming Changes for Forms and Instructions

Various other technical, formatting, and conforming changes to the forms, schedules, and instructions are being adopted as part of this final forms revisions notice. The changes primarily are needed to reflect the new DCG consolidated reporting option and the new Schedule MEP for multiple-employer pension plans, including PEPs, and Schedule MB to clarify special financial assistance reporting requirements for multiemployer plans. A conforming change was made to the Form 5500 instructions for the ''Limited Pension Plan Reporting'' option for IRA-based plans to require IRA-based MEPs relying on the option to complete the Schedule MEP, which replaced a participating employer and PEP reporting attachment requirement for Part I, Line A of the 2022 Form 5500 that applied to such IRA-based MEPs. Other technical and conforming changes include minor technical amendments applicable to plan years starting after December 31, 2022, to update several line instructions for Form 5500–SF and Schedules H and I for information reported by plans regarding plan benefits payments and unpaid required minimum distributions.[57]

The instructions defining what constitutes a MEP for purposes of the Form 5500 include conforming changes in appropriate places throughout to include references to PEPs, DCGs, Schedule MEP, and Schedule DCG. The Form 5500 instructions for Part I, DFE box, are being updated to add a code for DCGs, which would include an instruction to check the DFE box and enter the DCG code. Entries for the Schedule MEP and Schedule DCG would be added to the checkbox list on the Form 5500 pension schedules. DCG filers would have to check that they are adding the Schedule DCG and enter the number of Schedule DCG attached. The Form 5500–SF instructions are being amended to add DCGs to those types of filers that are not permitted to file a Form 5500–SF, but must instead file the Form 5500, with all required schedules and attachments. The Form 5500 and Schedule D instructions are being revised to state that PEPs and DCGs cannot use master trust investment account (MTIA) reporting designed for master trust investments of affiliated plans. This is because the purpose of the MTIA provisions is to provide an annual reporting structure for groups of affiliated plans (*e.g.,* separate plans of controlled group members) that utilize master trusts for the collective investment of the assets of the affiliated plans. The DOL does not believe that separate PEPs or plans in DCGs are ''affiliated'' in the way that was envisioned for MTIA reporting and may in fact create an overly complex and undesirable lack of transparency if used in the case of PEPs and DCGs.

In the September 2021 proposal, the Agencies specifically requested comments on whether the final rule should require more detailed reporting regarding fee and expense information on the Form 5500, noting that useful comments would include, for example, suggestions on how to improve reporting of direct and indirect service provider compensation, generally and in particular with respect to PEPs, other MEPs, and DCG reporting arrangements (including information about how the fees and expenses are allocated among participating plans, employers, and plan participants and beneficiaries, as applicable). Another example of an area of interest on fee information is whether the Form 5500 would be an appropriate vehicle for collecting information on fees charged to participants or alternate payees by a retirement plan—including plan service provider fees the plan passes on to participants—for review and qualification of domestic relations orders.[58]

[56] *See* 1998 Form 5500, line 32(g).

[57] As noted above, SECURE Act 2.0 was enacted subsequent to the September 2021 proposal. Section 107 of the SECURE Act 2.0 amends Code Section 401(a)(9) to increase the age at which required minimum distributions are required, from age 72 currently to age 75 by 2032. The instructions to the Form 5500, 5500–SF, and Schedules DCG, H and I have been updated accordingly to reflect language that refers to a statutory applicable age rather than a fixed age.

[58] See Government Accountability Office (GAO) Report GAO 20–541, ''Retirement Security: DOL Could Better Inform Divorcing Parties About Dividing Savings,'' which recommended that ''EBSA should explore ways to collect information on fees charged to participants or alternate payees by a retirement plan—including plan service provider fees the plan passes on to participants—for review and qualification of domestic relations orders and evaluate the burden of doing so. For example, DOL could consider collecting fee

This final forms revisions notice also amends the Form 5500 and Form 5500–SF instructions and makes conforming changes to the other parts of the forms, schedules, and instructions to implement the changes described above to the participant count methodology for individual account plans for determining whether such plans have to file as a large plan and whether they have to attach an IQPA report.

III. Paperwork Reduction Act Statement

In accordance with the Paperwork Reduction Act of 1995 (PRA 95) (44 U.S.C. 3506(c)(2)(A)), the Agencies solicited comments concerning the information collection requests (ICRs) included in the revision of the Form 5500 Annual Return/Report.[59] At the same time, the Agencies also submitted ICRs to the Office of Management and Budget (OMB), in accordance with 44 U.S.C. 3507(d).

The Agencies did not receive comments that specifically addressed the paperwork burden analysis of the information collection requirement contained in the proposed rule.

In connection with publication of the final regulations and final forms revision, the Agencies are submitting ICRs to OMB requesting a revision of the collections of information under OMB Control Numbers 1210–0110 (DOL), 1545–1610 (IRS), 1212–0057 (PBGC) and 1210–0040 (DOL for SAR) reflecting the final regulations and instruction changes being finalized in this document. The Agencies will notify the public when OMB approves the ICRs.

A copy of the ICRs may be obtained by contacting the PRA addressee shown below or at *www.RegInfo.gov.* PRA ADDRESSEE: Address requests for copies of the ICRs to James Butikofer, Office of Research and Analysis, U.S. Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW, Room N–5655, Washington, DC 20210 or email: *ebsa.opr@dol.gov*. ICRs submitted to OMB also are available at *http://www.RegInfo.gov.*

The burden analysis is based on data from the 2020 Form 5500 filings (the latest year for which complete data are available). The burden analysis includes the burden of the current information collection and adjusts it for changes made by the final rule and final forms revisions. Burden estimates consider the change in plan counts due to the creation of PEPs and DCGs, with an increase in MEPs and a decrease in single-employer plans, reflecting some single-employer plans moving to PEPs or filing as a DCG. The burden also includes the additional burden from the changes to the 2023 Form 5500 and related schedules.

The Agencies' burden estimation methodology excludes certain activities from the calculation of ''burden.'' If the activity is performed for any reason other than compliance with the applicable Federal tax administration system or the Title I annual reporting requirements, it was not counted as part of the paperwork burden. For example, most businesses or financial entities maintain, in the ordinary course of business, detailed accounts of assets and liabilities, and income and expenses for the purposes of operating the business or entity. These recordkeeping activities were not included in the calculation of burden because prudent business or financial entities normally have that information available for reasons other than Federal tax or Title I annual reporting. Only time for gathering and processing information associated with the tax return/annual reporting systems, and learning about the law, was included. In addition, an activity is counted as a burden only once if performed for both tax and Title I purposes. The Agencies also have designed the instruction package for the Form 5500 Annual Return/Report so that filers generally will be able to complete the Form 5500 Annual Return/Report by reading the instructions without needing to refer to the statutes or regulations. The Agencies, therefore, have considered in their PRA calculations the burden of reading the instructions and find there is no recordkeeping burden attributable to the Form 5500 Annual Return/Report.

A summary of paperwork burden estimates follows. As noted above, these estimates include the burden of the overall Form 5500 information collection for all three agencies and makes adjustments for the final revisions to the instructions included in this document. It also reflects updates to the Summary Annual Report for DOL.

Agency: DOL–EBSA.

Type of Review: Revision of existing collection.

Title of Collection: Annual Information Return/Report of Employee Benefit Plan.

OMB Control Number: 1210–0110.

Affected Public: Individuals or households; Private Sector—Business or other for-profit; Not-for-profit institutions.

Forms: Form 5500 and Schedules.

Total Respondents: 839,382.

Total Responses: 845,028.

Frequency of Response: Annually.

Estimated Total Burden Hours: 2,872,410.

Total Annualized Costs: 0.

Agency: Department of Treasury—IRS.

Type of Revision: Revision of existing collection.

Title of Collection: Annual Return/Report of Employee Benefit Plan.

OMB Control Number: 1545–1610.

Affected Public: Individuals or households; Private Sector—Business or other for-profit; Not-for-profit institutions.

Forms: Form 5500 and Schedules.

Total Respondents: 984,008.

Total Responses: 984,008.

Frequency of Response: Annually.

Estimated Total Burden Hours: 1,878,544.

Total Annualized Costs: 0.

Agency: PBGC.

Type of Revision: Revision of existing collection.

Title of Collection: Annual Information Return/Report.

OMB Control Number: 1212–0057.

Affected Public: Individuals or households; Private Sector—Business or other for-profit; Not-for-profit institutions.

Forms: Form 5500 and Schedules.

Total Respondents: 25,260.

Total Responses: 25,260.

Frequency of Response: Annually.

Estimated Total Burden Hours: 15,089.

Total Annualized Costs: 0.

Agency: DOL–EBSA.

Type of Revision: Revision of existing collection.

Title of Collection: Summary Annual Report Requirement.

OMB Control Number: 1210–0040.

Affected Public: Not-for-profit institutions, Businesses or other for-profits.

Total Respondents: 809,901.

Total Responses: 178,211,549.

Frequency of Response: Annually.

Estimated Total Burden Hours: 1,114,751.

Total Annualized Costs: $18,423,119.

The DOL solicited comments regarding whether or not any recordkeeping beyond that which is usual and customary is necessary to complete the Form 5500 Annual Return/Report. No comments were received on this issue. Comments were also solicited on whether the Form 5500 Annual Return/Report instructions are generally sufficient to enable filers to complete the Form 5500 Annual Return/Report without needing to refer to the statutes or regulations. No comments were received on this issue.

information as part of existing reporting requirements in the Form 5500.''

[59] 86 FR 51488.

Paperwork and Respondent Burden: Estimated time needed to complete the forms listed below reflects the combined requirements of the IRS, the DOL, and the PBGC. The times will vary depending on individual circumstances. The estimated average times are:

	Pension plans		
	Large	Small, filing Form 5500	Small, filing 5500–SF
Form 5500	1 hr, 50 min	1 hr, 19 min.	
Sch A	2 hr, 52 min	2 hr, 52 min.	
Sch MB	8 hr, 52 min	8 hr, 40 min	8 hr, 40 min.
Sch SB	6 hr, 38 min	6 hr, 49 min	6 hr, 49 min.
Sch C	2 hr, 51 min.		
Sch D	1 hr, 39 min	20 min.	
Sch G	14 hr, 49 min.		
Sch H	7 hr, 40 min.		
Sch I		2 hr, 6 min.	
Sch R	1 hr, 43 min	1 hr, 7 min.	
Form 5500–SF			2 hr, 35 min.

	Welfare plans that include health benefits		
	Large	Small, unfunded, combination unfunded/fully insured, or funded with a trust 5500–SF	
Form 5500	1 hr, 45 min	1 hr, 14 min.	
Sch A	3 hr, 40 min	2 hr, 43 min.	
Sch C	3 hr, 38 min.		
Sch D	1 hr, 52 min	20 min	
Sch G	11 hr, 0 min.		
Sch H	8 hr, 36 min.		
Sch I		1 hr, 56 min.	
Form 5500–SF		2 hr, 35 min.	

	Welfare plans that do not include health benefits		
	Large	Small, Filing Form 5500	Small, Filing Form 5500–SF
Form 5500	1 hr, 45 min	1 hr, 14 min.	
Sch A	3 hr, 40 min	2 hr, 43 min.	
Sch C	3 hr, 38 min.		
Sch D	1 hr, 52 min	20 min.	
Sch G	11 hr, 0 min.		
Sch H	8 hr, 36 min.		
Sch I		1 hr, 56 min.	
Form 5500–SF			2 hr, 35 min.

	Direct filing entities					
	Master trusts	CCTs	PSAs	103–12 IEs	GIAs	DCGs
Form 5500	1 hr, 50 min	1 hr, 29 min	1 hr, 24 min	1 hr, 33 min	1 hr, 22 min	1 hr, 50 min.
Sch A	2 hr, 54 min	2 hr, 48 min	2 hr, 46 min	2 hr, 52 min	2 hr, 53 min	2 hr, 52 min.
Sch C	3 hr, 1 min	1 hr, 1 min	29 min	1 hr, 22 min	51 min	2 hr, 42 min.
Sch D	1 hr, 30 min	47 min	34 min	49 min	41 min	1 hr, 39 min.
Sch G	12 hr, 32 min			5 hr, 42 min		11 hr, 6 min.
Sch H	8 hr, 7 min	7 hr, 36 min	7 hr, 33 min	8 hr, 17 min	7 hr, 38 min	8 hr, 36 min.
Sch DCG						1 hr, 33 min.

The aggregate hour burden for the Form 5500 Annual Return/Report (including schedules and short form) is estimated to be 4.3 million hours annually shared between the DOL, IRS, and the PBGC. The hour burden reflects filing activities carried out directly by filers. Presented below is a chart showing the total hour burden of the revised Form 5500 Annual Return/Report separately allocated across the DOL, the IRS, and the PBGC.

TABLE 2—HOUR BURDEN DISTRIBUTION PER AGENCY

	Hour burden		
	DOL	IRS	PBGC
Pension Large Plans	691,355	329,297	2,412
Pension Small Plans	937,892	1,070,054	12,601
Welfare Large Plans	1,065,746	17,755	.....
Welfare Small Plans	84,446	36,342	.....
DFEs	89,588	50,756	76
EZ Filers	.....	374,340	.....
January 2013 Revision	630	.....	.....
2014 CSEC Revision	2,753	.....	.....
Total Agency Burden	2,872,410	1,878,544	15,089

IV. Appendices

The Agencies have included the following appendices to provide more detailed illustrations and explanations of the changes, which will be implemented for the 2023 Forms 5500, expected to be available for filing on January 1, 2024:

(1) Appendix A—a facsimile of Schedule MEP (Multiple-Employer Pension Plan) and its instructions;

(2) Appendix B—a facsimile of Schedule DCG (Individual Plan Information) and its instructions;

(3) Appendix C—a description of changes in participant count reporting and counting methodology;

(4) Appendix D—description of changes to Schedule R, Form 5500–SF Instructions to add new Code compliance questions;

(5) Appendix E—description of additional defined benefit plan reporting improvements;

(6) Appendix F—description of miscellaneous other changes to the Form 5500, Form 5500–SF, and schedules and instructions, including a description of changes to breakout categories for administrative expenses in Schedule H.[60]

Consistent with the Agencies' annual updates to the forms, the final versions may include technical corrections, additions, and formatting adjustments that do not require further notice and comment under the PRA, the APA, or any relevant Executive Order.

Consistent with the proposal, to implement some of the proposed revisions to the forms, the DOL is publishing separately today in the **Federal Register** proposed amendments to the DOL's annual reporting regulations. That document includes a discussion of the findings required under sections 104 and 110 of ERISA that are necessary for the DOL to adopt the Form 5500 Annual Return/Report, including the Form 5500–SF, if revised as proposed herein, as an alternative method of compliance, limited exemption, and/or simplified report under the reporting and disclosure requirements of Part 1 of Subtitle B of Title I of ERISA.

BILLING CODE 4510–29–P

[60] Consistent with prior year practice, ''information-only'' copies of the forms, schedules, and instructions may be published earlier than January 1, 2024.

APPENDIX A— FACSIMILE OF SCHEDULE MEP (MULTIPLE-EMPLOYER RETIREMENT PLAN INFORMATION) AND ITS INSTRUCTIONS

SCHEDULE MEP (Form 5500)	MULTIPLE-EMPLOYER RETIREMENT PLAN INFORMATION	OMB Nos. 1210-XXXX 1210-XXXX
Department of the Treasury Internal Revenue Service Department of Labor Employee Benefits Security Administration	This schedule is required to be filed under section 104 of the Employee Retirement Income Security Act of 1974 (ERISA) and Section 6058(a) of the Internal Revenue Code (the Code) File as an attachment to Form 5500.	2023 This Form is Open to Public Inspection

For calendar plan year 2023 or fiscal plan year beginning _____ and ending _____

A	Name of plan	B Three-digit Plan number (PN) .... ▸	
C	Plan administrator's name as shown on line 3a of Form 5500/Form 5500-SF	D	Administrator's EIN

Part I **Type of Multiple-Employer Pension Plan. All multiple-employer pension plans must complete.**

1 Check the appropriate box to indicate type of multiple-employer pension plan. (Only defined contribution plans may check lines 1a, 1b, and 1c. Defined benefit plans and defined contribution plans not checking lines 1a, 1b, or 1c should check line 1d. See Instructions).

- **a** ☐ association retirement plan (See 29 CFR 2510.3-55) (Complete Part II)
- **b** ☐ professional employer organization plan (PEO Plan) (See 29 CFR 29 CFR 2510.3-55) (Complete Part II)
- **c** ☐ pooled employer plan (PEP) (See 29 CFR 2510.3-44) (Complete Parts II and III)
- **d** ☐ other multiple-employer pension plan (Describe) (Complete Part II)_____

Part II **Participating Employer Information.**

2 All multiple-employer pension plans that are subject to section 210(a) of ERISA (see instructions for filing the Form 5500) must complete Part II, in addition to Part I, in accordance with the instructions, to report the information for each employer participating in the multiple-employer pension plan**.** Defined contribution plans must complete lines 2a-2d. All other multiple-employer pension plans complete lines 2a-2c only. Complete as many entries as needed to list the required information for each participating employer that is not an individual person (see instructions).

2a Name of Participating Employer	**2b** EIN	**2c** Percentage of Total Contributions for the Plan Year	**2d** Aggregate Account Balances Attributable to Participating Employer
2a Name of Participating Employer	**2b** EIN	**2c** Percentage of Total Contributions for the Plan Year	**2d** Aggregate Account Balances Attributable to Participating Employer

CAUTION Do not individually list information for working owners (see instructions and 29 CFR 2510.3-55(d)(2)) or other individuals who are participants or beneficiaries in the plan or arrangement that are no longer associated with a particular participating employer or participating employer plan (see instructions). Providing identifying information for individuals may result in rejection of this filing. If there are any such individuals in the plan, answer "Yes" to line 2e and provide the total information for all such individuals, without providing names or other identifying information.

2e Does the plan include any individuals not participating through an employer or who are individual working owners?	**2e**	☐ Yes ☐ No
2f If you answer "Yes" in line 2e, enter a good faith estimate of the percentage of total contributions made by all such individuals that are not listed on line 2a during the plan year.	**2f**	

2g	If you answer "Yes" in Line 2e, enter the aggregate account balances for all such individuals that are not listed on line 2a.	**2g**	

Part III Pooled Employer Plan Information

3 All Pooled employer plans must answer all of the questions in Part III, in addition to completing all of Parts I and II.

3a Is the pooled plan provider (identified as the plan sponsor and administrator in Part II of the Form 5500) currently in compliance with the Form PR (Pooled Plan Provider Registration Statement) requirements? (See instructions and 29 CFR 2510.3-44)..... ☐ Yes ☐ No

3b If line 3a is "Yes" , enter the ACK ID for the most recent Form PR that was required to be filed under the Form PR filing requirements. (Failure to enter a valid ACK ID will subject the Form 5500 filing to rejection as incomplete.)
ACK ID _____

2023 Instructions for Schedule MEP
(Form 5500)
Multiple-Employer Retirement Plan Information

General Instructions

The Schedule MEP provides information about multiple-employer pension plans (MEPs). It consists of three parts. All MEPs must complete Parts I and II to indicate the specific type of plan or arrangement, to complete a list of participating employers, and to provide certain required information.

Part III only needs to be completed by pooled employer plans to answer questions specific to pooled employer plans.

Remember to check the Schedule MEP box on the Form 5500 (Part II, line 10a(5)) if a Schedule MEP is attached to the Form 5500.

Who Must File

Schedule MEP (Form 5500) must be attached to a Form 5500 or Form 5500-SF filed for a pension plan that checks the "multiple-employer plan" box on Part I of Form 5500 or Form 5500-SF, to provide information specific to such plan, including a list of participating employers and related information.

Multiple-employer welfare plans are not required to file the Schedule MEP but must include an attachment to report the participating employer information in accordance with the instructions for the "multiple-employer plan" box on Part I of Form 5500.

Specific Instructions

Part I Type of Multiple-Employer Pension Plan

Line 1. For purposes of completing the Schedule MEP, from among (a) to (d) described below, check the box on line 1 that best describes the type of plan. Filers must check one of the four boxes.

(a) Association Retirement Plan. Check this box if the Schedule MEP is being filed for a defined contribution MEP that is an Association Retirement Plan and complete Part II. A defined contribution pension plan sponsored by a bona fide group or association of employers is a MEP that is an Association Retirement Plan if: (1) the group or association has at least one substantial business purpose unrelated to offering and providing employee benefits to its employer members and their employees; (2) each employer member directly acts as an employer of at least one employee participating in the MEP; (3) the group or association has a formal organizational structure, (4) the group or association is controlled by its employer members; (5) employer members of the group or association have a commonality of interest; (6) plan participation is limited to employees and former employees of its employer members, and their beneficiaries; (7) the group or association must not be a bank or trust company, insurance issuer, broker-dealer, or other similar financial services firm (including a pension record keeper or third-party administrator) or owned or controlled by such an entity or any subsidiary or affiliate of such an entity, other than to the extent such an entity, subsidiary, or affiliate participates in the group or association in its capacity as an employer member; and (8) the group or association meets any other applicable conditions under 29 CFR 2510.3-55(b).

