

# Government Reporting & Disclosure Compliance Calendar



For Administrators of Single-Employer Pension  
and Welfare Plans under ERISA

*This calendar reflects requirements as of January 1, 2009*

## Introduction

The **2009 Reporting & Disclosure Compliance Calendar for Administrators of ERISA Single-Employer Employee Benefit Plans** was prepared by J.P. Morgan Compensation and Benefit Strategies<sup>1</sup> (“J.P. Morgan”) Government Reporting and Disclosure Practice to assist in complying with the reporting and disclosure requirements of the Employee Retirement Income Security Act of 1974 (ERISA) and the Internal Revenue Code (IRC). The purpose of the calendar is to give plan sponsors and plan administrators a “quick reference” guide to help them meet reporting and disclosure requirements for their employee benefit plans. It is also intended to help administrators provide timely and complete information to plan participants (and their beneficiaries) and the relevant government agencies. We suggest that you keep this document in a convenient place so that you may refer to it throughout the year.

The Compliance Calendar has four columns:

- › Form/Notice
- › Type of Reporting
- › Plan Type
- › Type of Information, Requirements & Deadline

The “**Type of Reporting**” column indicates whether the reporting or disclosure is an annual requirement or only required under certain circumstances (“special reporting” items).

The “**Plan Type**” column indicates whether the Form/Notice applies to Pension Plans, Health & Welfare Plans, or both. Remember, if multiple plans are sponsored, these requirements apply separately to each plan.

The “**Requirement & Deadline**” column specifies the requirement and the deadline or completion timeframe for each item.

We recommend that you start by reviewing the items in each section that apply to your plan type(s). Plan sponsors are required by law to act on the annual reporting items. The special reporting items are event-driven items.

The information presented here reflects reporting and disclosure requirements in effect as of January 1, 2009. Regulations are always subject to change and should be reviewed regularly with your employee benefits and tax advisor to ensure that the latest regulations/rulings are being followed. In addition, J.P. Morgan created this compliance calendar with the intention of being as complete as possible. Despite our diligent efforts at providing a fully complete calendar, however, some relevant and important items could have been inadvertently overlooked and therefore may not be found on our calendar. Because the calendar may not be all-encompassing, we must disclaim responsibility for any omitted items.

Since the publication of our 2008 Calendar, there have been a number of changes in the reporting and disclosure requirements for employee benefit plans.

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<sup>1</sup> J.P. Morgan Compensation and Benefit Strategies is part of J.P. Morgan Retirement Plan Services LLC, a wholly-owned subsidiary of JPMorgan Chase & Co.

# Pension Protection Act of 2006 (PPA): 2008 Reporting & Disclosure Changes that will affect Single-Employer Pension Plans

In 2006, Congress overwhelmingly approved and President Bush signed into law the Pension Protection Act of 2006 (PPA). This law represents the most sweeping changes to employee benefits law since ERISA. As such, the passage of PPA has resulted in significant changes to the reporting and disclosure requirements for retirement plans. Most of these changes will become effective on January 1, 2008. Because of this, most of these changes are included in the sections that follow. However, due to the sweeping nature of these changes J.P. Morgan has also highlighted some of the most significant changes below for your reference.

## **Funding Notices**

Beginning with plan year 2008, a summary annual report (SAR) will no longer be required for defined benefit plans (a SAR will still be required for annuity and health & welfare plans). Under PPA, it has been replaced by an enhanced funding notice that must be provided within 120 days after the end of the relevant plan year. This enhanced notice must be provided to the following stakeholders: participants, beneficiaries, unions that represent plan participants, and the Pension Benefit Guaranty Corporation (PBGC). A model notice will be issued by the DOL and will be available on its Web site ([www.dol.gov](http://www.dol.gov)) thereafter. This was supposed to have been issued in August 2007, but has been delayed for the foreseeable future.

Even without a model notice from the DOL, we do know that this enhanced notice must include the following items:

- › Funded percentage – The funding percentage of the plan. Specifically, a statement of whether the plan’s funding target attainment percentage, for the year to which the notice applies and the previous two years, is at least 100%, and if not, the actual percentage.
- › Participant counts – Including those for actives, terminated vested participants, and those in pay status.
- › Value of assets and liabilities – The plan must provide detailed statements of the value of its assets and liabilities as of the last day of the relevant plan year and the two previous plan years.
- › Funding policy and plan asset allocation – The notice will need to include a statement of the plan’s funding policy and asset allocation of the plan’s investments (expressed as a percentage of total assets) as of the end of the plan year.
- › Change in benefits or other known events – The notice must include an explanation and projection (to the end of the relevant plan year) of the impact on liabilities of any change in benefits or other known events that the plan expects to have a material effect on plan assets or liabilities.
- › ERISA section 4010 information – If the plan’s funding target attainment percentage is less than 80%, a statement of the material that the plan sponsor and any member of the plan sponsor’s controlled group was required to submit to the PBGC. (Section 4010 requires that certain underfunded plans report identifying, financial, and actuarial information to the PBGC.)
- › PBGC termination rules and guarantee – The notice will need to provide a summary of the PBGC rules related to plan terminations and a description of plan benefits that are eligible for the PBGC payment guarantee.
- › Form 5500 – A statement that a person can obtain a copy of the Form 5500, upon request, from the DOL’s Web site and from the plan sponsor’s or plan administrator’s intranet, including an offer to provide a copy of the Form 5500 if the information is not available on the DOL’s Web site or the plan sponsor’s intranet.

## Major Defined Benefit Pension Plan Funding Changes

Under PPA, the funding rules for single-employer plans have been rewritten. The major changes that become effective for plan year 2008 are summarized below:

- › New “funding target” liability that must be 100% funded – The funding standard account concept, which was introduced by ERISA, has been abolished. Taking its place is a new funding structure focused on the plan’s “funding target” liability. This new structure requires all single-employer defined benefit plans to amortize any shortfall from their funding target over seven years, whether it is due to plan amendments, assumption changes or experience losses.
- › Single funding method – For minimum funding purposes under ERISA, employers will no longer be able to choose a funding method to match to their preferred cash-flow budgets. The funding target will be based on the level of benefits accrued at the beginning of the plan year and all growth in benefits under the plan during the year (including increases in previously earned benefits due to pay raises) will be included in each year’s “target normal cost.”
- › Limited “smoothing” of plan measurements – Under PPA rules, asset values can be averaged over no more than 24 months and must be within 90 to 110% of market value. In addition, interest rates must be averaged over either one month or 24 months, instead of the four-year average that was used for the Deficit Reduction Contribution or the long-term assumption used for the Funding Standard Account.
- › Actuarial assumptions – To determine their funding target, plans must use interest rates that are based on three segment rates applied to the plan’s short-term, mid-term, and long-term liabilities, unless an election is made to use a full yield curve. In addition, PPA also requires that plans use a specific mortality table which has been issued by the IRS.
- › Minimum required contribution – The minimum required contribution is the normal cost plus the amortization payment of the shortfall between the plan’s funding target and its assets. Plans are now limited in using credit balances to meet funding requirements (see below).
- › Maximum deductible contribution – Employers are now allowed to fund up to 150% of each plan’s target liability, plus the additional liability attributable to projected pay increases. The effect of this is that employers will be able to contribute more than the minimum to each plan so that they can better fund plans and/or have more stable plan contribution patterns.
- › “At-risk” plan rules – Under PPA, a new classification of plans has been created called “at-risk” plans. Plans that have a funding percentage below a specific threshold will be considered “at-risk” and must adhere to specific requirements. Such plans will have an alternative funding target liability, which will be determined assuming that all participants which are eligible to retire within the next 10 years will do so at their earliest eligible dates, and will elect the most valuable optional form. Plans will be considered “at-risk” if their funding percentage is under 80% (subject to certain transition rules) and their funding percentage, with liabilities measured on an “at-risk” basis, is below 70%.
- › Credit balances – PPA provides for different treatment of the credit balances accumulated prior to the 2008 plan year (the “carryover balance”) and the one accrued under the new PPA rules (the “prefunding balance”). Under the new rules, significant restrictions may apply to the use of either type of credit balance. For plans that have a funding percentage (net of the prefunding balance) below 80%, the credit balances cannot be applied to offset the otherwise required minimum contribution. Also, credit balances will be deducted from assets when determining whether or not a plan is subject to benefit restrictions (see below) or is in “at-risk” status. Employers will be able to waive all or a portion of such credit balances to attain a desired level of funding. The interest crediting on any credit balances will be based on the actual return of plan assets, including any write-downs for years when losses occur.
- › Transition provisions – As stated above, most provisions under PPA become effective with the 2008 plan year. Many of the provisions related to the new funding rules, however, will be phased in over time, generally a three- to five-year period. For more information on a specific item, please ask your J.P. Morgan advisor to provide additional details.

