
Submitted Electronically

Office of Regulations and Interpretations
Employee Benefits Security Administration
Attn: RIN 1210-AB63
Annual Reporting and Disclosure
Room N-5655
U.S. Department of Labor
200 Constitution Avenue NW
Washington, DC 20210

Re: Proposed Rule on Annual Reporting and Disclosure (Form 5500) – RIN 1210-AB63

Dear Sir or Madam:

Galliard Capital Management (Galliard) appreciates the opportunity to provide comments to the Department of Labor (Department) on the proposed amendments (Proposal) to the Form 5500 Annual Return/Report of Employee Benefit Plan and Form 5500-SF Short Form Annual Return/Report of Small Employee Benefit Plan (collectively, Form 5500). Form 5500 is required to be filed by each pension and other employee benefit plan concerning, among other things, the financial condition and operations of the plan. The Proposal significantly expands the information currently required to be reported on Form 5500.

Galliard was founded in 1995 and focuses exclusively on providing fixed income and stable value management for institutional investors. Today, Galliard manages more than \$90 billion in total assets – almost \$80 billion of which represent stable value mandates – and is among the largest investment managers of stable value assets in the country. As these mandates are almost exclusively offered within participant-directed defined contribution retirement plans, the Department's Proposal will have a material impact on our clients via the information they are required to report.

We share the Department's goal of updating the relevant reporting forms to reflect marketplace developments, facilitate and streamline agency supervision, and provide relevant information to plan participants and beneficiaries. Nevertheless, we believe that in numerous places the Proposal is overbroad and significantly exceeds the requisite information necessary or appropriate for effective Form 5500 reporting. We submit this comment letter to reiterate concerns with respect to specific portions of the Proposal as outlined by the Stable Value Investment Association in its comment letter dated December 5, 2016 (attached), which reflect our own concerns as a fixed income and stable value investment manager. Galliard and its clients currently deal with inconsistencies in how to report and map stable value data under the current Form 5500 instructions, and we believe the changes proposed in the SVIA's letter would promote greater consistency and transparency.

Thank you for your consideration of these comments. If you have any questions or require any additional information, please do not hesitate to contact me at 612-667-3219.

Sincerely,

A handwritten signature in black ink that reads "Mike Norman" followed by a long horizontal flourish.

Mike Norman
Partner, Galliard Capital Management

Attached: Stable Value Investment Association letter dated 12/5/2016,
RE: Proposed Rule on Annual Reporting and Disclosure (Form 5500) – RIN 1210-AB63



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December 5, 2016

Office of Regulations and Interpretations
Employee Benefits Security Administration
Attn: RIN 1210-AB63
Annual Reporting and Disclosure
Room N-5655
U.S. Department of Labor
200 Constitution Avenue NW
Washington, DC 20210

Re: Proposed Rule on Annual Reporting and Disclosure (Form 5500) – RIN 1210-AB63

Dear Sir or Madam:

The Stable Value Industry Association¹ (SVIA) appreciates the opportunity to provide comments to the Department of Labor (Department) on the proposed amendments (Proposal) to the Form 5500 Annual Return/Report of Employee Benefit Plan and Form 5500-SF Short Form Annual Return/Report of Small Employee Benefit Plan (collectively, Form 5500). Form 5500 is required to be filed by each pension and other employee benefit plan concerning, among other things, the financial condition and operations of the plan. The Proposal significantly amends and expands the nature, range, and detail of information currently required to be reported on Form 5500.

SVIA is a non-profit organization dedicated to educating retirement plan sponsors and the public about the importance of saving for retirement and the contribution stable value can make toward a financially secure retirement. Stable value funds, which are used in participant-directed defined contribution retirement plans, are designed to preserve principal while providing investment returns similar to intermediate bond funds, as well as provide benefit-responsive liquidity to plan participants (meaning that participants can transact at contract value – principal plus accrued interest). As such, stable value funds play an important role in the investment option line-up for those plans that include them (39% of all 401(k) plans offer stable value¹) as an available choice for plan participants looking for a relatively low-risk investment that provides protection of principal and steady income that, over time, has exceeded returns from money market investments.