Do not check this box for a defined benefit plan sponsored by a bona fide group or association of employers. See instructions for (d) Other Multiple-Employer Pension Plan.

(b) Professional Employer Organization Plan (PEO Plan). Check this box if the Schedule MEP is being filed for a defined contribution MEP that is a Professional Employer Organization Plan (PEO Plan) and complete Part II. For this purpose, a professional employer organization (PEO) is a human-resource company that contractually assumes certain employer responsibilities of its client employers. A defined contribution pension plan sponsored by a PEO is a MEP that is a PEO Plan if the PEO (1) performs substantial employment functions on behalf of its client employers and maintains adequate records relating to such functions; (2) has substantial control over the functions and activities of the MEP as the plan sponsor, the plan administrator, and a named fiduciary and continues to have plan obligations to MEP participants after the client employer no longer contracts with the organization; (3) ensures that each client employer that adopts the MEP acts directly as an employer of at least one employee that is a participant covered under the MEP; (4) ensures that participation in the MEP is available only to employees and former employees of the PEO and client employers and to employees and former employees of former client employers who became participants during the contract period between the PEO and former client employers, and their beneficiaries; and (5) meets any other applicable conditions under 29 CFR 2510.3-55(c).

 *Do not check this box for a defined benefit plan sponsored by a PEO. See instructions for element (d) Other Multiple-Employer Pension Plan.*

(c) Pooled Employer Plan. Check this box if the Schedule MEP is being filed for a defined contribution MEP that is a pooled employer plan and complete Parts II and III. A plan operated by a "pooled plan provider" is a pooled employer plan if: (1) the plan is an individual account plan established or maintained for the purpose of providing benefits to the employees of two or more employers; (2) the plan is a qualified retirement plan, a plan that consists of annuity contracts described in Code section 403(b) that also meets the requirements of Code section 403(b)(15), or

a plan funded entirely with individual retirement accounts (IRA-based plan); and (3) the terms of the plan meet certain requirements set forth in ERISA section 3(43).

A "pooled plan provider" with respect to a pooled employer plan is defined in ERISA section 3(44) and Code section 413(e) to mean a person that:

1. is designated by the terms of the plan as a named fiduciary under ERISA, as the plan administrator, and as the person responsible for performing all administrative duties that are reasonably necessary to ensure that the plan meets the Code requirements for tax-favored treatment and the requirements of ERISA and for ensuring that each employer in the plan takes actions as the Secretary of Labor or the pooled plan provider determines necessary for the plan to meet Code and ERISA requirements, including providing to the pooled plan provider any disclosures or other information that the Secretary may require or that the pooled plan provider otherwise determines are necessary to administer the plan or to allow the plan to meet Code and ERISA requirements;

2. acknowledges in writing its status as a named fiduciary under ERISA and as the plan administrator;

3. is responsible for ensuring that all persons who handle plan assets or are plan fiduciaries are bonded in accordance with ERISA requirements; and

4. registers as a pooled plan provider by filing a Form PR in accordance with 29 CFR 2510.3-44.

Note. The term "pooled employer plan" does not include a multiemployer plan or plan maintained by employers that have a commonality of interest other than having adopted the plan. The term also does not include a plan established before January 1, 2021, which is the effective date of the SECURE Act provisions allowing pooled employer plans to begin operating, unless the plan administrator elects to have the plan treated as a pooled employer plan and the plan meets the

Code and ERISA requirements applicable to a pooled employer plan established on or after such date, including the requirement that the pooled plan provider file a Form PR with the Department of Labor before beginning to operate any pooled employer plan(s).

The pooled plan provider must be the same as the person identified as the plan sponsor and administrator in Part II of the Form 5500 and plan administrator on line C of Schedule MEP. All information for the pooled employer plan and the pooled plan provider operating the plan reported on the Form 5500, including Schedule MEP, must match the information reported on the Form PR. Failure to use consistent identifying information could result in correspondence from the Department of Labor or the Internal Revenue Service.

(d) Other Multiple-Employer Pension Plan. Check this box, describe the type of MEP (e.g., defined benefit MEP or collectively bargained multiple-employer pension plan that did not elect to be treated as a multiemployer plan) and complete Part II of the Schedule MEP if the Schedule MEP is being filed for a plan that is maintained by more than one employer and is not one of the plans already described.

Note. A MEP can be collectively bargained and collectively funded, but if covered by PBGC termination insurance, must have properly elected before September 27, 1981, not to be treated as a multiemployer plan under Code section 414(f)(5) or ERISA sections 3(37)(E) and 4001(a)(3) and have not revoked that election or made an election to be treated as a multiemployer plan under Code section 414(f)(6) or ERISA section 3(37)(G).

Part II Multiple-Employer Plan Participating Employer Information.

All MEPs (including association retirement plans, PEO plans, pooled employer plans, and other multiple-employer pension plans) must complete Part II to report the information for each participating employer in the MEP filing the Form 5500. All MEPs complete lines 2a-2c. Defined contribution MEPs also complete line 2d.

Complete as many entries as needed to list the required information for each participating employer that is not an individual person.

Note. If there are any working owners without employees participating in the plan, answer "Yes" to line 2e and provide the percentage of total contribution and aggregate account balance information for all such individuals on lines 2f and 2g, without providing names or other identifying information.

Line 2a. Enter the name of each participating employer in line 2a.

Line 2b. Enter the EIN of each participating employer.

Do not enter an SSN in lieu of an EIN. The Schedule MEP is open to public inspection, and the contents are public information and are subject to publication on the Internet. Because of privacy concerns, the inclusion of an SSN or any portion thereof on a Schedule MEP may result in the rejection of the filing.

Line 2c. Enter a good faith estimate of each participating employer's percentage of the total contributions (including employer and participant contributions) made by all participating employers during the plan year. The percentage may be rounded to the nearest whole percentage. Any employer that was obligated to make contributions to the plan for the plan year, who made contributions to the plan for the plan year, or whose employees were covered under the plan for the plan year is a "participating employer" for this purpose. If a participating employer made no contributions for the plan year (including participant contributions), enter "-0-" on line 2c.

Line 2d. If this filing is for a defined contribution MEP, enter the aggregate account balances for each participating employer, determined as the sum of the account balances of the employees of such employer (and the beneficiaries of such employees). For line 2d, the aggregate account balance attributable to each employer is the sum of the account balances of the employees of such employer and their beneficiaries at the end of the year. Consistent with the information on the

schedule of the assets for the plan as a whole, use the end-of-year valuation to calculate the amount of the aggregate account balances of each employer. The amounts can be rounded to the nearest dollar, consistent with other asset reporting on the forms and schedules.

Line 2e. If the plan includes any individuals not participating through an employer or who are individual working owners, answer "Yes" to line 2e and complete lines 2f and 2g. Do not identify such individuals on line 2a. For purposes of completing this schedule, a "working owner" has the same meaning as in 29 CFR 2510.3-55(d)(2).

Line 2f. If the answer to line 2e is "Yes," enter a good faith estimate of the percentage of total contributions made by all such individuals that are not listed on line 2a. The amounts listed in line 2c and line 2f must equal 100 percent (with a permitted variance of less than 1 percent due to rounding).

Line 2g. If the answer to line 2e is "Yes," enter the aggregate account balances for all individuals who are not listed on line 2a.

Part III. Pooled Employer Plan Information.

If this filing is for a pooled employer plan, you must complete Part III.

Line 3. To be able to operate one or more pooled employer plans, pooled plan providers must satisfy a number of conditions, including compliance with the Form PR (Pooled Plan Provider Registration) requirements. See 29 CFR 2510.3-44.

Line 3a. Pooled employer plans must answer whether the pooled plan provider (identified as the plan sponsor and administrator in Part II of the Form 5500 and line C of Schedule MEP) has complied with the Form PR registration requirements.

Line 3b. If line 3a is "Yes," enter in line 3b the Receipt Confirmation Code (ACK ID) for the most recent Form PR that was required to be filed under the Form PR filing requirements. The

ACK ID is the acknowledgement code generated by the system in response to a completed Form PR being submitted.

The instructions to the Form PR advise the pooled plan provider that it must keep, under ERISA section 107, the electronic receipt for the Form PR filing as part of the records of the pooled employer plans operated by the pooled plan provider.

Failure to enter a valid Receipt Confirmation Code (ACK ID) for the pooled plan provider's most recent Form PR will subject the Form 5500 filing to rejection as incomplete.

APPENDIX B — FACSIMILE OF SCHEDULE DCG (INDIVIDUAL PLAN INFORMATION) AND ITS INSTRUCTIONS

SCHEDULE DCG (Form 5500) Department of the Treasury Internal Revenue Service Department of Labor Employee Benefits Security Administration	**Individual Plan Information** This schedule is required to be filed under section 103 of the Employee Retirement Income Security Act of 1974 (ERISA) and Section 6058(a) of the Internal Revenue Code (the Code). ▶ **File as an attachment to Form 5500.**	OMB Nos. 1210-XXXX **2023** **This Form is Open to Public Inspection**

Part I DCG Information

A	Name of DCG	**B**	Three-digit plan number (PN)
C	DCG Sponsor's Name (enter here only if different from Name of DCG)	**D**	Employer Identification Number (EIN) for DCG

Part II Individual Schedule DCG Information. Complete a separate Schedule DCG for each individual defined contribution pension plan.

E This Schedule DCG is for: ☐ a single-employer plan ☐ a collectively-bargained plan

F This Schedule DCG is: ☐ the first Schedule ☐ the final Schedule ☐ an amended Schedule

Part III Basic Individual Plan Information

1a	Name of plan	**1b**	Three-digit plan number (PN)
		1c	Effective date of plan
2a	Plan sponsor's name (employer, if for a single-employer plan) Mailing address (include room, apt., suite no. and street, or P.O. Box), City or town, state or province, country, and ZIP or foreign postal code (if foreign, see instructions)	**2b**	Employer Identification Number (EIN)
		2c	Plan sponsor's telephone number
		2d	Business code
3	If the name and/or EIN of the plan sponsor or the plan name has changed since the last return/report filed for this plan, enter the plan sponsor's name, EIN, the plan name and the plan number from the last return/report:	**3b**	EIN
a	Plan sponsor's name	**3d**	PN
c	Plan Name		
4a	Plan administrator's name and address	**4b**	EIN
		4c	Administrator's telephone number
5a	Total number of participants at the beginning of the plan year	**5a**	
b	Total number of participants as of the end of the plan year	**5b**	
c	**(1)** Total number of active participants at the beginning of the plan year	**5c(1)**	
	(2) Total number of active participants at the end of the plan year	**5c(2)**	
d	**(1)** Number of participants with account balances as of the beginning of the plan year	**5d(1)**	
	(2) Number of participants with account balances as of the end of the plan year	**5d(2)**	
e	Number of participants who terminated employment during the plan year with accrued benefits that were less than 100% vested	**5e**	

For Paperwork Reduction Act Notice, see the Instructions for Form 5500. **Schedule DCG (2023)**
v. 230106

Part IV Financial Information

6	Plan Assets and Liabilities		(a) Beginning of Year	(b) End of Year
a	Total plan assets	6a		
	(1) Participant loans	6a(1)		
b	Total plan liabilities	6b		
c	Net Assets (subtract line 6b from line 6a)	6c		

7a	Contributions received or receivable in cash from		Amount
	(1) Employers	7a(1)	
	(2) Participants	7a(2)	
	(3) Others (including rollovers)	7a(3)	
b	Noncash contributions	7b	
c	Total Contributions (add lines 7a(1)-(3) and line 7(b)	7c	
d	Other income (loss)	7d	
e	Total Income (add lines 7c and 7d)	7e	
f	Benefit payment and payments to provide benefits	7f	
g	Corrective distributions (see instructions)	7g	
h	Certain deemed distributions of participant loans (see instructions)	7h	
i	Administrative service provider's expense (salaries, fees, commissions)	7i	
j	Other expenses	7j	
k	Total expenses (add lines 7f, 7g, 7h, 7i, and 7j)	7k	
l	Net income (loss) (subtract line 7k from line 7e)	7l	
m	Transfers of assets		
	(1) To this plan	7m(1)	
	(2) From this plan	7m(2)	

Part V Plan Characteristics

8 Enter the applicable two-character feature codes from the List of Plan Characteristics Codes in the instructions.

Part VI Compliance Questions

			Yes	No	Amount
9a	Was there a failure to transmit to the plan any participant contributions within the time period described in 29 CFR 2510.3-102? Continue to answer "Yes" for any prior year failures until fully corrected. (See instructions and DOL's Voluntary Fiduciary Correction Program.)	9a			
b	Were there any nonexempt transactions with any party-in-interest?	9b			
c	Has the plan failed to provide any benefit when due under the plan?	9c			
d	Was the plan covered by a fidelity bond?	9d			
e	Did the plan have a loss, whether or not reimbursed by the plan's fidelity bond, that was caused by fraud or dishonesty?	9e			

10 If, during this plan year, any assets or liabilities were transferred from this plan to another plan(s), identify the plan(s) to which assets or liabilities were transferred. (See instructions)

10a Name of plan(s)	**10b** EIN(s)	**10c** PN(s)

11 Is this a defined contribution plan subject to the minimum funding requirements of section 412 of the Code? ☐ Yes ☐ No

12a Does the plan satisfy the coverage and nondiscrimination tests of Code sections 410(b) and 401(a)(4) by combining this plan with any other plans under the permissive aggregation rules? ☐ Yes ☐ No

12b If this is a Code section 401(k) plan, check all boxes that apply to indicate how the plan is intended to satisfy the nondiscrimination requirements for employee deferrals and employer matching contributions (as applicable) under Code sections 401(k)(3) and 401(m)(2)?

☐ Design-based safe harbor method ☐ "Prior year" ADP test ☐ "Current year" ADP test ☐ N/A

13 If the plan sponsor is an adopter of a pre-approved plan that received a favorable IRS Opinion Letter, enter the date of the Opinion Letter ___/___/_____ (MM/DD/YYYY) and the Opinion Letter serial number _____.

Part VII Accountant Opinion Information for Participating Plans

14 Is the plan required to attach a report of an independent qualified public accountant (IQPA)? (See instructions on eligibility and condition for waiver of the annual examination and report of an IQPA under 29 CFR 2520.104-46)?

☐ Yes ☐ No

Complete lines 14a through 14c if you checked "YES" and the report of an IQPA for the plan is required to be attached to this Schedule DCG.

a The opinion reflected in the attached report of an IQPA accountant for this plan is (see instructions):

(1) ☐ Unmodified **(2)** ☐ Qualified **(3)** ☐ Disclaimer **(4)** ☐ Adverse

b Check the appropriate box(es) to indicate whether the IQPA performed an ERISA section 103(a)(3)(C) audit. Check both boxes (1) and (2) if the audit was performed pursuant to both 29 CFR 2520.103-8 and 29 CFR 2520.103-12(d). Check box (3) if pursuant to neither.

(1) ☐ DOL Regulation 2520.103-8 **(2)** ☐ DOL Regulation 2520.103-12(d) **(3)** ☐ neither DOL Regulation 2520.103-8 nor DOL Regulation 2520.103-12(d).

c Enter the name and EIN of the accountant (or accounting firm) below:

(1) Name: **(2)** EIN:

2023 Instructions for Schedule DCG
(Form 5500)
Individual Plan Information

General Instructions

Purpose of Schedule

This schedule is used for a common plan administrator as defined in 29 CFR 2520.104-51(c)(2)(iii) to report information regarding each individual plan participating in a Defined Contribution Group Reporting Arrangement (DCG or DCG reporting arrangement), as permitted by SECURE Act section 202.

Who Must File

Schedule DCG must be attached to a Form 5500 filed for a DFE that has checked the box in Part I, line A and specified the report is for a DCG reporting arrangement (i.e., when "D" is entered as the DFE code on Part I, line A of the Form 5500). Each plan participating in the DCG must individually complete a Schedule DCG to be attached to the Form 5500. Remember to check the Schedule DCG box on the Form 5500 (Part II, line 10(a)(4)) and indicate the number of Schedules DCG that are attached to the Form 5500.

For more information, see the instructions for DCG filing under *Direct Filing Entity (DFE) Filing Requirements.*

Specific Instructions

Part I – DCG Information

Lines A, B, C and D. The information must be the same as reported on lines 1a, 1b, 2a, and 2b of Part II of the DCG's Form 5500 to which this schedule is attached. For lines A and C, the DCG plan name may be different from the DCG plan sponsor's name (e.g., in the case of a DCG

sponsor that offers more than one DCG reporting arrangement).

Part II – Individual Plan Identification Information

Line E Box for a Single-Employer Plan. Check this box to confirm that Schedule DCG is filed for a defined contribution pension plan that is a single-employer plan. A single-employer plan for this reporting purpose is an employee benefit plan maintained by one employer or one employee organization (determined on a controlled group basis) in which the funds attributable to each employer are available to pay benefits only for that employer's employees. A plan that does not meet this definition is ineligible to participate in the DCG and should not complete this Schedule. The plan instead must file a separate Form 5500 or Form 5500-SF (if eligible) in accordance with form instructions.

Line E Box for a Collectively-Bargained, Single-Employer Plan. Check this box if the contributions to the plan and/or the benefits paid by the plan are subject to the collective bargaining process. The contributions and/or benefits do not have to be identical for all employees under the plan.

Line F Box for the First Schedule. Check this box only if an annual return/report has not been previously filed for this plan. If a plan participates in a DCG reporting arrangement, it is treated as satisfying its annual return/report requirement under Section 6058 of IRC and Section 104 of ERISA.

Line F Box for an Amended Schedule. Check this box if an annual return/report for the DCG has already been filed for the 2023 plan year, including a Schedule DCG for this plan, and you are now amending this Schedule DCG to correct errors and/or omissions on the previously filed return/report.

Note. An amended annual return/report filing must be submitted as a complete replacement of the previously submitted filing. If a Schedule DCG needs to be amended, the common plan administrator must resubmit the entire annual return/report filing for the DCG, with all required schedules and attachments, including Schedule DCG for all the plans in the DCG, through EFAST2. You cannot submit just the Schedule DCG that is being amended. The line F box for "Amended Schedule" must be checked only for those Schedules DCG that have been changed from the original submission. See EFAST2 FAQs available on the EFAST website at www.efast.dol.gov.

Line F Box for the Final Schedule. Check this box if this is the last annual return/report required for this plan.

Note. Check this box if all assets under the plan have been distributed to the participants and beneficiaries or legally transferred to the control of another plan. Do not check this box if you are reporting participants and/or assets at the end of the plan year or if you merely withdraw from a DCG reporting arrangement and still have a filing requirement for this plan.

Part III – Basic Individual Plan Information

Line 1a. Enter the formal name of the plan participating in the DCG or enough information to identify the plan. Abbreviate if necessary. If an annual return/report or a schedule has previously been filed on behalf of the plan, regardless of the type of form or schedule that was filed, use the same name or abbreviation that was used on the prior filings. Once you use an abbreviation, continue to use it for that plan on all future annual return/report or schedule filings with the IRS, DOL, and PBGC. Do not use the same name or abbreviation for any other plan, even if the first plan is terminated. If the plan has changed its name from the prior year filing(s), complete line 3 to indicate that the plan was previously identified by a different name.

Line 1b. Enter the three-digit plan or entity number (PN) assigned to the plan participating in the

DCG. This three-digit number, in conjunction with the EIN entered on line 2b, is used by the IRS, DOL, and PBGC as a unique 12-digit number to identify the plan.

Start at 001 for the first plan providing pension benefits. Consecutively number other plans providing pension benefits as 002, 003, etc. Once you use a plan number, continue to use it for that plan on all future filings with the IRS, DOL, and PBGC. Do not use it for any other plan, even if the first plan or DFE is terminated.

Line 1c. Enter the date the plan first became effective.

Line 2a. Enter the name of the plan sponsor. If the plan covers only the employees of one employer, enter the employer's name. Enter the current street address, the name of the city, and the two-character abbreviation of the U.S. state or possession and zip code. Enter a foreign postal code and country name, if applicable. Leave U.S. state and zip code blank if entering a foreign routing code and country name.

A post office box number may be entered if the Post Office does not deliver mail to the sponsor's street address.

Note. Use the IRS Form 8822-B, *Change of Address or Responsible Party — Business*, to notify the IRS if the address provided here is a change in your business mailing address or your business location.

Line 2b. Enter the nine-digit EIN assigned to the plan sponsor/employer. Do not use a SSN in lieu of an EIN. Because of privacy concerns, the inclusion of a SSN or any portion thereof on this line may result in the rejection of the filing.

