



Office of Regulations and Interpretations
Employee Benefits Security Administration, Room N-5655
U.S. Department of Labor
200 Constitution Avenue NW
Washington, D.C. 20210

To Whom It May Concern,

We are writing in response to proposed revisions of Annual Information Return/reports of RIN 1210-AB97, with particular focus on the proposed change in the participant count methodology used in determining large plan versus small plan status.

We acknowledge that sponsors of plans with over 100 participants but few account balances may struggle to see the value in the additional fees associated with an independent audit performed as part of large plan filing. Most often we find the sponsors of these plans are employers where members of company leadership wear several hats and often don't have expertise in this area. However, these types of situations are often where we have found more errors, and more significant errors, in audit testing. Operational errors include late contributions, incorrect deferrals being withheld, incorrect definition of compensation used, incorrect discrimination testing performed, deferrals deposited to the wrong participant accounts and employer safe harbor contributions deposited as regular match subject to vesting. Annual audits are identifying these errors, which the sponsor can correct using DOL correction programs and adjustments to plan operational procedures. The timely identification and correction of errors contributes to the protection of participants and their retirement account balances as well as reduces the potential liability to the plan sponsor who is not identifying these issues independently. The benefits of a plan audit for these types of plans often outweigh the potential savings of not engaging an IQPA, particularly if the plan is newly subject to audit and these issues have continued unmitigated for an extended period of time. Arguably, plans that would be treated as a small plan under the new proposed guidance may be precisely those that would benefit the most from an annual audit. Removing the audit requirement would be detrimental to the participants as well as the plan sponsors as it would delay or eliminate the identification and correction of plan operational errors.

We also understand the desire to offer an alternative to incurring the cost of an annual audit. As part of this new guidance, we suggest including the following provisions to encourage plan sponsors to increase the participation in these plans in association with reduced reporting requirements. We propose plans with less than 100 accounts with balances be exempt from the audit requirement if they also are set up with the following provisions:

- 1) Participants are immediately or up to 60 days automatically enrolled in the plan at a minimum of 3%.
- 2) Default investment is a target date fund based on the participant's age.
- 3) Participants are eligible for a safe harbor match of 100% of the first 3% deferred plus 50% on the next 2% deferred. Maximum eligibility provisions of age 21 and 1 year of service with semi-annual entry.

Including the above provisions in the audit exemption requirement would proactively address several issues that often arise in situations where plan sponsors are challenged to provide education on the plan to participants or

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lack established periodic methods of encouraging participants to enroll in the plan. Automatic participation helps employees save for their retirement as well as increases the asset size of the plan and lower the expenses per participant. Therefore, when the plan does meet the audit threshold, it will be more able to absorb fees for an audit as well as reduce the fees paid directly by the plan sponsor. This scenario would be a win for the employees, the plan sponsor, and accomplish the DOL's goal of encouraging employees to save for their own retirement.

We appreciate this opportunity to offer our comments and insights to strengthen retirement plans and appreciate the interaction and dialogue we have experienced with the DOL.

Sincerely,

A handwritten signature in black ink that reads "Stephen Beasy". The signature is written in a cursive, flowing style.

Stephen J. Beasy, CPA, CGMA
Lead Partner – Employee Benefit Plan Practice
Kruggel Lawton CPAs