### **Additional Guidance on Hybrid Plans**

Throughout their history, hybrid pension plans have been controversial and their legitimacy as qualified pension arrangements has been questioned, resulting in numerous lawsuits brought by plan participants. PPA confirms that new cash balance and other hybrid plans (including those that are newly converted from other pension plan types), which define the accrued benefit as a hypothetical account balance and that meet various statutory requirements, are legitimate defined benefit pension plan designs, and that they do not discriminate against plan participants on the basis of age. However, because these rules generally do not apply to actions taken prior to June 30, 2005, their impact on such existing hybrid plans and any pending lawsuits is uncertain.

### **Notice of Benefit Limits and Restrictions under Single-Employer Plans**

Under PPA, beginning with plan year 2008, limitations will be placed on benefit increases, benefit payments, benefit accruals and shutdown benefits for any plan whose “adjusted funding target attainment percentage” (AFTAP) is less than percentages specified under PPA. The AFTAP is generally the ratio of the value of plan assets (minus carryover and prefunding balances) to the plan’s funding target (without regard to at-risk status). Notice of such limitations must be provided within 30 days of the effective date of the limitation(s).

Specific limitations and related AFTAP thresholds are:

- › Below 60%: PPA would prohibit the plan from triggering shutdown benefits (or any other unpredictable contingent event benefits) or accelerated payments (including lump sums) during the year (allowing only annuity benefits) and would freeze benefit accruals.
- › Below 80%: The plan would be prohibited from implementing benefit increases if the AFTAP, after reflecting the plan amendment, would be less than 80%, unless the sponsor contributes the cost of the increase or contributes enough to bring the AFTAP to 80%.
- › Between 60% and 80%: Between these percentages, lump sum payments would be limited to the lesser of the present value of the participant’s PBGC guaranteed benefit and 50% of the lump sum the participant would otherwise receive. The balance of the benefit would be payable in the form of an annuity.

### **Revised ERISA Section 4010 Filing Requirements**

Section 4010 requires that certain underfunded plans report identifying financial and actuarial information to the PBGC. Specifically, a 4010 filing must be prepared and submitted to the PBGC if the FTAP for any plan is less than 80%. For plans that are part of a controlled group, if one plan in the group misses this target, a 4010 filing for the entire group must be prepared. The information previously required for such filings is still required. However, PPA has added some additional filing requirements, including the amount of the plan’s benefit liabilities (using PBGC assumptions), the funding target for the plan determined as if the plan had been at-risk for at least five plan years, and the plan’s FTAP.

### **Retirement Plan Automatic Contribution Notice**

Per IRC requirements, plans that have automatic enrollment features must furnish a notice, within a reasonable period before each plan year (or eligibility for new hires), that:

- › Informs the employee of his/her rights and obligations under the arrangement;
- › Describes the employee’s right to not have contributions withheld from salary or wages made on his/her behalf at all or to have a different percentage withheld (from the default withholding percentage);
- › Provides the employee a reasonable period of time after the notice is received and prior to the initial contribution to make the election; and
- › Explains how contributions will be invested in the absence of any investment direction from the employee (i.e., the default investment option which is also known as a qualified default investment alternative (QDIA)). (Qualified Automatic Contribution Arrangements (QACAs) and Eligible Automatic Contribution Arrangements (EACAs) require a QDIA.)

Please note, that there are additional requirements for the various types of automatic contribution arrangements. Please contact your J.P. Morgan Compensation and Benefit Strategies consultant to discuss.

# Pension Protection Act of 2006 (PPA): The Monumental Shift to Defined Contribution Plans Is Highlighted

Starting in the 1980s, American employers began transitioning employees from traditional, defined benefit pension plans to defined contribution plans. In addition, employers that previously offered no retirement plan to employees at all and desired to offer such a plan began electing to offer defined contribution plans en masse over defined benefit pension plans. Due to this shift over the past two decades, today defined contribution plans are more important to the long-term financial security of employees and future retirees than ever before.

PPA highlights the importance of these plans and includes many important provisions related to them. Because of this, it is more important than ever for employers to make employees aware of the significance that these plans will have in their lives. Below we have highlighted some of the most important concepts that we feel employers should reiterate to employees. Employers, at their discretion, may wish to highlight some or all of these concepts in future communications to employees.

- › *Tax-deferred savings* – With the exception of Roth 401(k) plans (see below), employee and employer contributions to defined contribution plans are tax-deferred. In simple terms, employees are not taxed on contributions (neither their contributions nor the employers’) when they are made. Rather, they are taxed on withdrawals from their respective plans, usually many years later. This represents a huge opportunity for many individuals, especially those in the upper income brackets, as their marginal tax rates may be higher today than they will be when they make withdrawals in the future. The difference in the amount of total taxes paid can be significant.
- › *Roth 401(k) option* – Changes to recent tax laws in the U.S. have allowed employers to offer employees the choice of contributing to defined contribution plans that have a so-called Roth option. This option allows employees to contribute all or a portion of their 401(k) elective deferrals as after-tax funds to their retirement plans. The basic concept is that employees pay the taxes on their contributions at today’s tax rates. When they withdraw funds from the plan in later years, however, they will not be taxed on the earnings on such withdrawals if taken as a qualified distribution. A qualified distribution is one that is taken at least five tax years after the year of the first Roth contribution and after having attained age 59½ or upon death or disability. This is an especially enticing option for anyone that believes their marginal tax rate will be higher when they retire than their marginal rate is today. Therefore, it may be considered a valuable feature for many individuals in the lower tax brackets and likely many younger employees in particular. Please note, not all defined contribution plans include the Roth feature and offering such a feature is not required.
- › *Wide array of investment options* – Most defined contribution plans offer a wide array of investment options. Under ERISA, plan sponsors must offer sufficient investment options that allow employees to properly diversify their plan investments. While that may technically mean that plans only have to offer a few choices, many defined contribution plans offer multiple investment options (i.e., 10, 20, 30, etc.). In addition, most plans do not require that the employee invest a minimum amount in each option, as many investments outside of the plan typically do (e.g., most mutual funds require minimum investments of \$1,000 to \$10,000). This allows participants to invest in many investment options that otherwise would be closed to them.
- › *Cost associated with investments* – Because plans negotiate special rates/fees with asset/investment managers and because of economies of scale, many plan investment options have very low costs, expressed as an expense ratio. That results in many plans offering employees the opportunity to invest in a number of investments that cost a fraction of what they would if the employee were to purchase them on the open market. Over time, lower costs result in a considerably higher account balance and, thus, more money for retirement.
- › *Matching contributions* – While not required (of most plans), most defined contribution plans offer an employer match on all or part of an employee’s contributions to the plan. Employees should be encouraged to contribute at least enough to take full advantage of the employer match. Employees that take advantage of an employer’s match may appreciate the value of their benefits package more, and, thus, their employer.
- › *Income for retirement* – The whole reason for the existence of defined contribution plans is to provide employees with income for retirement. PPA has enhanced the ability of such plans to provide retirement income by increasing the allowable amount of deferrals, “catch-up” contributions, and the “Saver’s Credit” incentive for lower income employees. Employees should be made aware of these changes.