A plan sponsor/employer without an EIN must apply for one as soon as possible. To apply for an EIN from the IRS:

- Mail or fax Form SS-4, Application for EIN, obtained at www.irs.gov/orderforms.

See *https://www.IRS.gov/Businesses* and click on "Employer ID Numbers" for additional information. The EIN is issued immediately once the application information is validated. (The online application process is not yet available for corporations with addresses in foreign countries or Puerto Rico.)

Line 2c. Enter the plan sponsor's/employer's telephone number, including the area code.

Line 2d. Enter the six-digit business code from the list of business codes on pages 80, 81, and 82 that best describes the primary nature of the plan sponsor's/employer's business. Do not enter code 525100 (Insurance & Employee Benefit Funds) or 813930 (Labor Unions and Similar Labor Organizations) unless the predominant industry in which the active participants are employed is the industry of insurance and employee benefit funds, or the industry of labor unions and similar labor organizations.

Lines 3a-d. If the plan sponsor's/employer's name and/or EIN have changed or the plan name has changed since the last return/report or schedule was filed for this plan, enter the plan sponsor's name and EIN, the plan name, and the plan number as it appeared on the last return/report or schedule filed.

The failure to indicate on line 3 that a plan sponsor was previously identified by a different name or a different EIN or that the plan name has been changed could result in correspondence from the DOL and/or the IRS.

Line 4a. Enter the name and address of the common plan administrator as shown on the DCG's Form 5500, Part II, line 3a.

Line 4b. Enter the common plan administrator's nine-digit EIN as shown on the DCG's Form 5500, Part II, line 3b.

Line 4c. Enter the telephone number for the common plan administrator as shown on the DCG's

Form 5500, Part II, line 3c. Use numbers only, including the area code, and do not include any special characters.

See Form 5500, Part II, lines 3a-3c for additional information.

Line 5a. Enter the total number of participants at the beginning of the plan year.

Line 5b. Enter the total number of participants at the end of the plan year.

Line 5c(1). Enter the total number of active participants at the beginning of the plan year.

Line 5c(2). Enter the total number of active participants at the end of the plan year.

"Participant" for purpose of lines 5a–5c(2) means any individual who is included in one of the categories below.

1. Active participants (for example, any individuals who are currently in employment covered by the plan and who are earning or retaining credited service under the plan) including:

- Any individuals who are eligible to elect to have the employer make payments under a section 401(k) qualified cash or deferred arrangement, and
- Any nonvested individuals who are earning or retaining credited service under the plan.

This category does not include (a) nonvested former employees who have incurred the break in service period specified in the plan or (b) former employees who have received a "cash-out" distribution or deemed distribution of their entire nonforfeitable accrued benefit.

2. Retired or separated participants receiving benefits (for example, individuals who are retired or separated from employment covered by the plan and who are receiving benefits under the plan). This category does not include any individual to whom an insurance company has made an irrevocable commitment to pay all the benefits to which the individual is entitled under the plan.

3. Other retired or separated participants entitled to future benefits (for example, any individuals

who are retired or separated from employment covered by the plan and who are entitled to begin receiving benefits under the plan in the future). This category does not include any individual to whom an insurance company has made an irrevocable commitment to pay all the benefits to which the individual is entitled under the plan.

4. Deceased individuals who had one or more beneficiaries who are receiving or are entitled to receive benefits under the plan. This category does not include any individual to whom an insurance company has made an irrevocable commitment to pay all the benefits to which the beneficiaries of that individual are entitled under the plan.

Line 5d(1). Enter the number of participants included on line 5a (total number of participants at the beginning of the plan year) who have account balances at the beginning of the plan year.

Line 5d(2). Enter the number of participants included on line 5b (total number of participants at the end of the plan year) who have account balances at the end of the plan year. For example, for a section 401(k) plan the number entered on line 5d(2) should be the number of participants counted on line 5b who have made a contribution, or for whom a contribution has been made, to the plan for this plan year or any prior plan year.

Line 5e. Include any individual who terminated employment during this plan year, whether or not the individual (a) incurred a break in service, (b) received an irrevocable commitment from an insurance company to pay all the benefits to which the individual is entitled under the plan, and/or (c) received a cash distribution or deemed cash distribution of their nonforfeitable accrued benefit.

Part IV – Financial Information

Note. The cash, modified cash, or accrual basis accounting methods may be used for recognition of transactions in Part IV, as long as you use one method consistently. If Form 5500 or Form 5500-SF was filed for the previous year, amounts reported on Schedule DCG lines 6a, 6b, and 6c

for the beginning of the plan year must be the same as reported for the end of the plan year for the corresponding lines on the return/report for the preceding plan year. If Schedule DCG was filed in the previous year, the amount reported on lines 6a, 6b, and 6c for the beginning of the plan year must be the same as reported for the end of the plan year on the Schedule DCG filed for the previous year. Use whole dollars only.

Current value means fair market value where available. Otherwise, it means the fair value as determined in good faith under the terms of the plan by a trustee or a named fiduciary, assuming an orderly liquidation at the time of the determination. See ERISA section 3(26).

Line 6a. Enter the total amount of plan assets at the beginning of the plan year in column (a). Do not include contributions designated for the 2023 plan year in column (a). Enter the total amount of plan assets at the end of the plan year in column (b).

Line 6a(1). Enter the current value of all loans to participants, including residential mortgage loans that are subject to Code section 72(p). Include the sum of the value of the unpaid principal balances, plus accrued but unpaid interest, if any, for participant loans made under an individual account plan with investment experience segregated for each account, which are made in accordance with 29 CFR 2550.408b-1 and secured solely by a portion of the participant's vested accrued benefit. When applicable, combine this amount with the current value of any other participant loans. Do not include in column (b) a participant loan that has been deemed distributed during the plan year under the provisions of Code section 72(p) and Treasury Regulations section 1.72(p)-1, if both of the following circumstances apply:

1. Under the plan, the participant loan is treated as a directed investment solely of the participant's individual account; and

2. As of the end of the plan year, the participant is not continuing repayment under the loan.

If both of these circumstances apply, report the loan as a deemed distribution on line 7h.

However, if either of these circumstances does not apply, the current value of the participant loan (including interest accruing thereon after the deemed distribution) must be included in column (b) without regard to the occurrence of a deemed distribution.

Note. After a participant loan that has been deemed distributed is included in the amount reported on line 7h, it is no longer to be reported as an asset on line 6a unless, in a later year, the participant resumes repayment under the loan. However, such a loan (including interest accruing thereon after the deemed distribution) that has not been repaid is still considered outstanding for purposes of applying Code section 72(p)(2)(A) to determine the maximum amount of subsequent loans. Also, the deemed distribution is not treated as an actual distribution for other purposes, such as the qualification requirements of Code section 401, including, for example, the determination of top- heavy status under Code section 416 and the vesting requirements of Treasury Regulations section 1.411(a)-7(d)(5). See Q&As 12 and 19 of Treasury Regulations section 1.72(p)-1.

The entry on line 6a, column (b) (plan assets at end of year) must include the current value of any participant loan included as a deemed distribution in the amount reported for any earlier year if, during the plan year, the participant resumes repayment under the loan. In addition, the amount to be entered on line 7h must be reduced by the amount of the participant loan reported as a deemed distribution for the earlier year.

Line 6b. Enter the total liabilities at the beginning and end of the plan year. Liabilities to be entered here do not include the value of future pension payments to participants. The amount to be entered in line 6b for accrual basis filers includes, among other things:

1. Benefit claims that have been processed and approved for payment by the plan but have not been paid;

2. Accounts payable obligations owed by the plan that were incurred in the normal operations of

the plan but have not been paid; and

3. Other liabilities such as acquisition indebtedness and any other amount owed by the plan.

Line 6c. Enter the net assets as of the beginning and end of the plan year. (Subtract line 6b from 6a). Line 6c, column (b), must equal the sum of line 6c, column (a), plus lines 7l (net income (loss)) and 7m (transfers to (from) the plan).

Lines 7a(1) and (2). Enter the total cash contributions received and/or receivable by the plan from employers and participants during the plan year. Plans using the accrual basis of accounting must not include contributions designated for years before the 2023 plan year on line 7a(1).

Line 7a(3). Enter the amount of all other contributions including transfers or rollovers received from other plans valued on the date of contribution.

Line 7b. Enter the current value, at date contributed, of securities or other noncash property.

Line 7c. Enter the total cash, noncash, and other contributions received and/or receivable by the plan from employers and participants during the plan year.

Line 7d. Enter all other plan income for the plan year. Do not include transfers from other plans that are reported on line 7m. Examples of other income received and/or receivable include:

1. Interest on investments (including money market accounts, sweep accounts, etc.)

2. Dividends. (Accrual basis plans should include dividends declared for all stock held by the plan even if the dividends have not been received as of the end of the plan year.)

3. Net gain or loss from the sale of assets.

4. Other income such as unrealized appreciation (depreciation) in plan assets. To compute this amount, subtract the current value of all assets at the beginning of the year plus the cost of any assets acquired during the plan year from the current value of all assets at the end of the year

minus assets disposed of during the plan year.

Line 7e. Add the total contributions (line 7c) and other plan income (line 7d) during the plan year. If entering a negative number, enter a minus sign ("–") to the left of the number.

Line 7f. Enter the total amount of benefits paid directly to participants or beneficiaries, including payments made (and for accrual basis filers payments due) to or on behalf of participants or beneficiaries in cash, securities, or other property (including rollovers of an individual's accrued benefit or account balance). Include all eligible rollover distributions as defined in Code section 401(a)(31)(D) paid at the participant's election to an eligible retirement plan (including an IRA within the meaning of Code section 401(a)(31)(E)).

Line 7g. Enter total amount of corrective distributions, including all distributions paid during the plan year of excess deferrals under section 402(g)(2)(A)(ii), excess contributions under section 401(k)(8), excess aggregate contributions under Code section 401(m)(6), and allocable income distributed. Also include on this line any elective deferrals and employee contributions distributed or returned to employees during the plan year as well as any attributable income that was also distributed.

Line 7h. Enter the total amount of certain deemed distributions of participant loans, including a participant loan that has been deemed distributed during the plan year under the provisions of Code section 72(p) and Treasury Regulations section 1.72(p)-1, only if both of the following circumstances apply:

1. Under the plan, the participant loan is treated as a directed investment solely of the participant's individual account; and

2. As of the end of the plan year, the participant is not continuing repayment under the loan.

If either of these circumstances does not apply, a deemed distribution of a participant loan

should not be reported on line 7h. Instead, the current value of the participant loan (including interest accruing thereon after the deemed distribution) must be included on line 6a(1)), column (b) (participant loans – end of year), without regard to the occurrence of a deemed distribution.

Line 7i. The amount to be reported for expenses involving administrative service providers (salaries, fees, and commissions) during the plan year includes the total fees paid (or in the case of accrual basis plans, costs incurred during the plan year but not paid as of the end of the plan year) by the plan for, among others:

1. Salaries to employees of the plan;

2. Fees and expenses for accounting, actuarial, legal, investment management, investment advice, and securities brokerage services;

3. Contract administrator fees; and

4. Fees and expenses for individual plan trustees, including reimbursement for travel, seminars, and meeting expenses.

Line 7j. Other expenses (paid and/or payable) include other administrative and miscellaneous expenses paid by or charged to the plan during the plan year, including among others office supplies and equipment, telephone, and postage.

Line 7k. Enter the total of all benefits paid or due reported on lines 7f, 7g, 7h, and all other plan expenses reported on lines 7i and 7j during the plan year.

Line 7l. Subtract line 7k from line 7e.

Line 7m. Include in these figures the value of all transfers of assets or liabilities into or out of the plan resulting from, among other things, mergers and consolidations. A transfer of assets or liabilities occurs when there is a reduction of assets or liabilities with respect to one plan and the receipt of these assets or the assumption of these liabilities by another plan. A transfer is not a

shifting of one plan's assets or liabilities from one investment to another. A transfer is not a distribution of all or part of an individual participant's account balance that is reportable on IRS Form 1099-R, Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc., (see the instructions for line 7f). Transfers out at the end of the year should be reported as occurring during the plan year.

Part V - Plan Characteristics

Line 8. Do not leave blank. Enter all applicable pension plan characteristics codes that applied during the reporting year from the List of Plan Characteristics Codes on pages 22 and 23 that best describe the characteristics of the plan.

Part VI - Compliance Questions

Line 9a. Amounts paid by a participant or beneficiary to an employer and/or withheld by an employer for contribution to the plan are participant contributions that become plan assets as of the earliest date on which such contributions can reasonably be segregated from the employer's general assets (see 29 CFR 2510.3-102). In the case of a plan with fewer than 100 participants at the beginning of the plan year, any amount deposited with such plan not later than the 7th business day following the day on which such amount is received by the employer (in the case of amounts that a participant or beneficiary pays to an employer), or the 7th business day following the day on which such amount would otherwise have been payable to the participant in cash (in the case of amounts withheld by an employer from a participant's wages), shall be deemed to be contributed or repaid to such plan on the earliest date on which such contributions or participant loan repayments can reasonably be segregated from the employer's general assets. See 29 CFR 2510.3-102(a)(2).

Plans that check "Yes," must enter the aggregate amount of all late contributions for the year. The total amount of the delinquent contributions must be included on line 9a for the year in

which the contributions were delinquent and must be carried over and reported again on line 9a for each subsequent year (or on line 4a of Schedule H or I of the Form 5500 or line 10a of the Form 5500-SF if choosing not to rely on a DCG Form 5500 filing to satisfy the plan's reporting requirement in the subsequent year) until the year after the violation has been fully corrected by payment of the late contributions and reimbursement of the plan for lost earnings or profits. All delinquent participant contributions must be reported on line 9a at least for the year in which they were delinquent even if violations have been fully corrected by the close of the plan year. If no participant contributions were received or withheld by the employer during the plan year, answer "No."

An employer holding participant contributions commingled with its general assets after the earliest date on which such contributions can reasonably be segregated from the employer's general assets will have engaged in a prohibited use of plan assets (see ERISA section 406). If such a nonexempt prohibited transaction occurred with respect to a disqualified person (see Code section 4975(e)(2)), file IRS Form 5330, Return of Excise Taxes Related to Employee Benefit Plans, with the IRS to pay any applicable excise tax on the transaction.

Participant loan repayments paid to and/or withheld by an employer for purposes of transmittal to the plan that were not transmitted to the plan in a timely fashion must be reported either on line 9a in accordance with the reporting requirements that apply to delinquent participant contributions or on line 9b. See Advisory Opinion 2002-02A, available at www.dol.gov/ebsa.

For those Schedule DCG filers required to submit an IQPA report, delinquent participant contributions reported on line 9a must be treated as part of the separate schedules referenced in ERISA section 103(a)(3)(A) and 29 CFR 2520.103-1(b) and 2520.103-2(b) for purposes of preparing the IQPA's opinion for such individual plan in the DCG, even though they are not

required to be listed on Part III of the Schedule G that is filed on a consolidated basis at the DCG level. If the information reported on line 9a is not presented in accordance with regulatory requirements, i.e., when the IQPA concludes that the scheduled information required by line 9a does not contain all the required information or contains information that is inaccurate or is inconsistent with the plan's financial statements, the IQPA report must make the appropriate disclosures in accordance with generally accepted auditing standards. For more information, see EBSA's Frequently Asked Questions about Reporting Delinquent Contributions on the Form 5500, available on the Internet at www.dol.gov/ebsa. These Frequently Asked Questions clarify that plans have an obligation to include delinquent participant contributions on their financial statements and supplemental schedules and that the IQPA's report covers such delinquent contributions even though they are no longer required to be included on Part III of the Schedule G. Although all delinquent participant contributions must be reported on line 9a, delinquent contributions for which the DOL Voluntary Fiduciary Correction Program (VFCP) requirements and the conditions of the Prohibited Transaction Exemption (PTE) 2002-51 have been satisfied do not need to be treated as nonexempt party-in-interest transactions.

The DOL Voluntary Fiduciary Correction Program (VFCP) describes the specific transactions covered (which transactions include delinquent participant contributions to pension and welfare plans) and acceptable methods for correcting violations. In addition, applicants that satisfy both the VFCP and the conditions of Prohibited Transaction Exemption (PTE) 2002-51 are eligible for immediate relief from payment of certain prohibited transaction excise taxes for certain corrected transactions and are also relieved from the requirement to file the IRS Form 5330 with the IRS. For more information on the VFCP, the specific transactions covered (which transactions include delinquent participant contributions to pension and welfare plans), and acceptable methods for correcting violations, see 71 Fed. Reg. 20261 (Apr. 19, 2006) and 71 Fed. Reg. 20135 (Apr. 19, 2006). All delinquent participant contributions must be reported on

line 9a at least for the year in which they were delinquent even if violations have been fully corrected by the close of the plan year. Information about the VFCP is also available on the Internet at www.dol.gov/ebsa.

Line 9a Schedule. Attach a Schedule of Delinquent Participant Contributions using the format below if you entered "Yes" on line 9a and you are checking "YES" on line 14 because the report of an IQPA for the plan is required. If you choose to include participant loan repayments on line 9a, you must apply the same supplemental schedule and IQPA disclosure requirements to the loan repayments as apply to delinquent transmittals of participant contributions.

Schedule DCG Line 9a – Schedule of Delinquent Participant Contributions

Participant Contributions Transferred Late to Plan	Total that Constitutes Nonexempt Prohibited Transactions			Total Fully Corrected Under VFCP and PTE
Check here if Late Participant Loan Repayments are included:	Contributions Not Corrected	Contributions Corrected Outside VFCP	Contributions Pending Correction in VFCP	2002-51

Line 9b. Check "Yes" if any nonexempt transaction with a party-in-interest occurred. Do not check "Yes" with respect to transactions that are: (1) statutorily exempt under Part 4 of Title I of ERISA; (2) administratively exempt under ERISA section 408(a); (3) exempt under Code sections 4975(c) or 4975(d); or (4) delinquent participant contributions or delinquent loan repayments reported on line 9a.

You may indicate that an application for an administrative exemption is pending. If you are unsure whether a transaction is exempt or not, you should consult either with a qualified public accountant, legal counsel, or both. If the plan is a qualified pension plan and a nonexempt prohibited transaction occurred with respect to a disqualified person, an IRS Form 5330 is required to be filed with the IRS to pay the excise tax on the transaction. Plans that check "Yes" must enter the amount.

TIP Applicants that satisfy the VFCP requirements and the conditions of PTE 2002-51 (see the instructions for line 9a) are eligible for immediate relief from payment of certain prohibited transaction excise taxes for certain corrected transactions, and are also relieved from the obligation to file the Form 5330 with the IRS. When the conditions of PTE 2002-51 have been satisfied, the corrected transactions should be treated as exempt under Code section 4975(c) for the purposes of answering line 9b.

Nonexempt transactions. Nonexempt transactions with a party-in-interest include any direct or indirect:

A. Sale or exchange, or lease, of any property between the plan and a party-in-interest.

B. Lending of money or other extension of credit between the plan and a party-in-interest.

C. Furnishing of goods, services, or facilities between the plan and a party-in-interest.

D. Transfer to, or use by or for the benefit of, a party in-interest, of any income or assets of the plan.

E. Acquisition, on behalf of the plan, of any employer security or employer real property in violation of ERISA section 407(a).

F. Dealing with the assets of the plan for a fiduciary's own interest or own account.

G. Acting in a fiduciary's individual or any other capacity in any transaction involving the plan on behalf of a party (or represent a party) whose interests are adverse to the interests of the plan or the interests of its participants or beneficiaries.

H. Receipt of any consideration for their own personal account by a party-in-interest who is a fiduciary from any party dealing with the plan in connection with a transaction involving the income or assets of the plan.

Party-in-Interest. For purposes of this form, party-in interest is deemed to include a disqualified person. See Code section 4975(e)(2). The term "party-in-interest" means, as to an employee benefit plan:

A. Any fiduciary (including, but not limited to, any administrator, officer, trustee, or custodian), counsel, or employee of the plan;

B. A person providing services to the plan;

C. An employer, any of whose employees are covered by the plan;

D. An employee organization, any of whose members are covered by the plan;

E. An owner, direct or indirect, of 50% or more of:

1. the combined voting power of all classes of stock entitled to vote or the total value of shares of all classes of stock of a corporation;

2. the capital interest or the profits interest of a partnership; or

3. the beneficial interest of a trust or unincorporated enterprise which is an employer or an employee organization described in C or D;

F. A relative of any individual described in A, B, C, or E;

G. A corporation, partnership, or trust or estate of which (or in which) 50% or more of:

1. the combined voting power of all classes of stock entitled to vote or the total value of shares of all classes of stock of such corporation,

2. the capital interest or profits interest of such partnership, or

3. the beneficial interest of such trust or estate, is owned directly or indirectly, or held by persons described in A, B, C, D, or E;

H. An employee, officer, director (or an individual having powers or responsibilities similar to those of officers or directors), or a 10% or more shareholder directly or indirectly, of a person described in B, C, D, E, or G, or of the employee benefit plan; or

I. A 10% or more (directly or indirectly in capital or profits) partner or joint venture of a person described in B, C, D, E, or G.