¹ “401(k) Plan Asset Allocation, Account Balances and Loan Activity in 2014,” Jack VanDerhei, EBRI, Sarah Holden, ICI; Louis Alonso, EBRI; and Steven Bass, ICI, EBRI Issue Brief, April 2016, No.423

Like most commenters, SVIA shares the Department’s goal to update reporting forms to reflect marketplace developments, facilitate and streamline agency supervision, and provide relevant information to plan participants and beneficiaries. Nevertheless, we believe that in numerous places the Proposal is overbroad and significantly exceeds the requisite information necessary or appropriate for effective Form 5500 reporting. We concur with other financial services industry groups who argue, among other things, that some of the new information is unnecessary, that the changes will generate significant costs for custodians, investment managers and other service providers who compile and report the information, and that the changes will ultimately increase costs to plan participants and beneficiaries.

In addition to reinforcing the comments made in letters from other industry groups, we wish to comment on specific portions of the Proposal that are of concern to our members, which include plan sponsors, stable value contract issuers, and investment managers who collectively manage \$814 billion in stable value assets.²

I. Topics Unique to the Stable Value Industry

A. Schedule D – Asset Value of Stable Value Direct Filing Entities (DFEs)

The Proposal requires that the “current value” of plan investments in DFEs be reported on Schedule D. SVIA believes that the Proposal should specify that the “current value” is equal to contract value for plan investments in stable value common trust funds and collective investment funds (CCTs). Contract value is the relevant measure for stable value funds, as this is the amount at which plan participants investing in their plan’s stable value option transact. Contract value also coincides with the amount reported by plans in their supporting financial statements under ASU 2015-12.

B. Schedule H – Asset Value of Benefit Responsive Contracts

The Proposal requires that assets for which “current value” is not being provided must be separately identified (and a “caution” must be included). It is not clear in the instructions what “current value” means, particularly as the term relates to benefit responsive contracts used in stable value funds. SVIA respectfully requests the Department to include in the instructions to Form 5500 that a stable value contract (sometimes referred to as a “wrap contract”), whether the contract is issued by an insurance company or other financial institution, should be valued as an asset using its contract value, also known as its book value. This is the relevant measure for stable value contracts, as this is the amount at which plan participants investing in their plan’s stable value option transact.

Further, while the guidance for presenting fixed income securities, CCTs, and PSAs on their own is clear, SVIA respectfully requests that additional clarification be provided with respect to the reporting of Synthetic GICs or Separate Account GICs

² SVIA’s Quarterly Characteristics Survey of Stable Value Funds covering 3Q2016.

when the value of the contract is presented along with the underlying fixed income securities, CCT, or PSA. Consistent with AICPA conference guidance, SVIA requests that the Department clarify that the contracts are to be presented on Schedule H at the difference between the fair market value of the contract's underlying assets and its contract value so that, when added to the fair market value of the underlying assets, the sum equals the contract value.

Finally, SVIA is concerned that the changes to Form 5500's Schedule H do not take into account the fact that stable value contracts are issued by financial institutions like banks, as well as by insurance companies. The Department proposes to augment Schedule A insurance product reporting with an asset breakdown in Schedule H, Item 1b(7) that includes the same categories as in Schedule A for insurance general account products; i.e., deposit administration, immediate participation guarantee, guaranteed investment contracts, and other unallocated insurance contracts. SVIA notes that the designated reporting areas in Schedule A or Schedule H do not clearly accommodate all types of stable value contracts, especially with respect to bank-issued contracts. For a stable value fund, these contracts serve the same purpose as contracts issued by insurance companies and should be reported similarly in the Form 5500. Providing instructions that enable plans and their service providers to report all stable value contracts at contract value, whether they are issued by insurance companies or banks, would improve consistency of stable value reporting and remove some long-standing ambiguity from the Form.

II. Topics in Common with Other Industry Participants

A. Schedule C – Eligible Indirect Compensation

Requiring service providers to calculate an estimated dollar amount in place of the current option to present a formula is highly unworkable for the same reasons that the financial services industry provided to the Department several years ago when the Department's 408(b)(2) disclosure regulation (the "408b-2 Regulation") was promulgated. Stable value industry participants have relied on the Department's "eligible indirect compensation" rules under the 408b-2 Regulation, which permits covered service providers to report indirect compensation using a dollar amount, formula, percentage of assets, per capita charge or, where the compensation cannot be expressed in such terms, by any other reasonable method. 29 C.F.R. § 2550.408b-2(c)(1)(viii)(B). The cost associated with being able to provide this reporting as separate dollar amounts per plan will be passed along to plans, plan participants, and beneficiaries. Therefore, we ask the Department to reconsider this change, and to allow service providers to disclose indirect compensation via the same methods that are permitted under the 408b-2 Regulation. This approach would further the expressed goal to harmonize Schedule C disclosure with the existing 408b-2 Regulation guidance.