- › Access to investment advice – PPA now expressly allows plans to provide investment advice to plan participants. Many employees have no idea how to invest and do not understand the importance of increased savings, investment diversification and proper asset allocation. The key thing for plan sponsors to know about this change is that PPA amended both ERISA and the IRC to add a statutory exemption relating to the provision of investment advice under an “eligible investment advice arrangement.” This advice can be provided to participants and beneficiaries of a defined contribution plan that permits them to direct the investment of their accounts in the plan. An “eligible investment advice arrangement” is an arrangement that either provides that any fees (including any commission or other compensation) received by the fiduciary advisor for investment advice or with respect to the investment of plan assets do not vary depending on the basis of any investment option selected, or uses a computer model under an investment advice program that meets the requirements set forth by the DOL.
- › Access to individual account funds – Most plans allow employees to have access to some portion of their account balances while they are employed. Such access is offered through loans and hardship withdrawals. While defined contribution plans are intended to be long-term investment vehicles, such access may encourage more employees to participate in a plan and make regular contributions to it.
- › Automatic plan enrollment – PPA allows (with certain notifications) plan sponsors to automatically enroll eligible employees in their respective plans at a predetermined deferral rate. While plan sponsors must ensure that the “default” investment option into which employee contributions is invested is appropriate for each respective employee, this may be a powerful avenue to increase plan participation rates overall. The DOL has issued guidance on suitable default investments, which can be found on its Web site.
- › Continuity/portability – From an employee perspective, one of the major drawbacks of traditional defined benefit plans is that they are often not “portable.” Defined benefit plans typically favor careers spent with one employer, while defined contribution plans are more favorable for careers spent with multiple employers. PPA’s accelerated vesting of employer contributions will further aid with portability. Defined contribution plans also allow employees to take their account balances with them when they leave.

#### **Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) Provisions Permanence**

PPA also addresses the fact that many of the benefit provisions under EGTRRA were scheduled to “sunset” in 2010. Under PPA, these provisions are now permanent fixtures of the benefits landscape. This includes the increased Section 415 limits and limits on compensation counted in retirement plan formulas, pre-tax deferrals under Sec. 401(k), Sec. 403(b), and Sec. 457 plans (including catch-up contributions), and the Saver’s Credit, among other provisions.

## Other Important Changes to Note

### **Major Revisions to the Form 5500 (2008 and 2009 plan years)**

As required by The Pension Protection Act of 2006 (PPA), the DOL, IRS and PBGC have adopted revisions to the Form 5500 filing requirements that are intended to facilitate the move to a wholly electronic filing system, reduce annual reporting burdens and reflect PPA changes. The revisions include simplified reporting for small plans, the elimination of IRS-only Schedules (i.e., Schedule E, Schedule SSA), separate actuarial schedules, and increased insurance and service provider information disclosures. Also, the reporting rules for plan administrators of 403(b) plans are being brought into line with those of 401(k) plans. Thus, the special limited financial reporting rules that 403(b) plans had in the past are eliminated and plans with 100 or more participants will be required to have an accountant's opinion, unless the plans qualify for a waiver under the Department's 80-120 rule.

Some of the revisions stated above apply on a transitional basis for the 2008 reporting year with full implementation for the 2009 reporting year.

## 2008 Plan Year Changes (Transitional Year)

### **Schedule B Changes: Separate Actuarial Schedules**

As required by PPA, the Form 5500 Schedule B (Defined Benefit Information) will be replaced by two new actuarial schedules. These two separate schedules will apply to defined benefit plans subject to minimum funding standards only (as the Schedule B currently does). The two new schedules are the Schedule SB, Single-employer Defined Benefit Information, and the Schedule MB, Multiemployer Defined Benefit Plan and Certain Money Purchase Plan Actuarial Information.

To meet PPA requirements, these schedules must be filed as "non-standard" attachments for the 2008 plan year. Beginning with the 2009 plan year, the Schedules SB and MB must be filed electronically along with the rest of the Form 5500.

### **Schedule R Changes: Additional Questions**

The 2008 Schedule R is essentially unchanged from the 2007 plan year schedule. However, the instructions for the schedule have been updated to include information on how to create attachments that must be included with the Schedule for any plan that has 1,000 or more participants. Because 2008 is a transitional year, this attachment requirement will only apply to the 2008 plan year. Beginning with the 2009 plan year, the additional information that must be included in these attachments will be provided to the Department via a revised Schedule R. The reason for the one-year delay in revising the Schedule R is related to changes to the Form 5500 as a whole due to the upcoming mandatory electronic filing requirement.

The Department has not yet released these revised instructions. However, we do know that these will address several new questions related to a plan's asset allocation, the duration of the plan's debt portfolio, and questions that are specific to multiemployer plans.

## 2009 Plan Year Changes

### **Mandatory Electronic Filing**

The Pension Protection Act of 2006 mandated electronic filing of the Form 5500. Because of various setbacks, the Department has delayed the implementation of this mandate several times. The delays have ended and the Department will officially implement this mandate beginning with the 2009 plan year. Based on what the Department has stated thus far, it appears that there will be two options for filing under the new system:

- › A web-based system which will allow users to input the filing information directly over the Internet.
- › Transmission of the Form information through the use of an approved, privately developed software program which would need to be purchased from an outside vendor.

In addition, based on what we know at this time here are some other important things to note about the mandatory filing requirements:

- › At its sole discretion, the Department of Labor may consider providing relief from late filing penalties that arise because of difficulties filing electronically the first year. In short, the Department has acknowledged that the first year may not go as smoothly as everyone would hope, potentially creating some filing delays.
- › The Form 5500-EZ is not subject to mandatory electronic filing.
- › Anyone that signs the Form 5500 must apply for authentication credentials from the Department.
- › In the spring of 2009, the Department will kick off a public outreach program. This program will focus on helping everyone better understand the changes to the Form 5500 and what to expect once the new electronic filing requirements go into effect.
- › Under the PPA of 2006, the Department must establish a public disclosure website. Generally, filings submitted via the new electronic system will be posted to this new website once it has been established.

### **Simplified Reporting for Small Plans**

A new two-page Form 5500-SF (for Short Form) is the only filing required for pension or welfare plans that meet all of the following requirements:

- › Covers fewer than 100 participants as of the first day of the plan year or would otherwise be eligible to file as a small plan under the 80 to 120 rule;
- › Is eligible for the small plan audit waiver, but not by virtue of enhanced fidelity bonding;
- › Holds no employer securities at any time during the plan year;
- › Has 100% of its assets in investments that have a readily ascertainable fair market value; and
- › Is not a multiemployer plan.

