

PUBLIC SUBMISSION

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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

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General Comment

I wish to comment on the proposed change in methodology for determining large plan versus small plan status and the related filing requirements. As a practitioner who audits a number of plans annually, and with over 20 years of experience in this area, the proposal to change the method for determining participant count for this determination to be based on the number of participants with account balances at the beginning of the year, instead of continuing with the current methodology which includes all employees eligible to participate in the plan, is concerning to me. The potential reduction in number of plans subject to audit using this proposed new methodology appears to go against the concept of protecting plan participants, as more plans - and therefore more participant accounts and plan assets - will be excluded from audit requirements. Plans that undergo an initial audit, in our experience, tend to have the audit uncover operational deficiencies, often including failure to properly enroll participants or to implement their deferral elections timely. This is especially true of plans that have fewer number of active participants as the infrequency of transactions lends itself to more potential for errors to occur. By reducing the number of plans subject to audit, this proposal would likely result in more plans having operational deficiencies that may go undiscovered indefinitely, and also increases the risk that an eligible employee who has not been given the opportunity to participate in their employer's plan may not be recognized in a timely manner. If the methodology is changed as proposed, I fear that participants will be the ones to suffer. Perhaps a change to lower the participant count from 100 to a smaller

figure to allow for more plans to be audited even if the methodology is changed would be a better solution.