

***CIEBA Comment Letter on Department of Labor's Proposed Form 5500***

November 12, 1997

Office of Regulations and Interpretations  
Pension and Welfare Benefits Administration  
U.S. Department of Labor  
Room N5669  
200 Constitution Avenue, NW  
Washington, DC 20210

Dear Madam/Sir:

Thank you for asking for comments on the Department of Labor's proposed Form 5500. Financial Executives Institute's Committee on Investment of Employee Benefit Assets has reviewed the proposed revisions to the Form 5500 and provided the following comments for your consideration.

The Committee on Investment of Employee Benefit Assets (CIEBA) is the policymaking body for all pension investment and fiduciary issues for the Institute. CIEBA represents federally regulated corporate pension plan sponsors who have fiduciary responsibility for \$865 billion in assets on behalf of 14.3 million plan participants and beneficiaries. The Financial Executives Institute is a professional association with over 14,000 members who are chief financial officers, treasurers and controllers from over 8,000 companies.

After careful review of the proposed simplifications in Form 5500, CIEBA has concluded that the proposed simplifications will not result in any time, administrative or cost savings for our membership. Most of the time consuming information required on the old Form 5500 has been relocated to supporting schedules PEN, Q and FIN. Further, CIEBA believes the change in the current format will significantly increase the time required to complete the 5500 package by entities sponsoring multiple pension plans.

In this age of reinventing government, it would be useful to perform a cost/benefit analysis on the data collection effort required for Form 5500. Extensive audit and actuarial costs are involved as well as expenses internal to the plan sponsor. It appears much of the information collection in the proposed form has limited benefit. The government's cost estimates for preparing Form 5500 appear to be unrealistically low. The extremely detailed reporting requirements of the form will act as a barrier to expanding retirement savings and benefit plans.

Since plans filing Form 5500 are tax-exempt, we question the Internal Revenue Service's need for much of the required information. For example, the form specifies a break down between realized and unrealized gains and losses on assets. This split is not relevant to plan sponsors, much less the government. If a

split is nonetheless mandated, the instructions should be modified to allow reporting of realized and unrealized gains and losses on assets to conform to Generally Accepted Accounting Principles (GAAP). GAAP measures realized gains and losses based on historical cost, while Form 5500 requires measurement based on revalued current values. If plans were allowed to have only one basis of accounting, GAAP, significant cost savings could be realized.

Schedule C (Service Provider Information) requires that a plan report the 40 top service providers that are paid \$5,000 or more by the pension plan during the plan year. For larger plans, the \$5,000 cutoff is extremely low. CIEBA encourages the Department to consider a higher cutoff and a threshold relative to a plan's size such as reporting all payments greater than \$100,000 or 1% of plan assets, whichever is lower. We also encourage the Department to limit the list to the top ten or twenty largest service providers.

Smaller plans will be required to provide more information than currently provided despite the elimination of Form 5500 -C/R, as plans covering less than 100 participants will be required to complete Form 5500 with PEN and Q.

A new requirement added to Form 5500 collects information on the number of individuals who begin receiving benefits in a form other than a qualified joint and survivor annuity or qualified pre-retirement survivor annuity and those who have rolled over amounts to other qualified plans. We believe gathering this information will be time consuming and expensive for many plans and should be eliminated since the regulatory need for the information does not justify the cost.

The general instructions for Schedule A now indicate that a separate schedule be attached "where any benefits under the plan or DFE are provided (or investments are managed) by an insurance company,..." The reference to managed investments would seem to include normal investments issued by insurance companies that are assets of many plans. These contracts are fixed income investments, not an insured benefit vehicle and, as such, should not be required to file on a Schedule A.

Schedule C requires "an explanation of the reasons for termination of an accountant or enrolled actuary." The term "termination" should be clarified so that it will not be broadly construed. For example, when an enrolled actuary at one firm is replaced by another actuary at the same firm, this should not be considered a "termination."

Additionally, the Quick Reference Chart for Schedule P and the instructions for Schedule P are in conflict. The Quick Reference Chart for Schedule P states the form is voluntary while the instructions for Schedule P do not indicate it is voluntary.

We trust you will find these comments helpful in reviewing the proposed changes

to Form 5500. We would be happy to work with you as we have in the past in other endeavors to develop a simplified Form 5500 which balances your regulatory needs with the administrative constraints and realities of plan sponsors. The proposed revision is not a step ahead in this regard, and, as such, is a disappointment.

Sincerely,

James E. Bayne  
Chairman

cc: The Honorable Olena Berg, PWBA  
The Honorable David Strauss, PBGC  
The Honorable Charles Rossotti, IRS  
The Honorable William F. Goodling  
The Honorable Harris Fawell  
The Honorable William Clay  
The Honorable Donald M. Payne  
The Honorable Edolphus Towns  
The Honorable Jim Jeffords  
The Honorable Judd Gregg  
The Honorable Edward Kennedy  
The Honorable Barbara Mikulski  
The Honorable Dan Burton  
The Honorable Henry Waxman  
The Honorable Chris Shays