The Form 5500 SF requires filers to provide basic plan and plan sponsor identifying information, limited participant count information and abbreviated financial data. The Schedule A is no longer required to be filed with the SF Filing, but all information that is required to be disclosed on the Schedule A still must be collected and maintained by the plan sponsor. Also, small defined benefit plans would continue to attach the Schedule B.

### **Schedule A Changes: Increased Insurance Information Disclosure**

Since the Form 5500 received its latest major overhaul several years ago, plan sponsors and preparers have often struggled to obtain complete and accurate Schedule A information. While insurance carriers are required by law to provide complete and accurate information, many simply do not. Beginning with the 2009 plan year, the Schedule has been revised to include an additional part where plan sponsors and preparers can report any carriers that fail to comply by providing the appropriate information. It is not clear what the Department will do with this information, but it is well within its authority to penalize such non-compliers.

### **Schedule C Changes: Increased Service Provider Information Disclosure**

After a spat of scandals beginning in 2000, the Department of Labor became concerned with the level of fee disclosures provided by retirement plans, particularly defined contribution plans (because they involve the direct investment of participant contributions). The Department's two primary concerns were: (1) the reasonableness of the fees charged by service providers and (2) whether the fees being paid were improperly influencing the recommendations made by service providers to plan fiduciaries. As a direct result of these concerns, the Schedule C (Service Provider Information) will require additional disclosure of fees paid by plans beginning with the 2009 plan year Form 5500. These additional disclosure requirements fall into three distinct categories:

- › Indirect compensation is required to be reported
- › Forty (40) highest-paid service provider limit is removed
- › Required identification of service providers that provide inaccurate or incomplete information

## Indirect Compensation Requirements

Compensation paid by plans can be divided into two types: direct and indirect. Direct compensation is compensation that is paid directly from the plan or plan sponsor. Common examples include: recordkeeping fees, annual financial audit fees, and fees related to actuarial services. Indirect compensation is generally compensation that is paid from sources other than directly from the plan or plan sponsor. One of the best examples of such compensation is the fees paid to mutual funds or bank commingled funds in which the plan invests that are charged against the fund and reflected in the fund's return (i.e., aka known as the fund's expense ratio). Other common examples include: fees paid under revenue sharing agreements, investment management fees, account maintenance fees, brokerage commissions, finder's fees, 12b-1 distribution fees, and compliance service fees.

Prior to the 2009 plan year, the Department only required plan sponsors to report direct compensation on the Schedule C. Under the new reporting rules, both types of compensation must generally be reported on the Schedule C. That seems simple enough, right? Now let's complicate things. Above we say "generally" because the Department has also included several special disclosure provisions within the new requirements:

- › Eligible indirect compensation – "Eligible indirect compensation" is a term coined by the Department that is specifically related to indirect compensation and the new reporting rules. In short, if compensation meets the requirements necessary to be considered eligible indirect compensation, it receives special consideration. This special consideration is in the form of the receiving party having to report that they received eligible indirect compensation, but not the amount of such compensation. There are two essential qualifications that must be met before compensation can be deemed eligible indirect compensation:
  - Specific types of indirect compensation – It must be indirect compensation that is (1) a fee or expense reimbursement payment that is charged to an investment fund and which is reflected in the value of the investment or return on investment of the participating plan or its participants (NOTE: such fees must be paid directly out of plan funds rather than being reimbursed by the plan), (2) finder's fees soft dollar revenue, (3) float revenue, and/or (4) brokerage commissions or other transaction-based fees for transactions or services involving the plan that were not paid directly by the plan or plan sponsor (regardless of whether they are capitalized as investment costs).
  - Written disclosures – Certain written disclosure requirements must also be met. Specifically, the plan must have received written materials that disclosed and described: (1) the existence of the indirect compensation, (2) the services provided for the indirect compensation or the purpose for payment of the indirect compensation, (3) the amount (or an estimate) of the compensation or a description of the formula used to calculate or determine the compensation, and (4) the identity of the party or parties paying and receiving the compensation.
- › Bundled service agreements - A bundled service arrangement includes any service arrangements where the plan hires one company to provide a range of services either directly from a single provider (i.e., a fully-integrated provider), through affiliates or subcontractors (i.e., alliances), or through a combination of the two (i.e., alliances). Whether the services are delivered through a fully-integrated arrangement or via an alliance, the primary characteristic of such an arrangement is that all of the services under the arrangement are priced to the plan as a single package rather than on a service-by-service basis. An example of this type of arrangement would be a mutual fund company that provides investment management, recordkeeping, and compliance services either all in-house or partially in-house/partially through subcontractors. In general, compensation that is paid via such an arrangement is to be reported on the Schedule C as direct compensation only (i.e., such direct payments do not have to be allocated among affiliates or subcontractors and do not have to be reported as indirect compensation received by these affiliates or subcontractors). However, there are three important exceptions:
  - The amount paid related to an affiliate or subcontractor that is set on a per transaction basis (e.g., brokerage fees and commissions) must be treated as separate compensation by the entity receiving the compensation.
  - Any fees charged to the plan's investment and reflected in the net value of the investment (such as management fees paid by mutual funds to their investment advisors, float revenue, commissions, finder's fees, 12b-1 distribution fees, account maintenance fees, and shareholder servicing fees) must be treated as separate compensation by the entity receiving the compensation. This exception addresses the Department's "reasonableness" policy concern.
  - For any entity that is conflict of interest sensitive, commissions and other transaction based fees, finder's fees, float revenue, soft dollar and other non-monetary compensation, must be treated as separate compensation, even if that compensation is paid from mutual fund management fees or other fees charged to the plan's investments and are thus reflected in the investment's return. This exception addresses the Department's "conflict of interest" policy concern. "Conflict of interest sensitive" persons include any plan fiduciary and any person providing contract administrator, consulting, investment advisory (to the plan or to participants), investment management, securities brokerage, or recordkeeping services.

- › Estimated compensation versus actual compensation – As stated already, under the new reporting rules, indirect compensation must be reported unless this compensation qualifies as eligible indirect compensation. However, the new rules offer the providers of this newly-disclosable information (i.e., the receiver of the compensation) two options for providing this information: (1) they can provide the actual amount of the compensation or (2) they can provide a formula pursuant to which such compensation is determined. While this second option may be advantageous to some providers, it creates a potential dilemma for plan sponsors because they must include an actual amount when submitting the Schedule C to the Department.

#### **Forty (40) Highest-paid service provider limit is removed**

The current reporting rules require that only the forty (40) highest-paid service providers to large plans that are paid over \$5,000 be reported on the Schedule C. The new reporting rules remove this limitation – going forward all service providers to large plans that are paid over \$5,000 must be reported on the Schedule C.

#### **Required identification of service providers that provide inaccurate or incomplete information**

Currently, there is no requirement that plan sponsors identify parties that either fail to report inaccurate expense information or that report incomplete information. Under the new reporting scheme, the plan sponsor must report such parties on the Schedule C. Initially, this requirement was scheduled to become effective with the 2009 plan year. However, because compliance with the new indirect compensation rules (see above) may be difficult for some providers, the latest FAQs released by the Department (July 2008) state that the plan sponsor will not have to identify non-complying service providers for the 2009 plan year provided “the plan administrator receives from the service provider a statement that (1) the service provider made a good faith effort to make any necessary recordkeeping and information system changes in a timely manner and (2) despite such efforts, the service provider was unable to complete the changes for the 2009 plan year.” This one-year exception will apply to the 2009 plan year only. After this grace period expires, the new requirements will go into effect. It is still unclear what (if anything) the Department will do with respect to non-complying service providers after the 2009 plan year, but it does have the authority to penalize such providers if it elects to do so.