Line 9c. You must check "Yes" if any benefits due under the plan were not timely paid or not paid in full. This would include required minimum distributions to 5% owners who have attained

the applicable age as described in Code section 401(a)(9)(C)(v), whether or not retired, and/or non-5% owners who have attained the applicable age as described in section 401(a)(9)(C)(v) and have retired or separated from service; see Code section 401(a)(9). Include in this amount the total of any outstanding amounts that were not paid when due in previous years that have continued to remain unpaid.

Note: In the absence of other guidance, filers do not need to report on this line unpaid required minimum distribution (RMD) amounts for participants who have retired or separated from service, or their beneficiaries, who cannot be located after reasonable efforts or where the plan is in the process of engaging in such reasonable efforts at the end of the plan year reporting period. Plan administrators and employers should review their plan documents for written procedures on locating missing participants. Although the Department of Labor's Field Assistance Bulletin 2014- 01 is specifically applicable to terminated defined contribution plans, employers and plan administrators of ongoing plans may want to consider periodically using one or more of the search methods described in the Field Assistance Bulletin in connection with making reasonable efforts to locate RMD-eligible missing participants.

Line 9d. Plans that check "Yes" must enter the aggregate amount of fidelity bond coverage for all claims. Check ''Yes'' only if the plan itself (as opposed to the plan sponsor or administrator) is a named insured under a fidelity bond from an approved surety covering plan officials and that protects the plan from losses due to fraud or dishonesty as described in 29 CFR Part 2580. Generally, every plan official of an employee benefit plan who ''handles'' funds or other property of such plan must be bonded. Generally, a person shall be deemed to be ''handling'' funds or other property of a plan, so as to require bonding, whenever their duties or activities with respect to given funds are such that there is a risk that such funds could be lost in the event of fraud or dishonesty on the part of such person, acting either alone or in collusion with others. Section 412 of ERISA and 29 CFR Part 2580 describe the bonding requirements, including the

definition of "handling" (29 CFR 2580.412-6), the permissible forms of bonds (29 CFR 2580.412-10), the amount of the bond (29 CFR Part 2580, subpart C), and certain exemptions such as the exemption for unfunded plans, certain banks and insurance companies (ERISA section 412), and the exemption allowing plan officials to purchase bonds from surety companies authorized by the Secretary of the Treasury as acceptable reinsurers on federal bonds (29 CFR 2580.412-23). Information concerning the list of approved sureties and reinsurers is available on the Internet at *www.fms.treas.gov/c570.* For more information on the fidelity bonding requirements, see Field Assistance Bulletin 2008-04, available on the Internet at *www.dol.gov/ebsa.*

Note. Plans are permitted under certain conditions to purchase fiduciary liability insurance. These fiduciary liability insurance policies are not written specifically to protect the plan from losses due to dishonest acts and cannot be reported as fidelity bonds on line 4e.

Line 9e. Check ''Yes,'' if the plan suffered or discovered any loss as a result of any dishonest or fraudulent act(s) even if the loss was reimbursed by the plan's fidelity bond or from any other source. If ''Yes'' is checked enter the full amount of the loss. If the full amount of the loss has not yet been determined, provide an estimate and disclose that the figure is an estimate as determined in good faith by a plan fiduciary. You must keep, in accordance with ERISA section 107, records showing how the estimate was determined.

Willful failure to report is a criminal offense. See ERISA section 501.

Line 10. Enter information concerning assets and/or liabilities transferred from this plan to another plan(s) (including spinoffs) during the plan year. A transfer of assets or liabilities occurs when there is a reduction of assets or liabilities with respect to one plan and the receipt of these assets or the assumption of these liabilities by another plan. Enter the name, plan sponsor EIN, and Plan number of the transferee plan(s) involved on lines 10a, 10b, and 10c, respectively.

Do not use a SSN in place of an EIN or include an attachment that contains visible SSN.

Note. A distribution of all or part of an individual participant's account balance that is reportable on Form 1099-R should not be included on line 10.

IRS Form 5310-A, Notice of Plan Merger or Consolidation, Spinoff, or Transfer of Plan Assets or Liabilities; Notice of Qualified Separate Lines of Business, must be filed at least 30 days before any plan merger or consolidation or any transfer of plan assets or liabilities to another plan. There is a penalty for not filing IRS Form 5310-A on time.

Line 11. Check "Yes" if this is a defined contribution plan subject to the minimum funding requirements of Code section 412.

Line 12a. Check "Yes" if this plan was permissively aggregated with another plan to satisfy the requirements of Code sections 410(b) and 401(a)(4). Generally, each single plan must separately satisfy the coverage and nondiscrimination requirements. However, generally, an employer may designate two or more separate plans as a single plan for purposes of applying the ratio percentage test of Treasury Regulations section 1.410(b)-2(b)(2) or the nondiscriminatory classification test of Treasury Regulations section 1.410(b)-4. Two or more plans that are permissively aggregated and treated as a single plan for purposes of the minimum coverage test of Code section 410(b) must also be treated as a single plan for purpose of the nondiscrimination test under Code section 401(a)(4).

See Treasury Regulations sections 1.410(b)-7(d) and 1.401(a)(4)-(9)(a) for more information.

Line 12b. Check the applicable method used to satisfy the nondiscrimination requirements of Code section 401(k). A safe harbor 401(k) plan is similar to a traditional 401(k) plan but, among other things, it must provide for employer contributions. These contributions may be employer matching contributions, limited to employees who defer, or employer contributions made on behalf of all eligible employees, regardless of whether they make elective deferrals. The safe harbor 401(k) plan is not subject to the complex annual nondiscrimination tests that apply to traditional 401(k) plans.

Check "Design-based safe harbor method" if this is a safe harbor 401(k) plan, that is, a SIMPLE 401(k) plan under Code section 401(k)(11), a safe harbor 401(k) plan under Code section 401(k)(12), or a qualified automatic contribution arrangement under Code section 401(k)(13). If the plan, by its terms, does not satisfy the safe harbor method, it generally must satisfy the regular nondiscrimination test, known as the actual deferral percentage (ADP) test. Check the appropriate box to indicate if the plan uses the "current year" ADP test or the "prior year" ADP test. Check "current year" ADP test if the plan uses the current year testing method under which the ADP test is performed by comparing the current plan year's ADP for highly compensated employees (HCEs) with the current plan year's (rather than the prior plan year's) ADP for nonhighly compensated employees (NHCEs). Check all boxes that apply for a plan that tests different groups of employees on a disaggregated basis. Check "N/A" if the plan is not required to test for nondiscrimination under Code section 401(k)(3), such as a plan in which no HCE is benefiting.

Line 13. If a plan sponsor or an employer adopted a pre-approved plan that relied on a favorable Opinion Letter of a Pre-approved Plan, enter the date of the most recent favorable Opinion Letter issued by the IRS and the Opinion Letter serial number listed on the letter. A "Pre-approved Plan" is a plan approved by the IRS with a favorable Opinion Letter that is made available by a Provider for adoption by employers, including a standardized plan or a nonstandardized plan. A Pre-approved Plan may utilize either of two forms: a basic plan document with an adoption agreement or a single plan document. The employer is permitted to make minor modifications to the plan. An "Adopting Employer" is an employer that adopts a Pre-approved Plan offered by a Provider, including a plan that is word-for-word identical to, or a minor modification of, a plan of a Mass Submitter. If a plan was modified in such a way that negates the Opinion Letter, then the plan sponsor is now no longer an Adopting Employer of a Pre-approved Plan, and the plan is treated as an individually designed plan. An "Opinion Letter" is a written statement issued by the

IRS to a Provider or Mass Submitter as an opinion on the qualification in form of a plan under Code section 401 (a), Code section 403(a), or both Code sections 401(a) or 403(a) and 4975(e)(7). See Revenue Procedure 2017-41 for more information. The Opinion Letter serial number is a unique combination of a capital letter and a series of six numbers assigned to each Opinion Letter.

Part VII – Accountant's Opinion Information for Large Participating Plans

Line 14. Each defined contribution plan participating in a DCG determines the number of plan participants used to determine "large plan" or "small plan" status by counting plan participants at the individual plan level using information on participants with account balances reported on lines 5d(1) and 5d(2) of Schedule DCG, including the "80 to 120" rule at 29 CFR 2520.103-1(d). See *Section 4: What to File*.

A DCG participating plan must be audited and an IQPA report and audited financial statements for such plan must be attached to the Schedule DCG for that participating plan unless the plan is a small plan (plan that covered fewer than 100 participants with account balance as of the beginning of the plan year) eligible for the waiver of the annual examination and report of an IQPA under 29 CFR 2520.104-46. The audit and its report must follow the same rules as required for a plan that is filing its own Form 5500 Annual Return/Report and not having any of its reporting obligations satisfied by the filing of a Form 5500 by a DCG. See Instructions to Schedule H, line 3.

Line 14a. These boxes identify the type of opinion offered by the IQPA. The plan administrator should confirm with the IQPA whether the opinion was an unmodified, qualified, disclaimer of, or adverse opinion before answering line 14a.

Line 14a(1). Check if an unmodified opinion was issued pursuant to SAS 136. Generally, an unmodified opinion is issued when the IQPA concludes that the plan's financial statements are presented fairly, in all material respects, in accordance with the applicable financial reporting

framework (generally accepted accounting principles (GAAP) or another basis such as modified cash or cash basis). This also includes the form of opinion that SAS 136 permits an IQPA to issue when the IQPA has performed an ERISA section 103(a)(3)(C) audit pursuant to 29 CFR 2520.103-8 or 29 CFR 2520.103-12, or both, and had no modifications. Under 29 CFR 2520.103-8, the examination and report of an IQPA does not need to extend to statements or information regarding assets held by a bank, similar institution, or insurance carrier that is regulated and supervised and subject to periodic examination by a state or federal agency provided that the statements or information are prepared by and certified to by the bank or similar institution or the insurance carrier. The term ''similar institution'' as used here does not extend to securities brokerage firms (see DOL Advisory Opinion 93-21A). Under 29 CFR 2520.103-12, an audit of an employee benefit plan does not need extend to the investments in a pooled investment fund that files a separate audited Form 5500 as a 103-12 IE. For more information on filing requirements for 103-12 IEs, see *Section 4: What to File*. Neither of these regulations exempt the plan administrator from engaging an IQPA nor from attaching the IQPA's report to the Schedule DCG.

Line 14a(2). Check if a qualified opinion was issued. Generally, a qualified opinion is issued by an IQPA when (a) the IQPA, having obtained sufficient appropriate audit evidence, concludes that misstatements, individually or in the aggregate, are material but not pervasive to the financial statements or (b) the IQPA is unable to obtain sufficient appropriate audit evidence on which to base the opinion, but the auditor concludes that the possible effects on the financial statements of undetected misstatements, if any, could be material but not pervasive.

Line 14a(3). Check if a disclaimer of opinion was issued. A disclaimer of opinion is issued when the IQPA is unable to obtain sufficient appropriate audit evidence on which to base the opinion, and the IQPA concludes that the possible effects on the financial statements of undetected misstatements, if any, could be both material and pervasive.

Line 14a(4). Check if the plan received an adverse accountant's opinion. Generally, an adverse opinion is issued by an IQPA when the IQPA having obtained sufficient appropriate audit evidence, concludes that misstatements, individually or in the aggregate, are both material and pervasive to the financial statements.

Line 14b. Check "DOL Regulation 2520.103-8" or "DOL Regulation 2520.103-12(d)" (or both boxes, if applicable) if the IQPA performed an ERISA Section 103(a)(3)(C) audit of the plan's financial statements pursuant to DOL regulations 29 CFR 2520.103-8, 29 CFR 2520.103-12(d), or under both. If it was not performed pursuant to 29 CFR 2520.103-8 or 29 CFR 2520 103-12(d), check box (3).

Note. These regulations do not exempt the plan administrator from engaging an IQPA or from attaching the IQPA's report to the Schedule DCG. If you check box 103-8 or 103-12(d) or both, you must also check the appropriate box on line 14a to identify the type of opinion offered by the IQPA.

Line 14c. Enter the name and EIN of the accountant (or accounting firm) in the space provided on line 14c. Do not use a SSN or any portion thereof in lieu of an EIN. The Schedule DCG is open to public inspection, and the contents are public information and are subject to publication on the Internet. Because of privacy concerns, the inclusion of a SSN or any portion thereof on this Schedule DCG may result in the rejection of the filing.

APPENDIX C- PARTICIPANT-COUNT METHODOLOGY FOR DETERMINING ELIGIBILITY FOR SMALL PLAN SIMPLIFIED REPORTING OPTIONS

I. Changes to 2023 Form 5500 Annual Return/Report of Employee Benefit Plan

1. Form 5500, Part II, "Line 6" is modified by renumbering Line 6g as Line 6g(2) and adding Line 6g(1), to read as follows:

g(1) Number of participants with account balances as of the beginning of the plan year (only defined contribution plans complete this item).....	**6g(1)**	
g(2) Number of participants with account balances as of the end of the plan year (only defined contribution plans complete this item)……..……	**6g(2)**	

II. Changes to 2023 Instructions for Form 5500 Annual Return/Report of Employee Benefit Plan

1. Instructions for Form 5500, Section 4, "What to File," is modified by deleting the paragraph directly above the "Exceptions" section and replacing it with the following paragraph:

A plan other than a defined contribution pension plan uses the number of participants required to be entered in line 5 of the Form 5500 to determine whether a plan is a "small plan" or "large plan." Defined contribution pension plans use the number required to be entered on line 6g(1), except defined contribution pension plans that check the "first return/report" box on Part I, line B use the number entered on line 6g(2).

2. Instructions to 2023 Form 5500, Section 4, "What to File," "Exceptions" section is modified to delete the references to line 5 in "(1) 80-120 Participant Rule" paragraph and "(2) Short Plan Year Rule" paragraphs and add a new "DCG Reporting Arrangement" to read as follows:

(1) 80-120 Participant Rule: If the number of participants is between 80 and 120, and a Form 5500 Annual Return/Report was filed for the prior plan year, you may elect to complete the return/report in the same category (''large plan'' or ''small plan'') as was

filed for the prior return/report. Thus, if a Form 5500-SF or a Form 5500 Annual Return/Report was filed for the 2022 plan year as a small plan, including the Schedule I if applicable, and the participant count for the 2023 Form 5500 is 120 or less, you may elect to complete the 2023 Form 5500 and schedules in accordance with the instructions for a small plan, including for eligible filers, filing the Form 5500-SF instead of the Form 5500.

(2) Short Plan Year Rule: If the plan had a short plan year of seven (7) months or less for either the prior plan year or the plan year being reported on the 2023 Form 5500, an election can be made to defer filing the accountant's report in accordance with 29 CFR 2520.104-50. If such an election was made for the prior plan year, the 2023 Form 5500 must be completed following the requirements for a large plan, including the attachment of the Schedule H and the accountant's reports, regardless of the number of participants.

(3) DCG Reporting Arrangements: Defined contribution pension plans included as participating plans in a DCG reporting arrangement each count participants at the individual plan level and report their plan status on the Schedule DCG. For additional information, see the Schedule DCG instructions.

3. Instructions to 2023 Form 5500, Section 5 "Line-by-Line Instructions for the 2023 Form 5500 and Schedules," "Part II – Basic Plan Information," instructions for "Line 6g" is modified to read as follows:

Line 6g. Enter in line 6g(1) the total number of participants included on line 5 (total participants at the beginning of the plan year) who have account balances at the beginning of the plan year. Enter in line 6g(2) the total number of participants included on line 6f (total participants at the end of the plan year) who have account balances at the end of the plan year. For example, for a Code section 401(k) plan the number entered on line 6g(2) should be the number of participants counted on line 6f who have made a

contribution, or for whom a contribution has been made, to the plan for this plan year or any prior plan year. Defined benefit plans do not complete line 6g.

III. Changes to 2023 Form 5500-SF Short Form Annual Return/Report of Employee Benefit Plan

1. 2023 Form 5500-SF, Part II "Line 5c" is modified by renumbering Line 5c as Line 5c(2) and adding Line 5c(1), to read as follows:

c(1) Number of participants with account balances as of the beginning of the plan year (only defined contribution plans complete this item).....	**5c(1)**	
c(2) Number of participants with account balances as of the end of the plan year (only defined contribution plans complete this item)……	**5c(2)**	

IV. Changes to 2023 Instructions for Form 5500-SF Short Form Annual Return/Report of Employee Benefit Plan

1. Instructions for Form 5500-SF, "General Instructions," "Who May File Form 5500-SF," numbered paragraph 1 is revised to add two new sentences at the end to read as follows.

1. The plan (a) covered fewer than 100 participants at the beginning of the plan year 2023, or (b) under 29 CFR 2520.103-1(d) was eligible to and filed as a small plan for plan year 2022 and did not cover more than 120 participants at the beginning of plan year 2023 (see instructions for line 5 on counting the number of participants). To determine the number of participants covered by defined benefit pension plans and welfare plans, use the number described on Form 5500-SF, line 5a. Defined contribution pension plans use the number described on the Form 5500-SF, line 5c(1), except use the number described on line 5c(2) for defined

contribution pension plans that check the "first return/report" box on Part I, line B;

2. Instructions for Form 5500-SF, "Specific Line-by-Line instructions Form 5500-SF," "Part II – Basic Plan Information," "Line 5," third sentence providing instruction to element (c) is deleted and replaced with the following two sentences to read as follows:

Line 5. ***

Enter in element (c)(1) the total number of participants included in element (a) (total participants at the beginning of the plan year) who have account balances as of the beginning of the plan year. Enter in element (c)(2) the total number of participants included in element (b) (total participants at the end of the plan year) who have account balances at the end of the plan year. * * *

3. Instructions for Form 5500-SF, "Specific Line-by-Line instructions Form 5500-SF," "Part II – Basic Plan Information," "Line 6," numbered paragraph 1 is modified by amending the sentence inside the parenthesis to read as follows:

1. The plan (a) covered fewer than 100 participants at the beginning of the plan year 2023, or (b) under 29 CFR 2520.103-1(d) was eligible to and filed as a small plan for plan year 2022 and did not cover more than 120 participants at the beginning of plan year 2023 (see instructions for Who May File Form 5500-SF on counting the number of participants to determine whether a plan is eligible);

APPENDIX D – INTERNAL REVENUE CODE COMPLIANCE QUESTIONS

I. Changes to 2023 Schedule R (Form 5500) Retirement Plan Information

1. Add a new "Part VII IRS Compliance Questions" (new questions 21a, 21b, and 22) to read as follows:

Part VII IRS Compliance Questions

21a Does the plan satisfy the coverage and nondiscrimination tests of Code sections 410(b) and 401(a)(4) by combining this plan with any other plans under the permissive aggregation rules?

Yes ☐ No ☐

21b If this is a Code section 401(k) plan, check all boxes that apply to indicate how the plan is intended to satisfy the nondiscrimination requirements for employee deferrals and employer matching contributions (as applicable) under Code sections 401(k)(3) and 401(m)(2).

☐ Design-based safe harbor method

☐ "Prior year" ADP test

☐ "Current year" ADP test

☐ N/A

22. If the plan sponsor is an adopter of a pre-approved plan that received a favorable IRS Opinion Letter, enter the date of the Opinion Letter ___/___/_____ (MM/DD/ YYYY) and the Opinion Letter serial number_____

II. Changes to 2023 Form 5500-SF Short Form Annual Return/Report of Employee Benefit Plan

1. Add a "New Part VIII IRS Compliance Questions" (new questions 14a, 14b, and 15) to read as follows:

Part VIII IRS Compliance Questions

14a. Does the plan satisfy the coverage and nondiscrimination tests of Code sections 410(b) and 401(a)(4) by combining this plan with any other plans under the permissive aggregation rules?

Yes ☐ No ☐

14b. If this is a Code section 401(k) plan, check all boxes that apply to indicate how the plan is intended to satisfy the nondiscrimination requirements for employee deferrals and employer matching contributions (as applicable) under Code sections 401(k)(3) and 401(m)(2).

☐ Design-based safe harbor method

☐ "Prior year" ADP test

☐ "Current year" ADP test

☐ N/A

15. If the plan sponsor is an adopter of a pre-approved plan that received a favorable IRS Opinion Letter, enter the date of the Opinion Letter ___/___/_____ (MM/DD/YYYY) and the Opinion Letter serial number_____.

