

August 1, 2016

Attention: Mabel Echols/Desk Officer for Treasury
Office of Information and Regulatory Affairs
Office of Management and Budget
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Treasury PRA Clearance Officer
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**Re: Comments on Annual Return/Report of Employee Benefit Plan and Form 5500-SUP
OMB Control No: 1545-1610
ICR Reference No: 201606-1545-031**

Dear Sir or Madam:

Nova 401(k) Associates is a third party administrator with over 3000 clients. Our clients include 401(k) plans and defined benefit plans.

We draft the Form 5500 series for our clients. We are generally supportive of the IRS and DOL collecting additional information on the Form 5500 series. We understand that the additional data collection will support greater compliance which strengthens the retirement system.

However, we are very concerned about the effective date of these changes in the Form 5500-SUP, Form 5500 and Form 5500-SF. The timing of these changes is extremely burdensome. Below are our specific concerns.

- ***Inadequate lead time for major changes.*** To keep the burden associated with these form changes reasonable, the industry must be given sufficient time to re-program systems and re-engineer data collection from clients. Due to budgeting and planning processes, practitioners need twelve months prior to the beginning of the plan year for which the changes are effective. For example, if the changes are to be effective for the 2018 plan year, the forms and instructions need to be finalized before January 1, 2017. This is necessary to allow time for programming and testing before the beginning of the plan year. For firms that service thousands of clients, it is necessary to transfer information between systems in an automated fashion. Programming of this automation cannot practically begin until the forms are finalized. The programming must be complete before the beginning of the year to capture all of the necessary information.

Two specific examples:

- On the proposed forms there is a question regarding the MyPAA confirmation number for the 2016 PBGC Filings. This is a new question. For calendar year plans, the 2016 PBGC filings are due no later than October 15, 2016 and at this point, many filings have already been completed. Practitioners did not know they needed to capture the MyPAA confirmation number and generally did not. So, it would be a burdensome, manual process to go back and collect this information now.
- On the proposed forms, there is a question regarding whether there were any in-service distributions for participants older than age 62 during 2016. Providers have not been collecting this information. Thus, to complete this question, it will be necessary to manually cross-reference each distribution to determine if it was in-service and then the age of the participant. With sufficient advance notice, it would be possible to capture this information automatically.

Additionally, under ERISA Code section 408(b)(2) and associated regulations, plans must be given advance notice of fee changes. For many 401(k) plans, the contract period for the 2016 plan year began January 1, 2016. It is burdensome for plan sponsors and providers to renegotiate these contracts based upon Form 5500 changes not known to either party before January 1, 2016.

- ***Lack of coordinated effective dates.*** In the March 10, 2016 OMB Notice of Action for the IRS proposed 2015 Form 5500 series changes, OMB imposed the following Terms of Clearance:

"OMB approves the collection with the following terms of clearance: Treasury/IRS must coordinate approval of any future renewal or revision to this collection with DOL and PBGC. Treasury, DOL and PBGC should seek approval of any revisions or renewals at the same time, so as to minimize any confusion to the public."

The Department of Labor recently submitted comprehensive changes to the 5500 series (ICR Reference No: 201604-1210-001) for the 2019 plan year. It is incredibly burdensome for practitioners and plan sponsors to deal with multiple major changes in such a short time period. Each change will necessitate changes to data collection, programming and education.

- ***Burden on plan sponsors.*** These changes will result in additional confusion for plan sponsors and potential fee increases. Plan sponsors have to invest time to learn the requirements each time the forms change. Additionally plan sponsors must update the data they submit to providers each time the forms change.

- ***Burden on our firm.*** Our firm employs approximately 90 employees. As a small business, we have to carefully budget our staff and technology projects. It is extremely difficult for us to reprogram our systems on short notice or to absorb the cost of temporary staff to do manual data collection.
- ***Burden on participants.*** Like many in the industry, we are extremely focused on keeping our fees reasonable for the benefit of plan participants. Any changes that are implemented without proper planning are likely to increase fees charged to participant accounts which runs against the societal goal of keeping fees reasonable to promote secure retirement.

We request that OMB do the following:

1. ***Delay implementation of the proposed 2016 IRS changes so that there is a single coordinated effective date for the IRS, DOL and PBGC changes.*** The coordination of these significant changes will greatly reduce the burden to the retirement plan community.
2. ***Verify the computation of burden for this and future Agency Submissions related to the Form 5500 series.*** We are concerned that the IRS computation of burden in the 2015 filing (ICR Reference No: 201503-1545-020) contemplated automation which will not occur because of the lack of notice.
3. ***Verify the reduction of burden on small entities.*** As part of the ICR filing process, agencies must complete a certification for OMB. Item (c) of the certification (checked in both the 2015 and 2016 filings) states "It reduces burden on small entities". However, for both filings, the IRS Supporting Statement (item 5) seems unresponsive. Allowing practitioners to automate is necessary to reduce the burden on small entities.
4. ***Verify the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported for this and future Agency Submissions.***


The IRS Supporting Statement for both filings is identical states: "Periodic meetings are held between IRS personnel and representatives of the American Bar Association, the National Society of Public Accountants, the American Institute of Certified Public Accountants, and other professional groups to discuss tax law and tax forms. During these meetings, there is an opportunity for those attending to make comments regarding Form 5500 and schedules."

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We request that the OMB review data on specific meetings and that the IRS be required to have substantive meetings with groups that actually prepare the majority of Forms 5500. The groups the IRS names are not the primary preparers of Forms 5500. Attorneys prepare virtually no Forms 5500. CPAs prepare few Forms 5500 compared to full-time retirement plan professionals. It would be more appropriate for the IRS to solicit input from retirement plan professionals, actuaries and representatives from the financial services industry.

Thank you for your consideration of these comments. If you have any questions, please contact me at karens@nova401k.com or (713) 881-9310.

Sincerely,

DocuSigned by:

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August 1, 2016 | 10:10 AM MST

Karen Smith

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