#### **Impact**

For plan sponsors, the new Schedule C requirements mean that they now have an obligation to collect additional, more detailed information from service providers to the plans that they sponsor. This makes coordination between the plan sponsor and their service providers upfront more important than ever.

#### **Schedule E Elimination and Revised Schedule R**

Because of the mandatory e-filing requirements that go into effect with plan year 2009 (see below), any IRS-only schedules will be eliminated from the Form 5500 Annual Return/Report, including the Schedule E (ESOP Annual Information).

As part of this change, the Schedule R will be revised to include a new Part IV that will incorporate three questions from the current Schedule E into the new Schedule R. In addition, the 2009 plan year Schedule R will be revised to include several new questions related to a plan’s asset allocation, the duration of its debt portfolio, and questions specific to multiemployer plans. As discussed above, these questions will be part of the 2008 Schedule R, but only as part of a required attachment.

#### **Schedule SSA Becomes Form SSA**

As discussed above, any IRS-only schedules are being eliminated due to the mandatory shift to electronic filing. One of these schedules is the Schedule SSA (Annual Registration Statement Identifying Separated Participants with Deferred Vested Benefits). However, the good news ends there. While the schedule is being eliminated, it is being replaced with the Form SSA, which will have to be provided to the IRS directly. It is still unclear how this will be provided to the IRS (i.e., paper or electronically), but it appears that the Form SSA will look very much like the current Schedule SSA, at least for the first few years.

## Changes to the 403(b) Plan Landscape

Effective January 1, 2009, new regulations will be more strict on the administration and operation of 403(b) plans. Under these new regulations, the reporting rules for Sections 401(k) and 403(b) plans subject to ERISA are being synchronized. Therefore, piling additional responsibility on plan sponsors.

Below are several areas for which plan sponsors will assume accountability:

### Plan Document

Effective January 1, 2009, written plan documents will now be required for all ERISA and non-ERISA 403(b) plans. These documents should contain information related to eligibility, distributions, and other plan procedural and administrative details. Many organizations have multiple 403(b) vendors. In those situations, the same terms and conditions must apply across each plan document. The plan sponsor holds the ultimate responsibility for ensuring consistency.

### Form 5500 and Audit Requirements

The special limited financial reporting rules for 403(b) plans are being eliminated and an accountant's opinion will now be required for 403(b) plans with 100 or more participants, unless the plans qualify for a waiver under the DOL's 80-120 rule.

As mentioned above, many 403(b) plans engage the services of multiple vendors. Under the new requirements, a Form 5500 must be filed for each piece of the plan residing with each vendor, or one vendor must be willing to assemble the information from all vendors.

Affected plan sponsors should begin the planning and data gathering process as soon as possible to be prepared to comply with the 2009 Form 5500 filing and accountant's opinion. Many 403(b), in their current state, are most likely not auditable right now. The reason being is that many plan sponsors have delegated a good amount of activity to their vendors. Implementation of the full Form 5500 filing requirement and the audit requirement may be harder for plan sponsors that have multiple 403(b) vendors. This calendar covers only a few topics and issues under the new legislation. As such, please contact your J.P. Morgan advisor to help you navigate the upcoming changes and to ensure your plan is in compliance.

## PBGC

	2007	2008	2009
Per-Participant Flat-Rate Premium	\$31	\$33	\$34

The Deficit Reduction Act of 2005 provides for inflation adjustments to the per-participant flat-rate premiums each year. These adjustments are based on changes in the national average wage index as defined in section 209(k)(1) of the Social Security Act, with a two-year lag – for example, for 2009, the 2007 index is compared to the baseline (the 2004 index).

In addition to the per-participant flat-rate premium, for plan years beginning on or after January 1, 2008 PPA requires all plan sponsors to determine the variable rate portion of their premium – equal to \$9 for every \$1,000 of unfunded vested benefits

Subject to previous guidance published by the PBGC, all premium filings for plans (both per-participant flat-rate and variable rate) are required to be e-filed. To electronically submit filings and payments to the PBGC, use the PBGC's online application, "My Plan Administration Account" (My PAA). As a note, previous final filing forms (Form 1-EZ and Form 1/Schedule A) have been replaced with one comprehensive filing.

# Department of Health and Human Services Requirements

Form/Notice	Type of Reporting	Plan Type	Type of Information, Requirements & Deadline
Creditable Coverage Disclosure Notice to Centers for Medicare & Medicaid Services (CMS)	Annual Reporting	Group health plans	<p>The Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA) requires that most entities that provide prescription drug coverage to Medicare Part D eligible individuals disclose to the CMS whether the coverage is “creditable prescription drug coverage.” In addition, the disclosure must state whether the entity’s coverage is primary or secondary to Medicare.</p> <ul style="list-style-type: none"> <li>› Separate notice must be furnished to plan participants within 60 days after the beginning of the plan year.</li> <li>› Must also be provided to CMS within 30 days of the termination date of a plan’s prescription drug coverage or after a change in the creditable status of the plan.</li> <li>› Plans that have been approved to receive the Retiree Drug Subsidy (RDS) are exempt from providing this notice to CMS with respect to retirees for whom the plan is claiming/receiving the subsidy.</li> </ul> <p><i>This is only applicable for group health plans that provide prescription drug coverage to Medicare Part D-eligible individuals, except entities that contract with or become a Part D plan.</i></p>
Application for Retiree Drug Subsidy (RDS) & Attestation of Actuarial Equivalence	Annual Reporting	Group health plans	<p>The Medicare RDS is designed to encourage employers and unions to continue providing high-quality prescription drug coverage to their Medicare-eligible retirees. For plans that are at least equivalent to the value of the defined standard Part D drug benefit, the RDS will pay 28 percent of the retiree’s drug costs (as defined by the regulation) between \$275 and \$5726. These payments are tax-free. To qualify for this subsidy, the plan sponsor must apply for it and also demonstrate that the coverage that it provides is at least as generous as (i.e., “actuarially equivalent”), or more generous than, the defined standard coverage under the Medicare prescription drug benefit.</p> <ul style="list-style-type: none"> <li>› Application and attestation must be submitted annually to the CMS through the online RDS system at least 90 days prior to the start of the plan year. A 30-day extension may be requested.</li> <li>› Attestation also must be submitted to the CMS no later than 90 days before a material change to drug coverage that causes the plan to no longer be actuarially equivalent.</li> <li>› Plan sponsors may access information related to the RDS at <a href="http://www.rds.cms.hhs.gov">www.rds.cms.hhs.gov</a>.</li> </ul> <p><i>This is only applicable for group health plans that provide retiree drug coverage and apply for RDS under the Medicare Prescription Drug, Improvement and Modernization Act of 2003.</i></p>
Medicare Part D Notice to Participants and Beneficiaries of Creditable Coverage	Annual Reporting	Group health plans	<p>The MMA requires that certain entities offering prescription drug coverage (including group health plan sponsors) disclose to all Medicare-eligible individuals with prescription drug coverage under the plan whether such coverage is creditable. If the plan’s coverage is not creditable, the notice must also explain that there are limitations on the periods during the year in which the individual may enroll in a Medicare drug plan and that the individual may be subject to a late enrollment penalty. The notice must be provided to plan participants and beneficiaries:</p> <ul style="list-style-type: none"> <li>› Prior to the start of the annual Part D enrollment period that is from November 15 through December 31 each year;</li> <li>› Prior to a participant’s Initial Enrollment Period for Medicare Part D;</li> <li>› Prior to the effective date of coverage for any Medicare Part D eligible individual who enrolls in the employer’s prescription drug coverage;</li> <li>› When the plan no longer provides any drug coverage or when the coverage is no longer creditable; and</li> <li>› Upon request.</li> </ul> <p>Providing this notice to all plan participants annually satisfies the first two requirements detailed above.</p> <p><i>This is only applicable for group health plans that provide prescription drug coverage to Medicare Part D-eligible individuals, except entities that contract with or become a Part D plan.</i></p>
Notice of Privacy Practices for Protected Health Information (HIPAA – Health Insurance Portability & Accountability Act – Privacy Regulation)	Special Reporting & Disclosure	Group health plans	<p>Provided to individuals, notification of the privacy practices of their respective health plans and of most of their health care providers. This notice also must inform individuals of their privacy rights with respect to their personal health information.</p> <ul style="list-style-type: none"> <li>› Provided at enrollment and within 60 days of a material revision to the notice.</li> <li>› Provided upon request.</li> <li>› Must notify plan participants every three years that a Notice of Privacy Practices is available and how to obtain it.</li> </ul>