III. Changes to Instructions for 2023 Schedule R (Form 5500) Retirement Plan Information

1. Add new instructions for "Part VII IRS Compliance Questions" to read as follows:

Part VII IRS Compliance Questions

Line 21a. A multiple-employer plan or a pooled employer plan can skip this question. Check "Yes" if this plan was permissively aggregated with another plan to satisfy the requirements of Code sections 410(b) and 401(a)(4).

Generally, each single plan must separately satisfy the coverage and nondiscrimination requirements. However, generally, an employer may designate two or more separate plans as a single plan for purposes of applying the ratio percentage test of Treasury Regulations

section 1.410(b)-2(b)(2) or the nondiscriminatory classification test of Treasury Regulations section 1.410(b)-4. Two or more plans that are permissively aggregated and treated as a single plan for purposes of the minimum coverage test of Code section 410(b) must also be treated as a single plan for purposes of the nondiscrimination test under Code section 401(a)(4). *See* Treasury Regulations sections 1.410(b)-7(d) and 1.401(a)(4)-(9)(a) for more information.

Line 21b. A multiple-employer plan or a pooled employer plan can skip this question. Check the applicable method used to satisfy the nondiscrimination requirements of Code section 401(k). A safe harbor 401(k) plan is similar to a traditional 401(k) plan, but it must provide for employer contributions. These contributions may be employer matching contributions, limited to employees who defer, or employer contributions made on behalf of all eligible employees, regardless of whether they make elective deferrals. A safe harbor 401(k) plan is not subject to the complex annual nondiscrimination tests that apply to traditional 401(k) plans.

Check "Design-based safe harbor method" if this is a safe harbor 401(k) plan, that is, a SIMPLE 401(k) plan under Code section 401(k)(11), a safe harbor 401(k) plan under Code section 401(k)(12), or a qualified automatic contribution arrangement under Code section 401(k)(13). If the plan, by its terms, does not satisfy the safe harbor method, it generally must satisfy the regular nondiscrimination test, known as the actual deferral percentage (ADP) test.

Check the appropriate box to indicate if the plan uses the "current year" ADP test or the "prior year" ADP test.

Check "current year" ADP test if the plan uses the current year testing method under which the ADP test is performed by comparing the current plan year's ADP for highly

compensated employees (HCEs) with the current plan year's (rather than the prior plan year's) ADP for nonhighly compensated employees (NHCEs).

Check all boxes that apply for a plan that tests different groups of employees on a disaggregated basis, or uses different testing methods for different portions of the plan. For example, a plan that allows for immediate eligibility for elective deferrals and statutory eligibility for safe harbor contributions would be a safe harbor plan for statutory employees. However, the plan would be subject to ADP testing for non-statutory employees.

Check *"N/A"* if the plan is not required to test for nondiscrimination under Code section 401(k)(3), such as a plan in which no HCE is benefiting.

Line 22. If a plan sponsor or an employer adopted a Pre-approved Plan that had received a favorable IRS Opinion Letter, enter the date of the most recent favorable Opinion Letter issued by the IRS and the Opinion Letter serial number listed on the letter. A "Pre-approved Plan" is a plan approved by the IRS with a favorable opinion letter that is made available by a Provider for adoption by employers, including a standardized plan or a nonstandardized plan. A Pre-approved Plan may utilize either of two forms: a basic plan document with an adoption agreement or a single plan document. The employer is permitted to make minor modifications to the plan. An "Adopting Employer" is an employer that adopts a Pre-approved Plan offered by a Provider, including a plan that is word-for-word identical to, or a minor modification of, a plan of a Mass Submitter. If a plan was modified in such a way that negates the Opinion Letter, then the plan sponsor is no longer an Adopting Employer of a Pre-approved Plan, and the plan is treated as an individually designed plan. An "Opinion Letter" is a written statement issued by the IRS to a Provider or Mass Submitter as an opinion on the qualification in form of a plan under Code section 401(a), Code section 403(a), or both Code sections 401(a) or 403(a) and

4975(e)(7). See Revenue Procedure 2017-41 for more information. The opinion letter serial number is a unique combination of a capital letter and a series of six numbers assigned to each opinion letter.

IV. Changes to Instructions for 2023 Form 5500-SF Short Form Annual Return/Report of Employee Benefit Plan

1. The "List of plan characteristics codes for Lines 9a and 9b," "3D" is being amended to add "403(b)" after "403(a)," to read as follows:

3D: Pre-approved pension plan – A pre-approved plan under sections 401, 403(a), 403(b), and 4975(e)(7) of the Code that is subject to a favorable opinion letter from the IRS.

2. Add new instructions for "Part VIII IRS Compliance Questions" to read as follows:

Part VIII IRS Compliance Questions

Line 14a. A multiple-employer plan should skip this question. Check "Yes" if this plan was permissively aggregated with another plan to satisfy the requirements of Code sections 410(b) and 401(a)(4). Generally, each single plan must separately satisfy the coverage and nondiscrimination requirements. However, an employer generally may designate two or more separate plans as a single plan for purposes of applying the ratio percentage test of Treasury Regulations section 1.410(b)-2(b)(2) or the nondiscriminatory classification test of Treasury Regulations section 1.410(b)-4. Two or more plans that are permissively aggregated and treated as a single plan for purposes of the minimum coverage test of Code section 410(b) must also be treated as a single plan for purposes of the nondiscrimination test under Code section 401(a)(4). *See* Treasury Regulations sections 1.410(b)-7(d) and 1.401(a)(4)-(9)(a) for more information.

Line 14b. A multiple-employer plan should skip this question. Check the applicable method used to satisfy the nondiscrimination requirements of Code section 401(k). A safe

harbor 401(k) plan is similar to a traditional 401(k) plan, but it must provide for employer contributions. These contributions may be employer matching contributions limited to employees who defer, or employer contributions made on behalf of all eligible employees, regardless of whether they make elective deferrals. A safe harbor 401(k) plan is not subject to the complex annual nondiscrimination tests that apply to traditional 401(k) plans.

Check "Design-based safe harbor method" if this is a safe harbor 401(k) plan, that is, a SIMPLE 401(k) plan under Code section 401(k)(11), a safe harbor 401(k) plan under Code section 401(k)(12), or a qualified automatic contribution arrangement under Code section 401(k)(13). If the plan, by its terms, does not satisfy the safe harbor method, it generally must satisfy the regular nondiscrimination test, known as the actual deferral percentage (ADP) test.

Check the appropriate box to indicate if the plan uses the "current year" ADP test or the "prior year" ADP test.

Check "current year" ADP test if the plan uses the current year testing method under which the ADP test is performed by comparing the current plan year's ADP for highly compensated employees (HCEs) with the current plan year's (rather than the prior plan year's) ADP for nonhighly compensated employees (NHCEs).

Check all boxes that apply for a plan that tests different groups of employees on a disaggregated basis or uses different testing methods for different portions of the plan. For example, a plan that allows for immediate eligibility for elective deferrals and statutory eligibility for safe harbor contributions would be a safe harbor plan for statutory employees. However, the plan would be subject to ADP testing for non-statutory employees.

Check *"N/A"* if the plan is not required to test for nondiscrimination under Code section 401(k)(3), such as a plan in which no HCE is benefiting.

Line 15. If a plan sponsor or an employer adopted a Pre-approved Plan that had received a favorable Opinion Letter, enter the date of the most recent favorable Opinion Letter issued by the IRS and the Opinion Letter serial number listed on the letter. A "Pre-approved Plan" is a plan approved by the IRS with a favorable opinion letter that is made available by a Provider for adoption by employers, including a standardized plan or a nonstandardized plan. A Pre-approved Plan may utilize either of two forms: a basic plan document with an adoption agreement or a single plan document. The employer is permitted to make minor modifications to the plan. An "Adopting Employer" is an employer that adopts a Pre-approved Plan offered by a Provider, including a plan that is word-for-word identical to, or a minor modification of, a plan of a Mass Submitter. If a plan was modified in such a way that negates the Opinion Letter, then the plan sponsor is now no longer an Adopting Employer of a Pre-approved Plan, and the plan is treated as an individually designed plan. An "Opinion Letter" is a written statement issued by the IRS to a Provider or Mass Submitter as an opinion on the qualification in form of a plan under Code section 401(a), Code section 403(a), or both Code sections 401(a) or 403(a) and 4975(e)(7). See Revenue Procedure 2017-41 for more information. The opinion letter serial number is a unique combination of a capital letter and a series of six numbers assigned to each opinion letter.

V. Changes to Instructions for 2023 Form 5500 Annual Return/Report of Employee Benefit Plan

1. The "List of plan characteristics codes for Lines 8a and 8b," "3D" is being amended to add "403(b)" after "403(a)," to read as follows:

3D: Pre-approved pension plan – A pre-approved plan under sections 401, 403(a), 403(b), and 4975(e)(7) of the Code that is subject to a favorable opinion letter from the IRS.

APPENDIX E – DEFINED BENEFIT PLAN REPORTING IMPROVEMENTS

I. Changes to 2023 Schedule R (Form 5500) Retirement Plan Information

1. Line 19 is revised to read as follows:

19 If the total number of participants is 1,000 or more, complete lines (a) and (b).

a Enter the percentage of plan assets held as:

Public Equity: _____% Private Equity: _____% Investment-Grade Debt and Interest Rate Hedging Assets: _____% High-Yield Debt: _____% Real Assets: _____% Cash or Cash Equivalents: _____% Other: _____%

b Provide the average duration of the Investment-Grade Debt and Interest Rate Hedging Assets:

☐ 0-5 years ☐ 5-10 years ☐ 10-15 years ☐ 15 years or more

II. Changes to 2023 Schedule SB (Form 5500) Single-Employer Defined Benefit Plan Actuarial Information

1. Line 6 is revised to read as follows:

6	Target normal cost		
a	Present value of current plan year accruals	**6a**	
b	Expected plan-related expenses	**6b**	
c	Target normal cost	**6c**	

III. Changes to Instructions for 2023 Schedule R (Form 5500) Retirement Plan Information

1. Revise "Who Must File" to read as follows:

Schedule R must be attached to a Form 5500 filed for both tax-qualified and nonqualified pension benefit plans. Schedule R should not be completed for a DCG reporting group as each individual plan participating in a DCG reports Part VII IRS Compliance information on Schedule DCG. The parts of Schedule R that must be completed depend on whether the plan is subject to the minimum funding standards of Code section 412 or ERISA

section 302 and the type of plan. See line item requirements under *Specific Instructions* for more details.

"Exception: Schedule R should not be completed when the Form 5500 Annual Return/Report is filed for a pension plan that uses, as the sole funding vehicle for providing benefits, individual retirement accounts or annuities (as described in Code section 408). See the Form 5500 instructions for *Limited Pension Plan Reporting* for more information.

Check the Schedule R box on the Form 5500 (Part II, line 10a(1)) if a Schedule R is attached to the Form 5500."

2. Replace the instructions for Line 19a with the following:

Line 19a. Show the end -of-year distribution of assets for the categories shown. Use the market value of assets (not notional or book value) and do **not** include the value of any receivables. These percentages, expressed to the nearest whole percent, should reflect the total assets held regardless of how they are listed on the Schedule H and the sum of the percentages in the seven categories should sum to 100 percent. Assets held in trusts, accounts, mutual funds, and other investment arrangements should be disaggregated among the seven asset categories. The same methodology should be used in disaggregating trust assets as is used when disclosing the allocation of plan assets on the sponsor's 10-K filings to the Securities and Exchange Commission. Split assets between the following seven categories:

- Public Equity - Publicly traded U.S. and non-U.S. equity securities and the approximate portion of mutual funds or collective trusts invested in public equities.
- Private Equity - Direct ownership, co-investment, limited partnerships, fund of funds or other investments in equity ownership not included in the Public Equity category.

● Investment-Grade Debt and Interest Rate Hedging Assets - Investment-grade dollar denominated debt securities (fixed income) traded publicly or privately, and the approximate portion of the mutual funds or collective trusts invested in such securities. Investment-grade debt-instruments are those with an S&P rating of BBB- or higher, a Moody's rating of Baa3 or higher, an equivalent rating from another rating agency, or generally considered to be of equivalent credit quality. Include preferred equity in this category. Unrated debt with the backing of a government entity would be included in the "investment-grade" category unless it is generally accepted that the debt should be considered as "high-yield." Use the ratings in effect as of the end of the plan year. Include the market value (not notional value) of interest rate swaps, futures and other derivates designed to be interest-rate sensitive in this category.

● High-Yield Debt - Debt securities not included in Investment-Grade Debt as described above or in Cash and Cash Equivalents as described below. Include the approximate portion of the mutual funds or collective trusts invested in high-yield debt securities.

● Real Assets - Direct ownership, co-investments, or shares of funds with direct ownership in income-producing assets such as real estate, infrastructure, or land (e.g., farmland or timberland). Real estate investment trusts (REITs) should be included with Public Equity.

● Cash and Cash Equivalents – Non-interest-bearing cash (Schedule H item 1(a)) and accounts at financial institutions that earn interest (Schedule H item 1(c)(1)).

● Other – Any investments not included in the categories as described above, such as hedge funds, commodities, and collectibles.

3. Replace the instructions for Line 19b with the following:

Line 19b. Check the box that shows the average duration of the plan's combined investment-grade debt and interest-rate hedging assets portfolio. If the average duration falls exactly on the boundary of two boxes, check the box with the lower duration. To determine the average duration, use the "effective duration" or any other generally accepted measure of duration. If debt instruments are held in multiple debt portfolios, report the weighted average of the average durations of the various portfolios where the weights are the dollar values of the individual portfolios.

IV. Changes to Instructions for 2023 Schedule SB (Form 5500) Single-Employer Defined Benefit Plan Actuarial Information

1. Instructions for line 6a, should be revised to read as follows:

Line 6a. Present Value of Current Year Accruals. Enter the present value of all benefits which have been accrued or have been earned (or that are expected to accrue or to be earned) under the plan during the plan year. Include any increase in benefits during the plan year that is a result of any actual or projected increase in compensation during the current plan year, even if that increase in benefits is with respect to benefits attributable to services performed in a preceding plan year. This amount must be calculated as of the valuation date and must generally be based on the same assumptions used to determine the funding target reported in line 3c, column (3), reflecting the special assumptions and the loading factor for at-risk plans, if applicable. If the plan is in at-risk status for the current plan year and has been in at-risk status for fewer than five consecutive years, report this amount after reflecting the transition rule provided in Code section 430(i)(5) and ERISA section 303(i)(5).

2. Instructions for line 6c, should be revised to read as follows:

Line 6c. Target Normal Cost. Enter the sum of lines 6a and 6b, reduced (but not below zero) by any mandatory employee contributions expected to be made during the plan

year.

3. Instructions for Line 26a, 4th paragraph, 1st sentence, should be revised to read as follows:

Plans reporting 1,000 or more active participants on line 3c, column (1), must also provide average compensation data.* * *

4. Instructions for line 26b should be revised by adding the following note after the 2nd paragraph:

Note. If the plan is using the annuity substitution rule provided in § 1.430(d)-1(f)(4)(iii)(B) to determine the funding target, for purposes of this attachment, instead of assuming benefits are paid in the form assumed for valuation purposes, you may assume benefits are paid as an annuity (i.e., you may report the projected benefits that are used to determine the funding target).

APPENDIX F –OTHER CHANGES TO 2023 FORM 5500, FORM 5500-SF, SCHEDULES AND INSTRUCTIONS

I. Changes to 2023 Form 5500 Annual Return/Report of Employee Benefit Plan

1. Form 5500, Part I, Line A, Multiple-employer plan checkbox, is revised to delete "attach a list of" and add the word "provide" between the words "must" and "participating" to read as follows:

☐ a multiple-employer plan (Filers checking this box must provide participating employer information in accordance with the form instructions.)

2. Form 5500, Line 10 of Part II is revised to add two new checkboxes, as follows:

(4) ☐ **DCG** (Individual Plan Information) – Number Attached _____

(5) ☐ **MEP** (Multiple-Employer Retirement Plan Information)

II. Changes to 2023 Instructions for Form 5500 Annual Return/Report of Employee Benefit Plan

1. Instructions for Form 5500, Section 1, "Who Must File," "Direct Filing Entity (DFE)," first paragraph is revised to add "or reporting" between the words "investment" and "arrangements" in the first sentence; "defined contribution group reporting arrangement (DCG or DCG reporting arrangement)" between the phrases "103-12 investment entity (103-12 IE)," and "or group insurance arrangement (GIA)" in the second sentence; and "DCG" between "103-12 IE," and "or GIA" in the third sentence, to read as follows:

Direct Filing Entity (DFE)

Some plans participate in certain trusts, accounts, and other investment or reporting arrangements that file the Form 5500 Annual Return/Report as a DFE in accordance with the *Direct Filing Entity (DFE) Filing Requirements*. A Form 5500 must be filed for a master trust investment account (MTIA). A Form 5500 is not required but may be filed for a common/collective trust (CCT), pooled separate account (PSA), 103-12 investment

entity (103-12 IE), defined contribution group reporting arrangement (DCG or DCG reporting arrangement), or group insurance arrangement (GIA). Plans that participate in CCTs, PSAs, 103-12 IEs, DCGs, or GIAs that file as DFEs, however, generally are eligible for certain annual reporting relief. For reporting purposes, a CCT, PSA, 103-12 IE, DCG, or GIA is not considered a DFE unless a Form 5500 and all required attachments are filed for it in accordance with the *Direct Filing Entity (DFE) Filing Requirements*.

Note. Special requirements also apply to Schedules D and H attached to the Form 5500 filed by plans participating in MTIAs, CCTs, PSAs, DCGs, and 103-12 IEs. See these schedules and their instructions.

2. Instructions for Form 5500, Section 2 "When to File," the "Plans and GIAs" paragraph is revised to add "DCG" in the title and first, second and third sentences; and "DFEs other than GIAs" paragraph is revised to add "DCGs and" between "than" and GIAs" in the title and add "(other than DCGs and GIAs)" between "DFE" and "must" in the second sentence, to read as follows:

Section 2: When To File

Plans, DCGs and GIAs. File 2023 returns/reports for plan, DCG and GIA years that began in 2023. All required forms, schedules, statements, and attachments must be filed by the last day of the 7th calendar month after the end of the plan, DCG or GIA year (not to exceed 12 months in length) that began in 2023. If the plan, DCG or GIA year differs from the 2023 calendar year, fill in the fiscal year beginning and ending dates in the space provided.

DFEs other than DCGs and GIAs. File 2023 returns/reports no later than 9½ months after the end of the DFE year that ended in 2023. A Form 5500 filed for a DFE (other than DCGs and GIAs) must report information for the DFE year (not to exceed 12

months in length). If the DFE year differs from the 2023 calendar year, fill in the fiscal year beginning and ending dates in the space provided.

3. Instructions for Form 5500, Section 2 "When to File," "Extension of Time to File Using Form 5558" paragraph is revised to delete "or GIA" and replace with ", GIA or DCG" in the first sentence; add a new sentence after the first sentence; delete the second sentence; insert "paper" between the words "Approved" and copies" in the third sentence; and add a new Note paragraph, to read as follows:

Extension of Time To File Using Form 5558

A plan, GIA, or DCG may obtain a one-time extension of time to file a Form 5500 Annual Return/Report (up to 2½ months) by filing IRS Form 5558, Application for Extension of Time To File Certain Employee Plan Returns, on or before the normal due date (not including any extensions) of the return/report. Beginning January 1, 2024, you can file Form 5558 electronically through EFAST2 or you can file paper Form 5558 with the IRS. Approved paper copies of the Form 5558 will not be returned to the filer. A copy of the completed extension request must, however, be retained with the filer's records.

File the paper Form 5558 with the Department of the Treasury, Internal Revenue Service Center, Ogden, UT 84201-0045.

Note. A DCG reporting arrangement can file a single Form 5558 for an extension of time to file a Form 5500 return that includes a list of the individual plans participating in the DCG reporting arrangement covered by the single Form 5558 request for an extension.

4. Instructions for Form 5500, Section 2 "When to File," "Extension of Time to File Federal Income Tax Return," the second Note paragraph is amended to add "DCG or" between the phrase "other than a" and "GIA," to read as follows:

Note. An extension of time to file the Form 5500 does not operate as an extension of time to file a Form 5500 filed for a DFE (other than a DCG or GIA), to file PBGC premiums

or annual financial and actuarial reports (if required by section 4010 of ERISA) or to file the Form 8955-SSA (Annual Registration Statement Identifying Separated Participants with Deferred Vested Benefits) (required to be filed with the IRS under Code section 6057(a)).

5. Instructions for Form 5500, Section 3, "Electronic Filing Requirement," "Amended Return/Report" is revised to add a new Note paragraph before the Tip paragraph to read as follows:

Note. An amended filing must be submitted as a complete replacement of the previously submitted filing. You will need to resubmit the entire form, with all required schedules and attachments, through EFAST2. You cannot submit just the parts of the filing that are being amended. See EFAST2 FAQs available on the EFAST website at www.efast.dol.gov.

