

United States Senate

WASHINGTON, DC 20510

August 5, 2014

The Honorable Howard Shelanski
Administrator
Office of Information and Regulatory Affairs
Office of Management and Budget
New Executive Office Building
725 17th Street, N.W.
Washington, DC 20503

OMB Control No: 1545-1610; Annual Return/Report of Employee Benefit Plan (Form 5500 Series)

Dear Administrator Shelanski:

We are writing to express our concern about the Internal Revenue Service's (IRS) submission to your office regarding the 2015 Form 5500 series reports, including the new Form 5500-SUP. We have constituents in our states that will face a significant compliance burden due to the additional data collection. The accelerated implementation timeline contained in the submission makes successfully complying with these new requirements particularly difficult.

It has been brought to our attention that the IRS may have understated the burden associated with the new data collection required by the new Form 5500-SUP. In particular, the IRS submission does not appear to take into account the additional time needed to collect and report the new data if the data is part of the electronically filed Form 5500 series. An accurate accounting of this burden is important to retirement plan participants, who typically bear at least some of the costs associated with plan administration.


In addition, the current timeline for compliance and limited guidance contained in the IRS submission makes an effective response impractical for many retirement plan service providers. These providers generally do not gear up their data collection and software processing systems based on draft or proposed forms and instructions, which are usually subject to some changes before being officially released. Instead, businesses wait until the final forms and instructions are issued. It then generally takes six to twelve months for the necessary capital investments to be approved and the technology, communication, and procedure changes to be developed and implemented.


Because of these concerns, implementation of the new reporting required should be delayed, preferably applying to plan years beginning in 2016. A later effective date would also provide additional time for the IRS to incorporate input from stakeholders, make substantive

refinements and enhancements to the Form 5500 series reports in order to accurately capture the additional data, and provide clear instructions to the regulated community.

Thank you for reviewing this important matter. We look forward to your response.

Sincerely,


Benjamin L. Cardin
United States Senator


Robert P. Casey, Jr.
United States Senator

cc: Sunita Lough, IRS Commissioner of the Tax Exempt & Government Entities Division
cc: J. Mark Iwry, Senior Advisor to the Secretary of the Treasury and Deputy Assistant Secretary
(Retirement and Health Policy)