# Department of Labor Requirements

Form/Notice	Type of Reporting	Plan Type	Type of Information, Requirements & Deadline
Summary Annual Report (SAR)	Annual Reporting	Benefit plans subject to Title I of ERISA (see note on Defined Benefit Pension Plans)	<p>Summary of information reported on the Form 5500 and a statement as to the participant's right to receive a copy of the Form 5500.</p> <ul style="list-style-type: none"> <li>› Must be provided to participants the later of:               <ul style="list-style-type: none"> <li>· nine months after the plan year ends, or</li> <li>· where an extension of time has been granted with the Form 5500, two months after the Form 5500 Annual Return/Report is due.</li> </ul> </li> <li>› The SAR provided to plan participants must follow the model reports provided in 29 CFR 2520.104b-10(d).</li> </ul> <p>NOTE: Beginning with plan years after 2007, this will not be a requirement for defined benefit pension plans. It has been replaced with an enhanced funding notice (see description below).</p>
Investment Advice Disclosures to Participants and Beneficiaries (or Notice of Availability of Investment Advice)	Annual Reporting	Individual account plans in pension plans	<p>This notice should disclose the following to plan participants:</p> <ul style="list-style-type: none"> <li>› material affiliations and contractual relationships among the parties and with respect to the investments and property offered as investment options under the plan;</li> <li>› past performance and historical rates of return;</li> <li>› fees and other compensation paid to the fiduciary investment advisor or affiliate that are related to the investment advice offered;</li> <li>› participant's privacy rights;</li> <li>› the types of services provided in connection with the investment advice received;</li> <li>› acknowledgment of the fiduciary status of the provider of the investment advice;</li> <li>› the recipient's right to procure independent investment advice outside of the plan's arrangement; and</li> <li>› any other disclosures required by applicable securities laws.</li> </ul> <p>Timing of the notice:</p> <ul style="list-style-type: none"> <li>› Must be provided to plan participants and beneficiaries prior to the initial provision of investment advice and then annually thereafter. Also, must be provided at any time upon request.</li> <li>› When material changes to the information previously provided to plan participants are necessary, the administrator must provide updated information to participants simultaneous to the effective date of such changes.</li> <li>› The DOL has solicited comments regarding the provision of such advice and is supposed to release a model notice related to the disclosure of fees charged for investment advice by the fiduciary advisor. At this time this model notice has not been released. It is suggested that administrators visit the DOL Web site frequently to determine whether or not it has been released following the publishing of this calendar.</li> </ul> <p><i>This is only applicable to individual account plans that allow participants to exercise independent control over the way assets in the individual's account are invested.</i></p>
Notice of Qualified Default Investment Alternative	Annual Reporting	Defined contribution pension plans	<p>Notice should explain to participants and beneficiaries (in the absence of any investment election) the plan's provisions governing the circumstances under which contributions or other assets (e.g., earnings, rollovers, etc.) will be invested on their behalf in a qualified default investment alternative, the investment objectives, including the risk and return characteristics, of the default investment, fees and expenses attendant to the investment alternative, and the right of participants and beneficiaries to direct investments out of the default investment without penalty.</p> <ul style="list-style-type: none"> <li>› Must be provided within a reasonable period of time of at least 30 days before each plan year to participants, alternate payees and beneficiaries of deceased participants who are eligible to make investment elections under the plan, as well as prior to the first automatic contribution in the case of certain plans that provide for participant contributions in the absence of a deferral election.</li> </ul>

Form/Notice	Type of Reporting	Plan Type	Type of Information, Requirements & Deadline
Notice of Automatic Contribution Arrangement	Annual Reporting	Defined contribution pension plans	<p>Notice makes participants aware of their rights and obligations under a plan's automatic contribution arrangement (sometimes also referred to as auto-enrollment). These rights must include: (1) the participant's right not to have elective contributions made on their behalf, (2) to change the amount/percentage of their contributions, and (3) to elect out of the arrangement prior to the first elective contribution being withheld. In addition, the notice must provide an explanation of how the participant's contributions will be invested in the absence of any investment election on the part of the participant.</p> <ul style="list-style-type: none"> <li>› Must be furnished within a reasonable period of time before the beginning of the plan year to each participant to whom the arrangement will apply in the upcoming plan year, as well as prior to the first automatic contribution (or within 30 days after the employee's eligibility date if the participant is able to "unwind" the automatic contribution and if certain other requirements are met).</li> </ul>
Defined Benefit Pension Plan Funding Notice	Annual Reporting	Defined benefit plans	<p>Under PPA, an enhanced funding notice replaces the requirement for providing a SAR for defined benefit pension plans. This enhanced notice must be provided within 120 days after the end of the relevant plan year to the following stakeholders: participants beneficiaries, unions that represent plan participants, and the PBGC.</p> <p>A model notice has yet to be issued by the DOL and will be available on its Web site after it has been finalized. Though a model notice has not been issued yet, PPA requires that this enhanced notice include the following items:</p> <ul style="list-style-type: none"> <li>› Funded percentage– The funding percentage of the plan. Specifically, whether the plan's funding percentage is at least 100% and if it is not the actual funding percentage for the relevant plan year and the previous two years. Participant counts – including those for actives, terminated vested participants and those in pay status.</li> <li>› Value of assets and liabilities – The plan must provide the value of its assets and liabilities as of the last day of the relevant plan year and the two previous years.</li> <li>› Funding policy and plan asset allocation – The notice will need to include a statement of the plan's funding policy and asset allocation of the plan's investments (this will need to be expressed as a percentage of total assets and the total percentages will need to total 100%) as of the end of the plan year.</li> <li>› Change in benefits or other known events – The notice must include an explanation and projection to the end of the relevant plan year of the impact on liabilities of any change in benefits or other known events that the plan expects to have a material effect on plan assets or liabilities.</li> <li>› 4010 filing – A statement related to any 4010 filing that has been submitted to the PBGC with respect to the plan or any members of the controlled group of the sponsor. Section 4010 requires that certain underfunded plans report identifying financial and actuarial information to the PBGC.</li> <li>› PBGC termination rules and guarantee – The notice will need to provide a summary of the PBGC rules related to plan terminations and a description of plan benefits that are eligible for the PBGC payment guarantee.</li> <li>› Form 5500 – Notice must offer to provide a copy of the Form 5500 upon request. In addition, the notice must discuss the future availability of the Form on the DOL Web site (<a href="http://www.dol.gov">www.dol.gov</a>) and/or the employer's intranet (if it has one).</li> </ul>
Plan Documents	Special Reporting & Disclosure	Benefit plans subject to Title I of ERISA	<p>The plan administrator must make certain plan documents available for inspection by plan participants and beneficiaries at the principal office of the Administrator.</p> <p>Plan documents include the following:</p> <ul style="list-style-type: none"> <li>› plan and trust instruments</li> <li>› the most recent annual report (Form 5500)</li> <li>› any related collective bargaining agreements</li> <li>› contracts</li> <li>› other instruments under which the plan is established and/or operated</li> </ul> <p>Upon written request, copies must be furnished to a participant or beneficiary within 30 days of receipt of such request. In addition, the plan administrator may be required to make the documents available for inspection at other locations within 10 days after the date of a participant's or beneficiary's request.</p>