If a plan participating in a DCG amended its Schedule DCG to correct errors and/or omissions in a previously filed Schedule DCG, the DCG must resubmit an amended filing as described above, with all required schedules and attachments, including Schedules DCG for all participating plans that were submitted with the original return. The line F box for "an amended Schedule DCG" on the Schedule DCG must be checked only for those Schedules DCG that have been changed from the original submission.

6. Instructions for Form 5500, Section 4, "What to File," the first paragraph is revised to add "defined contribution group reporting arrangement (DCG or DCG reporting arrangements)" between "103-12 IE," and "or group insurance arrangement (GIA)" to read as follows:

The Form 5500 reporting requirements vary depending on whether the Form 5500 is being filed for a ''large plan,'' a ''small plan,'' and/or a DFE, and on the particular type

of plan or DFE involved (e.g., welfare plan, pension plan, common/collective trust (CCT), pooled separate account (PSA), master trust investment account (MTIA), 103-12 IE, defined contribution group (DCG) or group insurance arrangement (GIA)).

7. Instructions for Form 5500, Section 4, "What to File," fourth paragraph is revised to add "(including DCG reporting arrangements)" after "**(3)** DFE Filing Requirements" to reads as follows:

Filing requirements also are listed by type of filer: **(1)** Pension Benefit Plan Filing Requirements; **(2)** Welfare Benefit Plan Filing Requirements; and **(3)** DFE Filing Requirements (including DCG reporting arrangements). For each filer type there is a separate list of the schedules that must be filed with the Form 5500 (including where applicable, separate lists for large plan filers, small plan filers, and different types of DFEs).

8. Instructions for Form 5500, Section 4, "What to File," "Form 5500 Schedules," "Pension Schedules" paragraph is revised to add the following schedules after Schedule SB:

Schedule MEP ***(Multiple-Employer Retirement Plan Information)*** – is required for multiple-employer pension plans. For additional information, see the instructions for the Schedule MEP.

Schedule DCG ***(Individual Plan Information)*** – is required for DCGs. Each plan participating in a DCG must individually complete a Schedule DCG. For additional information, see the instructions for the Schedule DCG.

9. Instructions for Form 5500, Section 4, "What to File," "Form 5500 Schedules," "General Schedules," "Schedule H (Financial information)" paragraph is revised to add two new sentences about DCGs after the first sentence to read as follows:

Schedule H ***(Financial Information)*** – is required for pension benefit plans and welfare benefit plans filing as "large plans" and for all DFE filings. Employee benefit plans, 103-

12 IEs, and GIAs filing the Schedule H are generally required to engage an independent qualified public accountant (IQPA) and attach a report of the IQPA pursuant to ERISA section 103(a)(3)(A). In the case of a DCG reporting arrangement, the IQPA requirements are determined at the participating plan level for each plan participating in the DCG. Plans and DFEs filing the Schedule H, including a DCG filer that reports financial information on an aggregated basis on behalf of all participating plans, are also generally required to attach to the Form 5500 a **"Schedule of Assets (Held At End of Year),"** and, if applicable, a "**Schedule of Assets (Acquired and Disposed of Within Year),"** a **"Schedule of Reportable Transactions,"** and a **"Schedule of Delinquent Participant Contributions."** For additional information, see the Schedule H instructions.

10. Instructions for Form 5500, Section 4, "What to File," "Form 5500 Schedules," "General Schedules," "Schedule I (Financial information – Small Plan)" paragraph is revised to clarify that regardless of size, all DFEs (including a DCG) file a Schedule H, not Schedule I, to read as follows:

Schedule I *(Financial Information - Small Plan)* – is required for all pension benefit plans and welfare benefit plans filing the Form 5500 Annual Return/Report, rather than the Form 5500-SF, as ''small plans.'' Regardless of size, all DFEs (including DCGs) and certain pension benefit plans and arrangements described in 29 CFR 2520.104-44(b)(2) and in *Limited Pension Plan Reporting*, file Schedule H not Schedule I. For additional information, see the Schedule I and Schedule H instructions.

11. Instructions for Form 5500, Section 4, "What to File," "Form 5500 Schedules," "General Schedules," "Schedule C (Service Provider information)" paragraph is revised to add "DCG" between "103-12 IE," and "or GIA," to read as follows:

Schedule C (Service Provider Information) – is required for a large plan, MTIA, 103-12 IE, DCG or GIA if (1) any service provider who rendered services to the plan or DFE

during the plan or DFE year received $5,000 or more in compensation, directly or indirectly from the plan or DFE, or (2) an accountant and/or enrolled actuary has been terminated. For additional information, see the Schedule C instructions.

12. Instructions for Form 5500, Section 4, "What to File," "Form 5500 Schedules," "General Schedules," "Schedule G (Financial Transaction Schedules)" paragraph is revised to add "DCG" between "103-12 IE," and "or GIA," to read as follows:

Schedule G *(Financial Transaction Schedules)* – is required for a large plan, MTIA, 103-12 IE, DCG or GIA when Schedule H (Financial Information) lines 4b, 4c, and/or 4d are checked ''Yes.'' Part I of the Schedule G reports loans or fixed income obligations in default or classified as uncollectible. Part II of the Schedule G reports leases in default or classified as uncollectible. Part III of the Schedule G reports nonexempt transactions. For additional information, see the Schedule G instructions.

13. Instructions for Form 5500, Section 4, "What to File," "Pension Benefit Plan Filing Requirements," "Small Pension Plan" section is revised to add the following new paragraph 5 and renumber paragraph 5 as 6:

5. Schedule MEP, to report information about multiple-employer pension plans, if applicable.

14. Instructions for Form 5500, Section 4, "What to File," "Pension Benefit Plan Filing Requirements," "Large Pension Plan" section is revised to add the following new paragraph 7 and renumber paragraph 7 as 8:

7. Schedule MEP, to report information about multiple-employer pension plans, if applicable.

15. Instructions for Form 5500, Section 4, "What to File," "Limited Pension Plan Reporting," paragraph 1 "IRA Plans" is amended to clarify that IRA plans that are multiple-employer pension plans must file a Schedule MEP, to read as follows:

1. **IRA Plans:** A pension plan using individual retirement accounts or annuities (as described in Code section 408) as the sole funding vehicle for providing pension benefits need complete only Form 5500, Part I and Part II, lines 1 through 4, and 8 (enter pension feature code 2N), and file Schedule MEP, in the case of any plan that is a multiple-employer pension plan (including a pooled employer plan).

16. Instructions for Form 5500, Section 4, "What to File," "Direct Filing Entity (DFE) Filing Requirements," first paragraph is revised to add "or reporting" between the words "investment" and "arrangements" in the first sentence and add "defined contribution group reporting arrangement (DCG or DCG reporting arrangement)" between the phrases "103-12 investment entity (103-12 IE)," and "or group insurance arrangement (GIA)" in the third sentence; and second paragraph is revised to add "DCGs" between "103-12 IE," and "or GIA" in the first sentence and add "DCG" between "103-12 IE," and "or GIA" in the second sentences, to read as follows:

Direct Filing Entity (DFE) Filing Requirements

Some plans participate in certain trusts, accounts, and other investment or reporting arrangements that file the Form 5500 Annual Return/Report as a DFE. A Form 5500 must be filed for a master trust investment account (MTIA). A Form 5500 is not required but may be filed for a common/collective trust (CCT), pooled separate account (PSA), 103-12 investment entity (103-12 IE), defined contribution group reporting arrangement (DCG or DCG reporting arrangement), or group insurance arrangement (GIA).

Plans that participate in CCTs, PSAs, 103-12 IEs, DCGs or GIAs that file as DFEs generally are eligible for certain annual reporting relief. For reporting purposes, a CCT, PSA, 103-12 IE, DCG or GIA is considered a DFE only when a Form 5500 and all required schedules and attachments are filed for it in accordance with the following instructions.

17. Instructions for Form 5500, Section 4, "What to File," "Direct Filing Entity (DFE) Filing Requirements," "Master Trust Investment Account (MTIA)" section is revised to add a new Caution statement after the Note paragraph, to read as follows:

DCGs and multiple-employer pension plans that are pooled employer plans cannot participate in an MTIA.

18. Instructions for Form 5500, Section 4, "What to File," "Direct Filing Entity (DFE) Filing Requirements" section is revised to add a new "Defined Contribution Group Reporting Arrangements (DCGs or DCG Reporting Arrangements)" section after the 103-12 Entity (103-12 IE) section and before the Group Insurance Arrangement (GIA) section to read as follows:

Defined Contribution Groups Reporting Arrangements (DCGs or DCG Reporting Arrangements)

Each defined contribution pension plan that reports as part of a DCG reporting arrangement is not required to file a separate Form 5500 if a consolidated Form 5500 report for all the plans in the DCG is filed by the common plan administrator of the plans in accordance with 29 CFR 2510.103-14 and 29 CFR 2520.104-51, including a Schedule DCG for each participating plan.

For reporting purposes, an arrangement is a DCG reporting arrangement only if all plans in a DCG:

1. are individual account plans or defined contribution plans;

2. have the same trustee as described in ERISA section 403(a) ("common trustee");

3. have the same one or more named fiduciaries designated in accordance with ERISA section 402(a) ("common fiduciaries"), however an individual employer may be a named fiduciary of each employer's own plan provided that the other named fiduciaries are the same and common to all plans;

4. have a designated plan administrator under ERISA section 3(16)(A) that is the same plan administrator for all the plans in the DCG ("common plan administrator");

5. have plan years beginning on the same date ("common plan year");

6. provide the same investments or investment options to participants and beneficiaries in all the plans ("common investments or common investment options"). Certain brokerage window arrangements would qualify as a common investment option. See 29 CFR 2520.104-51(c)(3)(ii);

7. do not hold any employer securities at any time during the plan year, except this does not prohibit investments in any employer's publicly traded securities within one of the "common investments or investment options" available to participants and beneficiaries in all the plans;

8. either obtain an audit by an IQPA and file the IQPA report with the DCG consolidated Form 5500, or be eligible for the waiver of the annual examination and report of an IQPA under 29 CFR 2520.104-46; and

9. not be a MEP (including a pooled employer plan) or a multiemployer plan.

The Form 5500 submitted for the DCG must comply with the Form 5500 instructions for a Large Pension Plan, unless otherwise specified in the forms and instructions. The DCG must file:

1. Form 5500, except lines C, 2d and 7. Enter ''D'' in Part I, line A, as the DFE code for the DCG.

2. Schedule A (as many as needed) to report insurance, annuity, and investment contracts held by the plans participating in a DCG.

3. Schedule C to report service provider information and any terminated accountants.

4. Schedule D, Part I only, to list all CCTs, PSAs, and 103-12 IEs in which DCG participating plans invested at any time during the DCG year.

5. Schedule DCG, to report individual plan-level information such as the plan sponsor (i.e., employer), plan financial information, number of participants, and other information.

6. Schedule G to report loans or fixed income obligations in default or determined to be uncollectible as of the end of the DCG year, leases in default or classified as uncollectible, and nonexempt transactions.

7. Schedule H, except lines 4e, 4f, 4k, 4l and 5, to report the DCG's financial information.

8. Additional information required by the instructions to the above schedules, including, for example, the report of the independent qualified public accountant (IQPA) identified on Schedule DCG, line 14a, unless the plan is eligible for the waiver of the annual examination and report of an IQPA under 29 CFR 2520.104-46. All attachments must be properly labeled.

Note. The information reported on all the Schedules, except Schedule DCG, are generally reported for all the plans in the DCG in the aggregate, except as otherwise provided.

The plan administrator's information entered on Part III, line 4 on each individual plan's Schedule DCG must be the DCG common plan administrator (*i.e.* the plan administrator listed on the Form 5500, Part II, line 3, for the DCG) in order for the plan to report in the DCG group.

19. Instructions for Form 5500, Quick Reference Chart of Form 5500, Schedules, and Attachments" is revised to add Schedule MEP and Schedule DCG. In addition, other conforming changes have been made to the DFE column to reflect DCG as a new reporting option, and two new footnotes, 8 and 9, are added to provide additional information for Schedule MEP and Schedule DCG.

Quick Reference Chart of Form 5500, Schedules, and Attachments (Not Applicable for Form 5500-SF Filers)[1]

	Large Pension Plan	Small Pension Plan[2]	Large Welfare Plan	Small Welfare Plan[2]	DFE
Form 5500	Must complete.	Must complete.	Must complete.[3]	Must complete.[3]	Must complete.
Schedule A (Insurance Information)	Must complete if plan has insurance contracts.	Must complete if plan has insurance contracts.[4]	Must complete if plan has insurance contracts.	Must complete if plan has insurance contracts.[4]	Must complete if MTIA, 103-12 IE, DCG or GIA has insurance contracts.
Schedule C (Service Provider Information)	Must complete Part I if service provider was paid $5,000 or more, Part II if a service provider failed to provide information necessary for the completion of Part I, and Part III if an accountant or actuary was terminated.	Not required.	Must complete Part I if service provider was paid $5,000 or more, Part II if a service provider failed to provide information necessary for the completion of Part I, and Part III if an accountant or actuary was terminated.	Not required.	MTIAs, GIAs, DCGs and 103-12 IEs must complete Part I if service provider paid $5,000 or more, and Part II if a service provider failed to provide information necessary for the completion of Part I. GIAs and 103-12 IEs must complete Part III if accountant was terminated.
Schedule D (DFE/Participating Plan Information)	Must complete Part I if plan participated in a CCT, PSA, MTIA, or 103-12 IE.	Must complete Part I if plan participated in a CCT, PSA, MTIA, or 103-12 IE.[4]	Must complete Part I if plan participated in a CCT, PSA, MTIA, or 103-12 IE.	Must complete Part I if plan participated in a CCT, PSA, MTIA, or 103-12 IE.[4]	All DFEs other than DCGs must complete Part II, and DFEs that invest in a CCT, PSA, or 103-12 IE must also complete Part I.
Schedule DCG (Individual Plan Information)	Individual plans participating in a DCG must complete to report individual plan-level information.[9]	Individual plans participating in a DCG must complete to report individual plan-level information.[9]	Not required.	Not required.	Individual plans participating in a DCG must complete to report individual plan-level information.[9]
Schedule G (Financial Schedules)	Must complete if Schedule H, lines 4b, 4c, or 4d are "Yes."	Not required.	Must complete if Schedule H, lines 4b, 4c, or 4d are "Yes."[3]	Not required [3].	Must complete if Schedule H, lines 4b, 4c, or 4d for a GIA, DCG, MTIA, or 103-12 IE are "Yes."
Schedule H (Financial Information)	Must complete.[5]	Not required.	Must complete.[3, 5]	Not required.	All DFEs must complete Parts I, II, and III. MTIAs, 103-12 IEs, DCGs and GIAs must also complete Part IV.[5]
	Large Pension Plan	**Small Pension Plan[2]**	**Large Welfare Plan**	**Small Welfare Plan[2]**	**DFE**

Schedule I (Financial Information)	Not required.	Must complete.[4]	Not required.	Must complete.[4]	Not required.
Schedule MB (Actuarial Information)	Must complete if multiemployer defined benefit plan or money purchase plan subject to minimum funding standards.[6]	Must complete if multiemployer defined benefit plan or money purchase plan subject to minimum funding standards.[6]	Not required.	Not required.	Not required.
Schedule MEP (Multiple-Employer Retirement Plan Information)	Must complete if multiple-employer pension plan.[8]	Must complete if multiple-employer pension plan.[8]	Not required.	Not required.	Not required.
Schedule R (Pension Plan Information)	Must complete.[7]	Must complete.[4, 7]	Not required.	Not required.	Not required.
Schedule SB (Actuarial Information)	Must complete if single-employer or multiple-employer defined benefit plan, including an eligible combined plan and subject to minimum funding standards.	Must complete if single-employer or multiple-employer defined benefit plan, including an eligible combined plan and subject to minimum funding standards.	Not required.	Not required.	Not required.
Accountant's Report	Must attach.	Not required unless Schedule I, line 4k, is checked "No."	Must attach.[3]	Not required.	Must attach for a GIA, 103-12 IE, or individual plans participating in a DCG that checked "Yes" on Schedule DCG, line 14.[9]

1 This chart provides only general guidance. Not all rules and requirements are reflected. Refer to specific Form 5500 instructions for complete information on filing requirements (e.g., Who Must File and What To File). For example, a pension plan is exempt from filing any schedules if the plan uses Code section 408 individual retirement accounts as the sole funding vehicle for providing benefits. See Limited Pension Plan Reporting.

2 Pension plans and welfare plans with fewer than 100 participants at the beginning of the plan year that are not exempt from filing an annual return/report may be eligible to file the Form 5500-SF, a simplified report. In addition to the limitation on the number of participants, a Form 5500-SF may only be filed for a plan that is exempt from the requirement that the plan's books and records be audited by an independent qualified public accountant (but not by reason of enhanced bonding), has 100 percent of its assets invested in certain secure investments with a readily determinable fair market value, holds no employer securities, is not a multiemployer plan, is not required to file a Form M-1 (Report for Multiple-Employer Welfare Arrangements (MEWAs) and Certain Entities Claiming Exception (ECEs)) for the plan year, and is not a pooled employer plan. See the Form 5500-SF instructions, Who May File Form 5500-SF.

3 Unfunded, fully insured, or combination unfunded/fully insured welfare plans covering fewer than 100 participants at the beginning of the plan year that meet the requirements of 29 CFR 2520.104-20 are exempt from filing an annual report. See Who Must File. Such a plan with 100 or more participants must file an annual report, but is exempt under 29 CFR 2520.104-44 from the accountant's report requirement and completing Schedule H, but MUST complete Schedule G, Part III, to report any nonexempt transactions. See What To File. All Plans required to file Form M-1 (Report for Multiple-Employer Welfare Arrangements (MEWAs) and Certain Entities Claiming Exception (ECEs)) must file a Form 5500 regardless of plan size or type of funding.

4 Do not complete if filing the Form 5500-SF instead of the Form 5500.

5 Schedules of assets and reportable (5%) transactions also must be filed with the Form 5500 if Schedule H, line 4i or 4j is "Yes."

6 Money purchase defined contribution plans that are amortizing a funding waiver are required to complete lines 3, 9, and 10 of the Schedule MB in accordance with the instructions. Also see instructions for line 5 of Schedule R and line 12a of Form 5500-SF.

7 Schedule R should not be completed when the Form 5500 Annual Return/Report is filed for a pension plan that uses, as the sole funding vehicle for providing benefits, individual retirement accounts or annuities (as described in Code section 408). See the Form 5500 instructions for Limited Pension Plan Reporting for more information.

8 All multiple-employer pension plans must complete Schedule MEP, Parts I and II. Multiple-employer pension plans that are pooled employer plans must also complete Schedule MEP, Part III.

9 Individual plans participating in a DCG must attach the report of an independent qualified public accountant (IQPA) identified on Schedule DCG, line 14 unless the plan is eligible for the waiver of the annual examination and report of an IQPA under 29 CFR 2520.104-46.

20. Instructions for Form 5500, Section 5 "Line-by-Line Instructions for the 2023 Form 5500 and Schedules," "Part I-Annual Return/Report Identification Information," "Line A-Box for Multiple Employer Plan" is revised to reflect the transfer of questions specific for

multiple-employer pension plans from a nonstandard attachment to Schedule MEP, to read as follows:

Line A –Box for Multiple-Employer Plan. Check this box if the Form 5500 is being filed for a multiple-employer plan, including a multiple-employer 403(b) plan. A multiple-employer plan is a plan that is maintained by more than one employer and is not one of the plans already described. A multiple-employer plan can be collectively bargained and collectively funded, but, if covered by PBGC termination insurance, must have properly elected before September 27, 1981, not to be treated as a multiemployer plan under Code section 414(f)(5) or ERISA sections 3(37)(E) and 4001(a)(3), and have not revoked that election or made an election to be treated as a multiemployer plan under Code section 414(f)(6) or ERISA section 3(37)(G). A single Form 5500 Annual Return/Report is filed for the multiple-employer plan; participating employers do not file individually for this type of plan.

A pooled employer plan as defined in ERISA section 3(43) operated by a "pooled plan provider" that meets the definition under ERISA section 3(44) is a multiple-employer plan.

All multiple-employer pension plans that check this box must file Schedule MEP, Multiple-Employer Retirement Plan Information (see Schedule MEP filing instructions for additional details) to report information about the participating employers.

Note. Do not check this box if all of the employers maintaining the plan are members of the same controlled group or affiliated service group under Code sections 414(b), (c), or (m). Do not check this box for a DCG. See line A Box for Direct Filing Entity (DFE).

Participating Employer Information. Multiple-employer welfare plans required to file a Form 5500 do not file Schedule MEP but instead must include an attachment using the format below. The attachment must be properly identified at the top with the label

"Multiple-Employer Welfare Plan Participating Employer Information," and the name of the plan, EIN, and plan number (PN) as found on the plan's Form 5500. Complete as many entries as needed to report the required information for all participating employers in the plan.