B. Schedule H – Termination of Service Providers

Schedule H will include a new line (line 6) that asks whether a service provider has been terminated for a material failure to meet the terms of a service arrangement or failing to comply with Title I, including for failing to provide an ERISA section 408(b)(2) disclosure. Service providers are terminated in connection with services provided to ERISA plans for many different reasons. For example, an investment manager may be terminated because it failed to meet the plan sponsor's performance expectations (e.g., for failing to meet a benchmark consistently or to stay in the top half of a particular peer group). Service providers may be terminated because a plan sponsor finds a more favorable financial arrangement. We ask that the instructions be clarified to make explicit that a termination of an investment manager for disappointing investment performance should not trigger a requirement to complete this line.

C. Schedule H - Reporting Fixed Income Holdings

Schedule H, Line 1b(3)(C) requires reporting of corporate debt instruments, subcategorized into investment grade and high-yield debt. The instructions relating to this line generally are taken from the current instructions for Schedule R, line 19a. They provide that investment-grade debt-instruments are those with an S&P rating of BBB- or higher, a Moody's rating of Baa3 or higher, or an equivalent rating from another rating agency. High-yield debt instruments are those that have ratings below these rating levels. The instructions provide additional guidance on determining which category is appropriate; however, it would be helpful if three additional points were clarified.

It is not uncommon for ratings to differ between ratings agencies, including between Moody's Investors Service and Standard & Poor's Corporation, often due to differences in the methodology used. The instructions should clarify that in the case of a debt instrument with a split rating (for example, a debt instrument that has an S&P rating of BBB- and a Moody's rating of Ba1), the debt instrument may be reported in the investment grade category, in accordance with the highest rating. This is sometimes referred to as a "split higher" rating approach.

The instructions provide that if the debt does not have a rating, it should be included in the "high-yield" category if it does not have the backing of a government entity. In the case of new issue debt, the ratings agencies sometimes issue an anticipated rating, based on information provided by the issuer before the debt is issued. The instructions should confirm that anticipated ratings may be used in the case of new issue debt.

The instructions require that the ratings in effect as of the beginning of the plan year be used. Currently, stable value funds do not track the rating that was in effect as of the first day of the plan year. Rather, they track the rating that was in effect at the time of purchase and the current rating. Therefore, it would be less burdensome, and

more consistent with financial statement and client reporting, if the instructions would mandate the use of ratings in place at the end of the plan year or DFE reporting year.

D. Schedule H – Reporting Mortgage-Backed Securities

Stable value portfolios traditionally include an allocation to mortgage-backed and asset-backed securities. Schedule H has been modified to incorporate several new asset subcategories under the category of “Real Estate Investments (other than employer real property and foreign investments).” One of the subcategories, “Mortgage Backed Securities (Including Collateralized Mortgage Obligations)” should not be included under the category of real estate investments. Mortgage-backed securities are not treated similarly to real estate investments for valuation purposes or in any other context of which we are aware, and should be set forth either in their own free-standing category on the Schedule H asset and liability statement, or as part of a “structured asset” category that would combine asset-backed securities backed by non-mortgage investments with mortgage-backed securities. That approach is traditional in client reporting.

III. Conclusion

The Department has devoted significant time and resources in crafting the Proposal with the hope of ensuring that employee benefit plan reporting obligations meet the multiple goals of reflecting evolving marketplace practices, streamlined supervision, and participant/beneficiary understanding. We appreciate and share the Department’s goal of modernizing the Form 5500 to improve the content and presentation of a plan’s financial condition and operations. We believe, however, that the Proposal as written will result in final regulations that are vague, overly complex, and costly to implement.

SVIA believes that collaboration between the Department and industry groups will lead to clearer instructions for Form 5500 filers, which will result in more consistently reported data, in part because it will enable creation of programmable data extraction tools for the service providers who support plan filings. Plan sponsors and SVIA members deal with inconsistencies in how to report and map stable value data under the current Form 5500 instructions. Review and input from the retirement services industry, including the stable value industry, is a key component for accomplishing the Department’s admirable goals in modernizing Form 5500.

Thank you for your consideration of these views. If you have any questions or require any additional information, please do not hesitate to contact me at 202-580-7620.

Sincerely,



Gina Mitchell
President, Stable Value Investment Association