

PUBLIC SUBMISSION

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Docket: EBSA-2021-0006

PROPOSED IMPLEMENTATION OF SECURE ACT REVISIONS TO FORM 5500
EMPLOYEE BENEFIT PLAN REPORTS

Comment On: EBSA-2021-0006-0002

Annual Information Return/Reports

Submitter Information

Name: Anonymous Anonymous

General Comment

As an Independent Qualified Public Accountant (“IQPA”) I believe the proposed changes to the participant-count methodology will have unintended consequences.

I agree that section 112 of the SECURE Act would make it more likely that a plan with a small number of active participants may be required to bear the cost of an audit based on current participant-count methodology.

As an IQPA I have firsthand experience auditing plans that have crossed the audit threshold. In my experience smaller plans are more likely than larger plans to have issues with eligibility, enrollment, definition of compensation, vesting, delinquent participant contributions, and significant internal control deficiencies that may result in a material weakness. These types of significant operational failures in smaller plans should necessitate an audit requirement, not remove it.

Under the proposed rule change a plan with an improperly implemented automatic enrollment feature may not cross the audit threshold because eligible participants are not being properly enrolled into the plan and being counted as participants with account balances. As an IQPA we are seeing more plans implementing automatic enrollment features. Issues like this could be uncovered and corrected if an audit was required.

Additionally, I believe that Plan Sponsors may use these new rules to change or limit participation in their plans to avoid the audit requirement.

I conclude the unintended consequences of this proposed rule change would cause plans with significant operation failures to no longer be audited and Plan Sponsors to limit access to retirement plans, ultimately hurting employees the EBSA and IRS have worked so hard to protect.