Except as provided below, all multiple-employer welfare plans must complete elements 1-3 of the "Multiple-Employer Welfare Plan Participating Employer Information" attachment.

For element 3, enter 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 year. The percentage may be rounded to the nearest whole percentage. To the extent the rounding results in the total reported percentage being either slightly above or slightly below 100 percent, the filer can indicate that on the attachment. Any employer who was obligated to make contributions to the plan for the plan year, who made contributions to the plan for the plan year, or whose employees were covered under the plan is a "participating employer" for this purpose. If a participating employer made no contributions, enter "-0-" in element 3.

Multiple-employer welfare plans that are unfunded, fully insured, or a combination of unfunded/insured and exempt under 29 CFR 2520.104-44 from the obligation to file financial statements with their annual report are required to complete elements 1 and 2 only of the "Multiple-Employer Welfare Plan Participating Employer Information" attachment.

Multiple-Employer Welfare Plan Participating Employer Information (Insert Name of Plan and EIN/PN as shown on the 5500)		
1. Name of participating employer	**2.** EIN	**3.** Percent of Total Contributions for Plan Year

1. Name of participating employer	**2.** EIN	**3.** Percent of Total Contributions for Plan Year
1. Name of participating employer	**2.** EIN	**3.** Percent of Total Contributions for Plan Year
1. Name of participating employer	**2.** EIN	**3.** Percent of Total Contributions for Plan Year
1. Name of participating employer	**2.** EIN	**3.** Percent of Total Contributions for Plan Year
Complete as many rows as needed to report the required information for all participating employers in the plan.		

21. Instructions for Form 5500, Section 5 "Line-by-Line Instructions for the 2023 Form 5500 and Schedules," "Part I-Annual Return/Report Identification Information," "Line B-Box for Amended Return/Report" is amended to add a new Note to read as follows:

Note. If an individual plan amended Schedule DCG to correct errors and/or omissions in a previously filed Schedule DCG, the DCG must submit an amended Form 5500, and include all Schedules DCG for participating plans that were submitted with the original return. The line B box for "an amended return/report" on the Form 5500 must be checked. The line F box for "an amended Schedule DCG" on the Schedule DCG must be checked on only those Schedules DCG that have been changed from the original submission.

22. Instructions for Form 5500, Section 5 "Line-by-Line Instructions for the 2023 Form 5500 and Schedules," "Part I-Annual Return/Report Identification Information," "Line A-Box for Direct Filing Entity (DFE), chart to indicate the type of entity is revised to add a new line and code "D" for Defined Contribution Group (DCG) so it reads as follows:

Type of entity ▼	Enter the letter ▼
Master Trust Investment Account	M
Common/Collective Trust	C

Pooled Separate Account	P
103-12 Investment Entity	E
Defined Contribution Group (DCG)	D
Group Insurance Arrangement	G

23. Instructions for Form 5500, Section 5 "Line-by-Line Instructions for the 2023 Form 5500 and Schedules," "Part I-Annual Return/Report Identification Information," "Line D-Box for Extension and DFVC Program," first bulleted paragraph is revised; and a new "Caution" paragraph is added, to read as follows:

• You filed for an extension of time to file this form with the IRS using a completed Form 5558, either electronically filing through EFAST2 or filing a paper form with the IRS. (A copy of the Form 5558 must be retained with the filer's records);

* * *

Checking this box does not enter you in the program. You can enter the program at this site:/www.dol.gov/agencies/ebsa/employers-and-advisers/plan-administration-and-compliance/correction-programs/dfvcp

See additional information on the DFVC Program at /www.dol.gov/sites/dolgov/files/EBSA/about-ebsa/our-activities/resource-center/faqs/dfvcp.pdf including filing by mail.

Applying and paying electronically to the DFVC Program is strongly recommended.

24. Instructions for Form 5500, Section 5 "Line-by-Line Instructions for the 2023 Form 5500 and Schedules," "Part II – Basic Plan Information," "Line 2a," numbered paragraph 1 is revised to delete the word "or" that appears between the words "contract," and "in," and add the phrase ", or in the case of a DCG, the DCG sponsor, but, if an individual sponsor cannot be identified, enter the plan administrator's name and be sure to check the box in line 3a)" at the end of the first sentence; the sentence above the bulleted paragraphs is revised to add the word "otherwise" between the words "sponsor" and "means"; the Note

paragraph is revised to add references to "or DCG" in the first sentence and add the phrase "listed above" between the words "entity" and "is" in the second sentence, to read as follows:

1. Enter the name of the plan sponsor or, in the case of a Form 5500 filed for a DFE, the name of the insurance company, financial institution, or other sponsor of the DFE (e.g., in the case of a GIA, the trust or other entity that holds the insurance contract, in the case of an MTIA, one of the sponsoring employers, or in the case of a DCG, the DCG sponsor, but, if an individual sponsor cannot be identified, enter the common plan administrator's name and be sure to check the box in line 3a). If the plan covers only the employees of one employer, enter the employer's name.

The term "plan sponsor" otherwise means:

* * *

Note. In the case of a multiple-employer plan or DCG, file only one annual return/report for the plan or DCG. If an association, pooled plan provider, PEO, or other entity listed above is not the sponsor, enter the name of a participating employer as sponsor. A plan of a controlled group of corporations should enter the name of one of the sponsoring members. In either case, the same name must be used in all subsequent filings of the Form 5500 for the multiple-employer plan or controlled group (see instructions to line 4 concerning change in sponsorship).

25. Instructions for Form 5500, Section 5 "Line-by-Line Instructions for the 2023 Form 5500 and Schedules," "Part II – Basic Plan Information," "Line 2b," first paragraph is revised to add "DCG" between "103-12 IE," and "or GIA," in the first sentence; and third paragraph is revised to replace "Employer" with "Plan sponsor/employer" in the first sentence to read as follows:

Line 2b. Enter the nine-digit employer identification number (EIN) assigned to the plan

sponsor/employer, for example, 00-1234567. In the case of a DFE, enter the employer identification number (EIN) assigned to the CCT, PSA, MTIA, 103-12 IE, DCG or GIA.

* * *

Plan sponsor/employers without an EIN must apply for one as soon as possible. The EBSA does not issue EINs. To apply for an EIN from the IRS:

* * *

26. Instructions for Form 5500, Section 5 "Line-by-Line Instructions for the 2023 Form 5500 and Schedules," "Part II – Basic Plan Information," "Line 3a," the following new bulleted paragraph is added to read as follows:

- The common plan administrator that is the same administrator for all the plans participating in the DCG, in the case of a DCG that meets the conditions under 29 CFR 2520.104-51;

III. 2023 Form 5500-SF Short Form Annual Return/Report of Employee Benefit Plan

1. Form 5500-SF, Part I, Line A of Form 5500-SF, Multiple-employer plan checkbox, is revised to take into account the new Schedule MEP, to read as follows:

☐ a multiple-employer plan (not multiemployer) (Pension Plan filers checking this box must attach Schedule MEP. Other plans must attach a list of participating employer information in accordance with the form instructions.)

2. Form 5500-SF, Part I, of Form 5500-SF is revised to renumber Line "D" as Line "E" and add a new Line D to read as follows:

D If the plan is a collectively bargained plan, check here. . . . . ☐

3. Form 5500-SF, Part V, Line 10a of Form 5500-SF is revised to add a new sentence to read as follows:

a	Was there a failure to transmit to the plan any participant contributions within the time period described in 29 CFR 2510.3-102? Continue to answer "Yes" for any prior year failures until fully corrected. (See instructions and DOL's Voluntary Fiduciary Correction Program)	**10a**			

IV. 2023 Instructions for Form 5500-SF Short Form Annual Return/Report of Employee Benefit Plan

1. Instructions for Form 5500-SF, "General Instructions," add the following new eighth bulleted paragraph to read as follows:

- Not be filing as, or part of a defined contribution group reporting arrangement (DCG) (see instructions to the Form 5500).

2. Instructions for Form 5500-SF, "General Instructions," "Who May File Form 5500-SF," add a new numbered paragraph 8; and the Note paragraph is revised to add "(including DCGs)" in between "(DFEs)" and "may," to read as follows:

8. The plan is not filing as, or part of, a DCG reporting arrangement. (see instructions to Form 5500).

Note. Employee Stock Ownership Plans (ESOPs) and Direct Filing Entities (DFEs) (including DCGs) may not file the Form 5500-SF.

3. Instructions for Form 5500-SF, "General Instructions," "What To File," the first paragraph is revised to add a new sentence after the third sentence; and the last sentence is revised to add "Schedule MEP" at the end after "Schedule MB," to read as follows: Plans required to file an annual return/report that meet all of the conditions for filing the Form 5500-SF may complete and file the Form 5500-SF in accordance with its instructions. Single-employer defined benefit pension plans using the Form 5500-SF must also file the Schedule SB (Form 5500), Single-Employer Defined Benefit Plan Actuarial Information, and its required attachments. Money purchase plans amortizing a funding waiver using the Form 5500-SF must also file the Schedule MB (Form 5500), Multiemployer Defined Benefit Plan and Certain Money Purchase Plan

Actuarial Information, and its required attachments. Multiple-employer pension plans using the Form 5500-SF must also file the Schedule MEP (Form 5500), Multiple-Employer Retirement Plan Information. For information about Schedule SB, Schedule MB and Schedule MEP, see the **2023 Instructions for Form 5500**, Annual Return/Report of Employee Benefit Plan.

4. Instructions for Form 5500-SF, "General Instructions," "Extension of Time to File," "Using Form 5558" paragraph is revised to add a new sentence after the second sentence; delete "You must file the Form 5558" in the third sentence; add "paper" between the words "the" and "Form 5558" in the fourth sentence; and add a new sentence after the fifth sentence to read as follows:

If filing under an extension of time based on the filing of an IRS Form 5558, Application for Extension of Time To File Certain Employee Plan Returns, check the appropriate box on the Form 5500-SF, Part I, line C. A one-time extension of time to file the Form 5500-SF (up to 2½ months) may be obtained by filing Form 5558 on or before the normal due date (not including any extensions) of the return/report. Beginning January 1, 2024, you can file Form 5558 electronically through EFAST2 or you can file paper Form 5558 with the Department of Treasury, Internal Revenue Service Center, Ogden, UT 84201-0045. Approved copies of the paper Form 5558 will not be returned to the filer. A copy of the completed extension request must be retained with the plan's records. See How to File – Electronic Filing Requirement for details on EFAST receipt and acknowledgement of filings.

5. Instructions for Form 5500-SF, "General Instructions," "How to File-Electronic Filing Requirement," second bulleted paragraph, first sentence is revised to add "and MEP (Form 5500)" after "MB (Form 5500),"; and second paragraph of the Note paragraph is revised to add "and MEP (Form 5500)," to read as follows:

• Do not enter "N/A" or "Not Applicable" on the Form 5500-SF or Schedules SB (Form 5500), MB (Form 5500), and MEP (Form 5500) unless specifically permitted. "Yes" or "No" questions on the form and schedules cannot be left blank, unless specifically permitted. Answer "Yes" or "No," but not both.

* * *

Note. Even after being received by the EFAST2 system, your return/report filing may be subject to further detailed review by DOL, IRS, and/or PBGC, and your filing may be deemed deficient based upon this further review. See Penalties on page 5.

The Form 5500-SF, Schedules SB (Form 5500), MB (Form 5500) and MEP (Form 5500), and any attachments that are filed under ERISA are open to public inspection, and the contents are public information subject to publication on the Internet.

6. Instructions for Form 5500-SF, "Specific Line-by-Line instructions Form 5500-SF," "Part I-Annual Report Identification Information," "Line A-Box for Multiple Employer Plan" is revised to reflect transfer of questions specific for multiple-employer pension plans from a nonstandard attachment to Schedule MEP, to read as follows:

Line A – Box for Multiple-Employer Plan. Check this box if the Form 5500-SF is being filed for a multiple-employer plan. A multiple-employer plan is a plan that is maintained by more than one employer and is not a single-employer plan or a multiemployer plan. A multiple-employer plan can be collectively bargained and collectively funded, but if covered by PBGC termination insurance, must have properly elected before September 27, 1981, not to be treated as a multiemployer plan under Code section 414(f)(5) or ERISA sections 3(37)(E) and 4001(a)(3), and have not revoked that election or made an election to be treated as a multiemployer plan under Code section 414(f)(6) or ERISA section 3(37)(G). A single Form 5500-SF Annual Return/Report is

filed for the multiple-employer plan; participating employers do not file individually for this type of plan.

Note. Do not check this box if all of the employers maintaining the plan are members of the same controlled group or affiliated service group under Code sections 414(b), (c), or (m).

Multiple-Employer Retirement Plan Information. Schedule MEP (Form 5500), Multiple-Employer Retirement Plan Information, must be attached to a Form 5500-SF filed for a pension plan that checks this box, to provide information specific to such plan, including a list of participating employers and related information. See Form 5500 instructions for Schedule MEP for more information.

Multiemployer plans, pooled employer plans, and DCG reporting arrangements cannot use the Form 5500-SF to satisfy their annual reporting obligations. They must file the Form 5500. For these purposes, a plan is a pooled employer plan if it is a multiple-employer pension plan that meets the definition under ERISA section 3(43), and a plan is a multiemployer plan if: (a) more than one employer is required to contribute; (b) the plan is maintained pursuant to one or more collective bargaining agreements between one or more employee organizations and more than one employer; (c) an election under Code section 414(f)(5) and ERISA section 3(37)(E) has not been made; and (d) the plan meets any other applicable conditions of 29 CFR 2510.3-37. A plan that made a proper election under ERISA section 3(37)(G) and Code section 414(f)(6) on or before Aug. 17, 2007, is also a multiemployer plan. A DCG reporting arrangement is an alternative reporting method used by groups of employee benefits plans meeting certain commonality of plan features and other applicable conditions found in 29 CFR 2520.104-51 and 29 CFR 2520.103-14.

7. Instructions for Form 5500-SF, "Specific Line-by-Line instructions Form 5500-SF," "Part I-Annual Report Identification Information," "Line B" is revised to add a new Note paragraph to read as follows:

Note. An amended filing should be submitted as a complete replacement of the previously submitted filing. You will need to resubmit the entire form, with all required schedules and attachments, through EFAST2. You cannot submit just the parts of the filing that are being amended. See EFAST2 FAQs available on the EFAST website at www.efast.dol.gov.

8. Instructions for Form 5500-SF, "Specific Line-by-Line instructions Form 5500-SF," "Part I-Annual Report Identification Information," "Line C- Box for Extension and DFVC Program" is revised to add a new Caution paragraph at the end of the bulleted list to read as follows:

Checking this box does not enter you in the program. You can enter the program at this site: https://www.dol.gov/agencies/ebsa/employers-and-advisers/plan-administration-and-compliance/correction-programs/dfvcp

See additional information on the DFVC Program at https://www.dol.gov/sites/dolgov/files/EBSA/about-ebsa/our-activities/resource-center/faqs/dfvcp.pdf including filing by mail.

Applying and paying electronically to the DFVC Program is strongly recommended.

9. Instructions for Form 5500-SF, "Specific Line-by-Line instructions Form 5500-SF," "Part I-Annual Report Identification Information," is revised to add a new instruction for "Line D-Box for Collectively-Bargained Plan" to read as follows:

Line D – Box for a Collectively-Bargained, Single-Employer Plan. Check this box when the contributions to the plan and/or the benefits paid by the plan are subject to the collective bargaining process. The contributions and/or benefits do not have to be identical for all

employees under the plan.

10. Instructions for Form 5500-SF, "Specific Line-by-Line instructions Form 5500-SF," "Part V Compliance Questions," Line 10f, second sentence, is revised to read as follows:

This would include required minimum distributions to 5% owners who have attained the applicable age as described in section 401(a)(9)(C)(v) whether or not retired and/or non-5% owners who have attained the applicable age as described in section 401(a)(9)(C)(v) and have retired or separated from service; see Code section 401(a)(9).

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V. 2023 Instructions for Schedule A (Form 5500) Insurance Information

1. Instructions for Schedule A, "General Instructions," "Who Must File," first paragraph is revised to add "DCGs" between "MTIAs," and "and 103-12 IEs" and "DCG" between "or by the" and "GIA" in the third sentence; and a new Note paragraph is added after the first paragraph and before the Tip paragraph to read as follows:

Who Must File

Schedule A (Form 5500) must be attached to the Form 5500 filed for every defined benefit pension plan, defined contribution pension plan, and welfare benefit plan required to file a Form 5500 if any benefits under the plan are provided by an insurance company, insurance service, or other similar organization (such as Blue Cross, Blue Shield, or a health maintenance organization). This includes investment contracts with insurance companies such as guaranteed investment contracts (GICs). In addition, Schedules A must be attached to a Form 5500 filed for GIAs, MTIAs, DCGs and 103-12 IEs for each insurance or annuity contract held in the MTIA, or 103-12 IE or by the DCG or GIA.

Note. In the case of a DCG, a Schedule A must be completed on an aggregate basis for all insurance or annuity contracts that constitute one of the investments or investment options available to all of the participants in a DCG participating plan, regardless of

whether certificates are issued to individual plans or participants upon selection of that option by a participant.

VI. 2023 Instructions for Schedule C (Form 5500) Service Provider Information

1. Schedule C, "General Instructions," "Who Must File" is revised to add a new Note paragraph before the Tip paragraph to read as follows:

Note: In the case of a DCG, each service provider to the DCG and to each of the separate plans in the DCG must be reported on the Schedule C, even if the service provider did not actually provide services or charge fees to a particular plan because, for example, the service provider provided investment management services with respect to a particular investment option that was not selected by any of the participants in a particular plan. The $5,000 threshold is based on the total amount received by the service provider from all sources, not broken down and measured on a per plan or other allocated method.

VII. 2023 Schedule D (Form 5500) DFE Participating Plan Information

1. Schedule D, "Part II- Information on Participating plans" is revised to add ", other than DCGs" in the first parenthetical after "DFE"; and to add a second sentence to the second parenthetical, to read as follows:

Part II	**Information on Participating Plans (to be completed by DFEs, other than DCGs)** (Complete as many entries as needed to report all participating plans. DCGs must report each participating plan using Schedule DCG.)

VIII. Instructions for Schedule D (Form 5500) DFE Participating Plan Information

1. Instructions for Schedule D, "General Instructions," "Who Must File," "Direct Filing Entities," first paragraph is revised to add a new sentence after the first sentence to read as follows:

Direct Filing Entities: Schedule D (Form 5500) must be attached to a Form 5500 filed for a CCT, PSA, MTIA, 103-12 IE, or Group Insurance Arrangement (GIA), as a Direct Filing Entity (i.e., when a "DFE" is checked on Part I, line A, of the Form 5500). Part I of Schedule D (Form 5500) must be attached to a Form 5500 filed for a DFE that is a DCG

only if the DCG invested in 103-12 IEs, CCTs or PSAs filing as DFEs.

2. Instructions for Schedule D, "General Instructions," "Who Must File" section, a new Caution statement is added after the "Direct Filing Entities" paragraph, to read as follows:

DCGs and multiple-employer pension plans that are pooled employer plans cannot participate in an MTIA.

3. Instructions for Schedule D, "Part II-Information on Participating Plans," the title is revised to add "Except DCGs"; and a new Note paragraph is added after the first sentence, to read as follows:

Part II – Information on Participating Plans (To Be Completed Only by DFEs, Except DCGs)

Complete as many repeating entries as necessary to enter the information specified below for all plans that invested or participated in the DFE at any time during the DFE year.

Note. DCGs are not required to complete Part II. A DCG's participating plan information must be reported on Schedule DCG. See Schedule DCG and related instructions.

IX. 2023 Instructions for Schedule G (Form 5500) Financial Transaction Schedules

1. Schedule G, "General Instructions," "Who Must File" is revised to add a new Note paragraph before the Tip paragraph to read as follows:

Note. In the case of a DCG, report the required information for all the plans in the DCG, including identifying information for the specific individual plan as provided below.

2. Schedule G, "Specific Instructions," "Part I-Loans or Fixed Income Obligations in Default or Classified as Uncollectible," First sentence is revised to add "DCG" between "MTIA," and "or"; and in the Note paragraph, add the following paragraph to appear after the first sentence as follows:

Note. Check box (a) and identify in element (b) each obligor known to be a party-in-interest to the plan. For a DCG, include in the description in element (c) the name of the plan or plans involved, EIN(s) and plan number(s). This information must be the same as the information reported on Part III of Schedule DCG.

* * *

3. Schedule G, "Specific Instructions," "Part II – Leases in Default or Classified as Uncollectible," the following paragraph is added at the end, to read as follows:

For a DCG, include in the description in element (c) the name of the plan or plans involved, the EIN(s) and plan number(s). This information must be the same as the information reported on Part III of Schedule DCG.