Form/Notice	Type of Reporting	Plan Type	Type of Information, Requirements & Deadline
Summary Plan Description (SPD)	Special Reporting & Disclosure	Benefit plans subject to Title I of ERISA	<p>As required by ERISA, a summary of plan provisions in a language that is understandable to the average participant. The SPD should give details on the administrative operations of the plan, claim procedures, and statement of ERISA protected rights. The SPD must be provided to anyone receiving benefits under the plan, including participants, retirees pension plan beneficiaries receiving benefits, and certain other individuals entitled to receive benefits either currently or in the future, within the timelines described below.</p> <ul style="list-style-type: none"> <li>› <i>New plans</i> - Within 120 days after the later of the new plan's effective or adoptive date.</li> <li>› <i>Amended plans</i> - At least once every five years.</li> <li>› <i>All other plans</i> - No less than once every 10 years.</li> <li>› An SPD must be provided to new participants within 90 days of becoming a participant and any beneficiaries receiving benefits under a pension plan within 90 days after first receiving benefits under the plan.</li> <li>› It must be produced for the DOL within 30 days of Department request.</li> <li>› A penalty of up to \$110 a day (up to \$1,100) per request for a plan administrator's failure to furnish requested information within 30 days, unless failure results from matters reasonably beyond a plan administrator's control.</li> <li>› <i>SPDs for SIMPLES: The Trustee distributes to employer, who then furnishes SPD to eligible employees.</i></li> </ul>
Summary of Material Modifications of Plan (SMM)	Special Reporting & Disclosure	Benefit plans subject to Title I of ERISA	<p>This notice summarizes any material modifications to any information to the plan and any changes in the information required to be in the SPD must be provided to all individuals who have a right to receive an SPD.</p> <ul style="list-style-type: none"> <li>› Within 210 days after the end of the plan year in which the plan modification is adopted unless the revised SPD that is distributed contains a modification.</li> <li>› Distributed to new participants within 90 days of becoming a participant of the plan.</li> <li>› Must be produced for the DOL within 30 days of Department request.</li> <li>› A penalty of up to \$110 a day (up to \$1,100) per request for a plan administrator's failure to furnish requested information within 30 days, unless failure results from matters reasonably beyond a plan administrator's control.</li> </ul> <p>NOTE: Any change to a health plan that would be considered by the average plan participant to be an important reduction in covered services or benefits must be disclosed within 60 days after the date the change was adopted.</p>
Summary of Material Reduction in Covered Services or Benefits	Special Reporting & Disclosure	Group health plans subject to Title I of ERISA	<p>A material reduction in covered services or benefits refers to any modification to a group health plan or change in the information required to be included in the summary plan description that, independently or in conjunction with other simultaneous modifications or changes, would be considered by the average plan participant to be an important reduction in covered services or benefits under the plan. Such material changes must be communicated to plan participants (and others entitled to receive an SPD) via a Summary of Material Reduction in Covered Services or Benefits.</p> <ul style="list-style-type: none"> <li>› Not later than 60 days after the adoption of the modification or change, or at regular intervals of not more than 90 days.</li> </ul>
Medical Child Support Notice	Special Reporting & Disclosure	Group health plans subject to Title I of ERISA	<p>ERISA was amended in 1993 to require employer-sponsored group health plans to extend health care coverage to the children of a parent/employee who is divorced, separated or never married when ordered to do so by state authorities. Such order may come in the form of the National Medical Support Notice, which has been issued by the DOL. This notice is a standardized medical child support order that is to be exclusively used by state child support enforcement agencies to enforce medical child support obligations. In the alternative, an employee or the child's other parent may submit a court or administrative order requiring the employee to provide health coverage for the child.</p> <ul style="list-style-type: none"> <li>› Plan administrators must accept this notice if it is appropriately completed by the state's child support enforcement agency. It is to be considered appropriately completed if it provides the following information (or if the omitted information is reasonably available to the administrator): <ul style="list-style-type: none"> <li>· the name of an issuing state child support enforcement agency;</li> <li>· the name and mailing address of the employee, enrolled or eligible for enrollment, who is obligated by a state court or administrative order to provide medical support for each named child (please note, the mailing address can be omitted if it is known to the employer and it is not known to the child support enforcement agency); and</li> <li>· the name and mailing address of each child covered by the notice. The name and address of a state or local official may be substituted for the address of the child.</li> </ul> </li> <li>› Within 40 business days after the date of the notice, plan administrators must notify the respective state agency issuing the notice with respect to such child whether coverage is available under the terms of the plan and, if so, whether the child is covered under the plan and either the effective date of coverage or (if necessary) any steps that must be taken by the custodial parent to effectuate such coverage and provide a description of such coverage. If a QMCSO is provided by a person other than a state child support enforcement agency, the plan administrator must notify the employee and custodial parent of the availability of coverage and procedures for review of the plan administrator's determination.</li> </ul>