4. Schedule G, "Specific Instructions," "Part III – Nonexempt Transactions," a new Note paragraph is added to appear after numbered paragraph 6, to read as follows:

Note. In the case of a DCG, include in the description in element (c) the plan in the DCG, the name of the plan or plans involved, EIN(s) and plan number(s). This information must be the same as the information reported on Part III of Schedule DCG.

X. 2023 Schedule H (Form 5500), Financial Information

1. Schedule H, Part II, Line 2i is revised as follows:

i	Administrative expenses: **(1)** Salaries and allowances	**2i(1)**		
	(2) Contract administrator fees	**2i(2)**		
	(3) Recordkeeping fees	**2i(3)**		
	(4) IQPA audit fees	**2i(4)**		
	(5) Investment advisory and investment management fees	**2i(5)**		
	(6) Bank or trust company trustee/custodial fees	**2i(6)**		
	(7) Actuarial fees	**2i(7)**		
	(8) Legal fees	**2i(8)**		
	(9) Valuation/appraisal fees	**2i(9)**		
	(10) Other trustee fees and expenses	**2i(10)**		
	(11) Other expenses	**2i(11)**		
	(12) Total administrative expenses. Add lines **2i(1)** through **(11)**	**2i(12)**		

2. Schedule H, Part III- Accountant's Opinion, Line 3d is revised to add "as part of Schedule H" and Line 3d(1) is revised to add "DCG" to read as follows:

d The opinion of an independent qualified public accountant is **not attached** as part of Schedule H because:

(1) ☐ This form is filed for a CCT, PSA, DCG or MTIA.

3. Schedule H, Part IV-Compliance Question, Line 4 is revised to add a new sentence to read as follows:

4 CCTs and PSAs do not complete Part IV. MTIAs, 103-12 IEs, and GIAs do not complete lines 4a,4e, 4f, 4g, 4h, 4k, 4m, 4n, or 5. 103-12 IEs also do not complete lines 4j and 4l. MTIAs also do not complete line 4l. DCGs do not complete lines 4e, 4f, 4k, 4l, and 5, and DCGs generally complete the rest of Part IV collectively for all plans in the DCG, except as otherwise provided (see instructions).

XI. 2023 Instructions for Schedule H (Form 5500), Financial Information

1. Instructions for Schedule H, "General Instructions," "Who Must File," first paragraph is revised to add "DCG" between "103-12 IE," and "or"; and a new Note paragraph is added at the end, to read as follows:

Who Must File

Schedule H (Form 5500) must be attached to a Form 5500 filed for a pension benefit plan or a welfare benefit plan that covered 100 or more participants as of the beginning of the plan year and a Form 5500 filed for an MTIA, CCT, PSA, 103-12 IE, DCG or GIA. See the instructions to the Form 5500 in Section 4:

* * *

Note. DCGs report Schedule H information collectively for all plans in the DCG, except as otherwise provided in the annual reporting regulations or the instructions below.

2. Instructions for Schedule H, "Part II-Income and Expense Statement," a new paragraph is added to "Line 2i" to read as follows:

Line 2i. Report all administrative expenses (by specified category) paid by or charged to the plan, including those that were not subtracted from the gross income of CCTs, PSAs, MTIAs, and 103-12 IEs in determining their net investment gain(s) or loss(es). Expenses incurred in the general operations of the plan are classified as administrative expenses. Include, in the appropriate categories in lines 2i(1)-(11), the total fees paid (or in the case of accrual basis plans, costs incurred during the plan year but not paid as of the end of the plan year) by the plan for plan salaries and allowances, contract administrator fees, recordkeeping fees, investment advisory and investment management fees, IQPA audit fees, bank or trust company trustee/custodial fees, actuarial fees, legal fees, valuation/appraisal services, other trustee fees, and other expenses.

3. Instructions for Schedule H, "Part II-Income and Expense Statement," "Lines 2i(1), (3) – (5) and (10)" are revised, and new "Lines 2i(6) - (9), (11), (12) and Line 2j" are added to read as follows:

Line 2i(1). Report total salaries and allowances for plan employees in line 2i(1). Include plan expenditures such as salaries, other compensation, and allowances and employee benefits (e.g., payment of premiums to provide health insurance benefits to plan employees). Amounts paid to plan employees to perform recordkeeping/bookkeeping/ accounting and similar functions should be in included in line 2i(1).

* * *

Line 2i(3). Include fees for recordkeeping services and other accounting fees, such as for payroll audits and other audit fees, paid by the plan. Do not include in Line 2i(3) amounts paid to a contract administrator that should be included in Line 2i(2) or an IQPA for annual audit and related activities that should be included in Line 2i(4).

Line 2i(4). Enter in line 2i(4) fees paid to an independent qualified public accountant (IQPA) for the annual audit of the plan and related activities.

Line 2i(5). Enter the total fees paid to an individual, partnership or corporation (or other person) for advice to the plan relating to its investment portfolio. These may include fees paid to manage the plan's investments, fees for specific advice on a particular investment, and fees for the evaluation for the plan's investment performance.

Line 2i(6). Include bank or trust company trustee/custodial fees.

Line 2i(7). Include fees for actuarial services rendered to the plan, including preparation of Schedules MB or SB, as applicable.

Line 2i(8). Include payments to a lawyer for rendering legal opinions, litigation, and advice and other legal services to the plan (but not for providing legal services as a benefit to plan participants).

Line 2i(9). Include the fee(s) for valuations or appraisals to determine the cost, quality, or value of an item such as real property or personal property (gemstones, coins, etc.), and for valuations of closely held securities for which there is no ready market.

Line 2i(10). Include the total fees and expenses paid to or on behalf of plan trustees other than bank or trust company fees reported on line 2i(6). Include direct payment by the plan or reimbursement by the plan to trustees of expenses associated with trustees such as lost time, seminars, travel, meetings, educational conferences, etc.

Line 2i(11). Enter the total other expenses. Other expenses are those that cannot be associated definitely with lines 2i(1) through 2i(10). These may include expenses for office supplies and equipment, cars, telephone, postage, rent, expenses associated with the ownership of a building used in the operation of the plan, and all miscellaneous expenses. Include premium payments to the PBGC when paid from plan assets.

Line 2i(12). Add all administrative expense amounts in lines 2i(1) through (11) and enter the total in column (b).

Line 2j. Add all expense amounts in column (b) and enter the total in column (b).

4. Instructions for Schedule H, "Part III - Accountant's Opinion," "Line 3" is revised to add new instructions for DCGs to appear at the end, to read as follows:

Line 3. The administrator of an employee benefit plan who files a Schedule H generally must engage an Independent Qualified Public Accountant (IQPA) pursuant to ERISA section 103(a)(3)(A) and 29 CFR 2520.103-1(b). This requirement also applies to a Form 5500 filed for a 103-12 IE and for a GIA (see 29 CFR 2520.103-12 and 29 CFR 2520.103-2). The IQPA's report must be attached to the Form 5500 when a Schedule H is attached unless line 3d(1) or 3d(2) on the Schedule H is checked. For DCGs, the IQPA requirements are determined at the plan level for each plan participating in the DCG. The Accountant's Opinion information must be completed on each plan's Schedule DCG. The IQPA report for each plan must be attached to the Schedule DCG unless the plan is eligible for the waiver of the annual examination and report of an IQPA under 29 CFR 2520.104-46. See instructions for Part VII of Schedule DCG.

5. Instructions for Schedule H, "Part III-Accountant's Opinion," "Line 3d(1)" is revised to add a reference to "DCG" to read as follows:

Line 3d(1). Check this box only if the Schedule H is being filed for a CCT, PSA, DCG or MTIA.

6. Instructions for Schedule H, "Part IV-Compliance Questions," "Line 4a," the Tip paragraph is revised to remove the Tip box and italics, add a new paragraph after the first paragraph and move the last sentence to appear at the beginning of the second paragraph, to read as follows:

* * *

For DCGs, answer "yes" if any plan in the DCG is required to report delinquent participant contributions on the Schedule DCG for the plan, and report the total amount reported by all such plans on line 4a. DCGs do not need to file a consolidated Line 4a Schedule of Delinquent Contributions for the DCG. Plans participating in a DCG must report delinquent participant contribution information on the plan's Schedule DCG. A Schedule of Delinquent Participant Contributions must be attached to the Schedule DCG for each plan that is subject to an IQPA audit. As described above, the Schedule should be treated as part of the separate schedules referenced in ERISA section 103(a)(3)(A) and 29 CFR 2520.103-1(b) and 2520.103-2(b) for purposes of preparing the IQPA's opinion for the plan that must be attached to the plan's Schedule DCG. See Schedule DCG for additional information.

All delinquent participant contributions must be reported on line 4a even if violations have been corrected. The VFCP describes how to apply, the specific transactions covered (which transactions include delinquent participant contributions to pension and welfare plans), and acceptable methods for correcting violations. In addition, applicants that satisfy both the VFCP requirements and the conditions of PTE 2002-51 are eligible for immediate relief from payment of certain prohibited transaction excise taxes for certain corrected transactions, and are also relieved from the obligation to file the IRS Form 5330 with the IRS. For more information, see 71 Fed. Reg. 20261 (Apr. 19, 2006) and 71 Fed. Reg. 20135 (Apr. 19, 2006). Information about the VFCP is also available on the Internet at www.dol.gov/ebsa.

7. Instructions for Schedule H, "Part IV-Compliance Questions," "Lines 4a through 4n" paragraph is revised to add a new sentence at the end of the second paragraph to read as follows:

Lines 4a through 4n. Plans completing Schedule H must answer all these lines with either ''Yes'' or ''No.'' Do not leave any answer blank, unless otherwise directed. For lines 4a through 4h and line 4l, if the answer is "Yes," an amount must be entered.

Report investments in CCTs, PSAs, MTIAs, and 103-12 IEs, but not the investments made by these entities. Plans with all of their funds held in a master trust should check ''No'' on line 4b, 4c, 4i, and 4j. CCTs and PSAs do not complete Part IV. MTIAs, 103-12 IEs, and GIAs do not complete lines 4a, 4e, 4f, 4g, 4h, 4k, 4m, or 4n. 103-12 IEs also do not complete line 4j and 4l. MTIAs also do not complete line 4l. DCGs do not complete lines 4e, 4f, 4k, 4l, and 5(a)-(c) and generally complete the rest of Part IV information on a consolidated basis for all individual plans in the DCGs, except as otherwise provided.

8. Instructions for Schedule H, "Part IV-Compliance Questions," "Line 4b" is revised to add a new sentence at the end to read as follows:

* * * DCGs must identify the plans involved on the Schedule G. See the instructions for the Schedule G for more information.

9. Instructions for Schedule H, "Part IV-Compliance Questions," "Line 4c" is revised to add a new sentence at the end to read as follows:

* * * DCGs must identify the plans involved on the Schedule G. See the instructions for the Schedule G for more information.

10. Instructions for Schedule H, "Part IV-Compliance Questions," "Line 4d" is revised to add a new sentence at the end to read as follows:

* * * DCGs must identify the plans involved on the Schedule G. See the instructions for the Schedule G for more information. Plans in the DCG must also answer this question for their plan separately on the plan's Schedule DCG.

11. Instructions for Schedule H, "Part IV-Compliance Questions," "Lines 4g and 4h" is

revised to add new instructions for DCGs after the third paragraph, to read as follows:

* * *

A DCG must check "Yes" on line 4g if any of the plans in the DCG held any assets described in line 4g and "Yes" on line 4h if any of the plans in the DCG held any noncash contributions as described in line 4h. A DCG checking "Yes" must attach a list identifying the plans holding such assets or noncash contributions. The plan information reported must be the same as the information reported on Part III of Schedule DCG for the plan or plans involved. Use the format and label as shown below.

The attachment for line 4g must be clearly labeled "**Schedule H, Line 4g – Plans in a DCG Holding Line 4g Assets.**"

Plan name	EIN	Plan Number	Amount
Plan name	EIN	Plan Number	Amount
Plan name	EIN	Plan Number	Amount

The attachment for line 4h must be clearly labeled **"Schedule H, Line 4h – Plans in a DCG Holding Line 4h Noncash Contributions.**"

Plan name	EIN	Plan Number	Amount
Plan name	EIN	Plan Number	Amount
Plan name	EIN	Plan Number	Amount

12. Instructions for Schedule H, "Line 4i," the first paragraph is revised to add a new sentence after the first sentence to read as follows:

Line 4i. Check "Yes" if the plan had any assets held for investment purposes, and attach a schedule of assets held for investment purposes at end of year, a schedule of assets held for investment purposes that were both acquired and disposed of within the plan year, or

both, as applicable. The schedules must use the format set forth below or a similar format. See 29 CFR 2520.103-11. A DCG must check "Yes" if any of the plans in the DCG had any assets held for investment purposes.

13. Instructions for Schedule H, "Line 4i schedules," the first paragraph is revised to add a new sentence at the end, the second paragraph is revised to add a new sentence at the end, the paragraph following the Schedule H, line 4i Schedules of Assets (Held At End of Year) is revised to add a new sentence at the end, and a new sentence is added after the Schedule H, line 4i Schedules of Assets (Acquired and Disposed of Within Year), to read as follows:

Line 4i schedules. The first schedule required to be attached is a schedule of all assets held for investment purposes at the end of the plan year, aggregated and identified by issue, maturity date, rate of interest, collateral, par or maturity value, cost and current value, and, in the case of a loan, the payment schedule. In the case of a DCG, the DCG's common plan administrator must attach a consolidated Schedule of Assets for the entire DCG.

In column (a), place an asterisk (*) on the line of each identified person known to be a party-in-interest to the plan. In column (c), include any restriction on transferability of corporate securities. (Include lending of securities permitted under Prohibited Transactions Exemption 81-6.) A DCG must also include in column (c) the number of plans in the DCG holding the asset.

This schedule must be clearly labeled **"Schedule H, line 4i – Schedule of Assets (Held At End of Year)."**

(a)	(b) Identity of issue, borrower, lessor, or similar party	(c) Description of investment including maturity date, rate of interest, collateral, par, or maturity value	(d) Cost	(e) Current value

The second schedule required to be attached is a schedule of investment assets that were both acquired and disposed of within the plan year. A DCG must include in column (b) the name of the plan or plans holding the assets, the EIN(s) and plan number(s). This information must be the same as the information reported on Part III of Schedule DCG for the plan or plans holding the assets. A DCG should not include in this schedule assets transferred between plans within the DCG.

This schedule must be clearly labeled **"Schedule H, line 4i – Schedule of Assets (Acquired and Disposed of Within Year)."**

(a) Identity of issue, borrower, lessor, or similar party	(b) Description of investment including maturity date, rate of interest, collateral, par, or maturity value	(c) Cost of acquisitions	(d) Proceeds of dispositions

In the case of DCGs, the Schedule DCG for each plan subject to the IQPA audit requirement should include separate Schedules of Assets for each such plan (see Schedule DCG for additional information).

14. Instructions for Schedule H, "Part IV-Compliance Questions," "Line 4j," the first paragraph is revised to add a new sentence between the first and second sentence and the second sentence is revised, to read as follows:

Line 4j. Check "Yes" and attach to the Form 5500 the following schedule if the plan had any reportable transactions. A DCG must check "Yes" if any of the plans in the DCG had any reportable transactions. (See 29 CFR 2520.103-6 and the examples provided in the regulation for more information on reportable transactions). The schedule must use the format set forth below or a similar format. See 29 CFR 2520.103-11.

* * *

15. Instructions for Schedule H, "Part IV-Compliance Questions," "Line 4j schedule," the first paragraph is revised to add a new sentence at the end, to read as follow:

Line 4j schedule. The schedule required to be attached is a schedule of reportable transactions that must be clearly labeled **"Schedule H, line 4j – Schedule of Reportable Transactions.**" A DCG must include in column (b) the name of the plan or plans with the reportable transaction(s), the EIN(s) and plan number(s). This information must be the same as the information reported on Part III of Schedule DCG for the plan or plans involved.

16. Instructions for Schedule H, "Part IV-Compliance Questions," "Line 4l" is revised so that the second sentence reads as follows:

This would include minimum required distributions to 5% owners who have attained the applicable age as described in section 401(a)(9)(C)(v), whether or not retired, and/or non-5% owners who have attained the applicable age as described in section 401(a)(9)(C)(v) and have retired or separated from service, see Code section 401(a)(9).

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17. Instructions for Schedule H, "Part IV-Compliance Questions," "Line 4m" is revised to add instructions for DCGs to appear after the first sentence, to read as follows:

Line 4m. Check "Yes" if there was a "blackout period." A DCG must check "Yes" if there was a "blackout period" for any of the plans in the DCG. A DCG checking "Yes" must attach a list identifying all the plans that had a "blackout period." The plan information reported must be the same as the information reported on Part III of Schedule DCG for the plan or plans involved. Use the format and label as shown below.

The attachment for line 4m must be clearly labeled "**Schedule H, Line 4m – Plans in a DCG that had Blackout Period**."

Plan name	EIN	Plan Number
Plan name	EIN	Plan Number
Plan name	EIN	Plan Number

* * *

17. Instructions for Schedule H, "Part IV-Compliance Questions," "Line 4n" is revised to add instructions for DCGs at the end, to read as follows:

* * * A DCG checking "No" must attach a list identifying all the plans that failed to provide the required notice on a timely basis. The plan information reported must be the same as the information reported on Part III of Schedule DCG for the plan or plans involved. Use the format and label as shown below.

The attachment for line 4n must be clearly labeled "Schedule H, Line 4n – Plans in a DCG that Failed to Provide Required Blackout Notice."

Plan name	EIN	Plan Number
Plan name	EIN	Plan Number
Plan name	EIN	Plan Number

18. Instructions for Schedule H, "Part IV-Compliance Questions" is revised to add a new instruction for "Line 5," to appear after "Line 4n" but before "Line 5a, to read as follows:

Line 5. MTIAs, 103-12 IEs, GIAs and DCGs do not complete line 5.

19. Instructions for Schedule I, "Part II-Compliance Questions," "Line 4l" is revised so that the second sentence reads as follows:

This would include minimum required distributions to 5% owners who have attained the applicable age as described in section 401(a)(9)(C)(v), whether or not retired, and/or non-5% owners who have attained the applicable age as described in section 401(a)(9)(C)(v) and have retired or separated from service, see Code section 401(a)(9).

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XIII. 2023 Schedule MB (Form 5500) Multiemployer Defined Benefit Plan and Certain Money Purchase Plan Actuarial Information.

1. Schedule MB, Line 4d is revised to add "does line 1(c) reflect any benefit reductions for the first time," read as follows:

d If the plan is in critical status or critical and declining status, does line 1(c) reflect any benefit reductions for the first time (see instructions)? ☐ Yes ☐ No

XIII. 2023 Instructions for Schedule MB (Form 5500) Multiemployer Defined Benefit Plan and Certain Money Purchase Plan Actuarial Information.

1. Instructions for Schedule MB, "Line 1b(1)" is revised to add a new Note paragraph, to read as follows:

Note. If the plan received special financial assistance under ERISA section 4262 on or before the valuation date, exclude the value of the special financial assistance account (as described in IRS Notice 2021-38) as of the valuation date.

2. Instructions for Schedule MB, "Line 1b(2)" is revised to add a new Note paragraph to read as follows:

Note. If the plan received special financial assistance under ERISA section 4262 on or before the valuation date, exclude the value of the special financial assistance account (as described in IRS Notice 2021-38) as of the valuation date.

3. Instructions for Schedule MB, "Line 2a" is revised to add a new Note paragraph to read as follows:

Note. If the plan received special financial assistance under ERISA section 4262 on or before the first day of the plan year, exclude the value of the special financial assistance account (as described in IRS Notice 2021-38) as of the first day of the plan year.

4. Instructions for Schedule MB, "Line 4b" is revised to add a new Note paragraph, to read as follows:

Note. If the plan received special financial assistance under ERISA section 4262, the plan is deemed to be in critical status for plan years beginning with the plan year in which the effective date for such assistance occurs and ending with the last plan year ending in 2051 in accordance with Code section 432(b)(7).

V. Statutory Authority

Pursuant to the authority in sections 101, 103, 104, 109, 110 and 4065 of ERISA and sections 6058 and 6059 of the Code, the Form 5500 Annual Return/Report and the instructions thereto are amended as set forth herein.

Signed at Washington, DC.

Lisa M. Gomez,

Assistant Secretary, Employee Benefits Security Administration, U.S. Department of Labor.

Eric Slack,

Director, Employee Plans, Tax Exempt and Government Entities Division, Internal Revenue Service.

Gordon Hartogensis,

Director, Pension Benefit Guaranty Corporation.

[FR Doc. 2023–02653 Filed 2–23–23; 8:45 am]

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