Form/Notice	Type of Reporting	Plan Type	Type of Information, Requirements & Deadline
Women's Health and Cancer Right Act (WHCRA) Notices	Special Reporting & Disclosure	Group health plans	<p>Where a group health plan provides mastectomy surgery coverage, a written notice must be provided to participants and beneficiaries that describes the benefits under WHCRA and any deductibles and coinsurance limits applicable to such benefits.</p> <ul style="list-style-type: none"> <li>› Must be provided upon health plan enrollment and annually thereafter.</li> <li>› Enrollment notice may be included in the SPD, open enrollment materials or employee newsletters. Annual notice may be included in other materials provided to participants, as long as the notice is actually furnished to each participant and beneficiary each year.</li> </ul> <p><i>This is only applicable for group health plans that provide for mastectomy benefits</i></p>
SPD Notice of Newborns' and Mothers' Health Protection Act	Special Reporting & Disclosure	Group health plans	<p>Provides plan participants with a statement of their rights under the Newborns' and Mothers' Health Protection Act.</p> <ul style="list-style-type: none"> <li>› No later than the date on which the first summary of material modification (or updated summary plan description) is required to be provided to plan participants and beneficiaries.</li> </ul>
Form M-1 (Report for Multiple Employer Welfare Arrangements (MEWAs) and Certain Entities Claiming Exception (ECEs))	Special Reporting & Disclosure	MEWA	<p>HIPAA established the Form M-1 filing requirement. The purpose of this form filing requirement is to provide the Employee Benefits Security Administration (EBSA) with information concerning compliance by MEWAs with the requirements of Part 7 of ERISA (including the provisions of HIPAA, the Mental Health Parity Act, the Newborns' and Mothers' Health Protection Act, and the Women's Health and Cancer Rights Act). The Form M-1 is filed with the DOL.</p> <ul style="list-style-type: none"> <li>› For existing plans forms must be filed by March 1 of each year for the previous calendar year.</li> <li>› For newly established MEWAs or multiple-employer health and welfare plans, within 90 days of the date that coverage begins unless it is established (origination date) between October 1 and December 31.</li> <li>› For plans established between October 1 and December 31, the March 1 date applies.</li> <li>› A 60-day extension of time may be requested in certain instances.</li> </ul>
Benefit Claims Procedures	Special Reporting & Disclosure	Retirement plans and group health plans	<p>ERISA requires that plans provide participants important information about the plan and to have a fair process for handling benefit claims. This process must be documented in each plan's SPD. The plan's administrator must furnish the SPD to each participant after they join the plan (participants may also request a copy of this). This document provides participants with a detailed summary of the plan: how it works, what benefits it provides, and how such benefits may be obtained (i.e., the process for filing a claim). The SPD also must include information related to the plan's appeals process, specifically when an appeal must be filed, how it is to be filed, with whom it is to be filed, and the timeline for reviewing such appeal and ruling on it.</p>
Notice of Failure to Meet Minimum Funding Standard	Special Reporting & Disclosure	Defined benefit or target benefit plans	<p>Notice making participants aware that a required payment necessary to meet minimum funding standards has not been made.</p> <ul style="list-style-type: none"> <li>› For employers that fail to make a required payment to meet minimum funding standards, must provide a notice to participants, beneficiaries and alternate payees (under Qualified Domestic Relations Orders (QDRO)).</li> <li>› A notice is not required if funding waiver is requested in a timely manner.</li> <li>› If waiver is denied, notice must be provided within 60 days after the denial.</li> <li>› If a request for a waiver is not filed, notice must be provided following the 60-day grace period after the payment due date.</li> </ul> <p><i>This is only applicable to those plans that fail to make required funding installment payments.</i></p>
Notice of Suspension of Benefits	Special Reporting & Disclosure	Defined benefit plans	<p>Notification to retirees, or actives that are over normal retirement age, describing the specific reasons why benefit payments are being suspended.</p> <ul style="list-style-type: none"> <li>› Notice must provide a general description of plan provisions relating to the suspension of payments, a copy of plan provisions, and an explanation of the plan's claims review procedures under which the suspension can be reviewed.</li> <li>› Notice must be provided during the first calendar month or payroll period in which the plan withholds payments on account of reemployment of a retiree or continued employment beyond the plan's normal retirement age.</li> <li>› Notice must be provided in the SPD.</li> </ul> <p><i>This is only applicable to plans that contain a suspension of benefits provision.</i></p>

Form/Notice	Type of Reporting	Plan Type	Type of Information, Requirements & Deadline
Notice of Transfer of Excess Pension Assets to Health Benefits Accounts	Special Reporting & Disclosure	Defined benefit pension plans	<p>This notice must provide plan and financial information to plan participants and beneficiaries, the DOL, the plan administrator and employee organizations representing plan participants concerning transfer of excess defined benefit pension assets to retiree health benefit accounts (i.e., a Section 401(h) account).</p> <ul style="list-style-type: none"> <li>› No later than 60 days prior to the date of the transfer.</li> <li>› Employer notice must be made available for inspection at the principal office of the plan administrator.</li> </ul>
Individual Pension Benefit Statement (Defined Benefit Plans)	Special Reporting & Disclosure	Defined benefit pension plans	<p>A defined benefit plan benefit statement is required to indicate, on the basis of the latest available information, the total benefits accrued and the vested accrued benefit or the earliest date on which the accrued benefit will become vested. In the case of a statement provided to a participant (other than at the participant's request), information may be based on reasonable estimates determined under regulations prescribed by the Secretary of Labor.</p> <p>The administrator of a defined benefit plan is generally required to either furnish a benefit statement at least once every three years or at a minimum, annually furnish a notice of the availability of a benefit statement and the manner in which the participant may obtain it. The notice may be included with other communications to the participant if done in a manner reasonably designed to attract the attention of the participant.</p> <ul style="list-style-type: none"> <li>› If furnished every three years, the first of these required statements is due beginning with the 2009 plan year.</li> <li>› If the plan elects to take advantage of the alternative notice option (the annual statement of availability of benefit statements), the first required notification needed to be provided to plan participants no later than December 31, 2007.</li> <li>› As an alternative to providing statements on request, the plan may elect to provide annual statements.</li> <li>› If statements are provided upon participant request, must be provided before the later of 60 days after the request or 120 days after the close of the prior plan year.</li> <li>› Generally, the plan must distribute a statement to each participant who incurs a one-year break in service, is entitled to a deferred vested benefit, and has not received any retirement benefits under the plan during the preceding year within 180 days after the close of the plan year in which the termination or break occurred.</li> </ul>
Individual Pension Benefit Statement (Defined Contribution Plans)	Special Reporting & Disclosure	Defined contribution pension plans	<p>The benefit statement is required to indicate, on the basis of the latest available information, (1) the total benefits accrued and (2) the vested accrued benefit or the earliest date on which the accrued benefit will become vested. In addition, the statement must include the value of the investments allocated to the individual's account (determined as of the plan's most recent valuation date), including the value of any employer securities (without regard to whether the securities were contributed by the employer or acquired at the direction of the individual), an explanation of any limitations or restrictions on the right of the individual to direct investments, an explanation of self-directed rights, the importance of a well-balanced and diversified portfolio, and a note to see the DOL's Web site for more information related to asset diversification.</p> <p>The administrator of a defined contribution plan is generally required to provide a benefit statement to (1) an applicable individual who has the right to direct the investment of the assets in his/her account, at least quarterly, (2) to other applicable individuals, at least annually, and (3) to a beneficiary who is not an applicable individual, upon written request, but limited to one request during any 12-month period. An applicable individual is (1) a participant in the plan or (2) any beneficiary who is an alternate payee under an applicable qualified domestic relations order. An applicable pension plan is defined as a qualified retirement plan or annuity, a tax-sheltered annuity plan, or an eligible deferred compensation plan of a governmental employer that maintains accounts for participants and beneficiaries (other than a one-participant retirement plan).</p> <ul style="list-style-type: none"> <li>› Must be provided within 45 days following the end of the respective period to which it relates (i.e., quarter or year).</li> <li>› This is a requirement that went into effect for plan years after 2006. For plans with participant-directed investments; the first such statement had to be provided for the first plan year quarter on or after March 31, 2007.</li> <li>› For defined contribution plans without participant-directed investments, this statement requirement went into effect for the calendar year ending on December 31, 2007. Under the original guidelines, the statements would need to be provided within 45 days of the end of the plan year (see above). However, in Field Assistance Bulletin (FAB) 2007-03 the DOL provided interim guidance stating that such plans will be considered in good faith compliance if the benefit statements are provided on or before the date on which the Form 5500 Annual Return/Report is filed by the plan but not later than the date, including extensions, on which the Form 5500 is required to be filed by the plan for the plan year to which the statement relates.</li> </ul>

Form/Notice	Type of Reporting	Plan Type	Type of Information, Requirements & Deadline
Notice of Right to Diversify Out of Employer Securities	Special Reporting & Disclosure	Defined contribution plans	<p>Under PPA, defined contribution plans holding publicly traded employer securities (except for stand-alone employee stock ownership plans (ESOPs) that are not subject to IRC Section 401(k) or (m)) must provide a notice of the right to diversify out of such employer securities to participants, alternate payees, and beneficiaries of deceased participants that have an interest in elective deferrals and/or employee contributions (after-tax or rollover).</p> <ul style="list-style-type: none"> <li>› Notice requirement became effective on January 1, 2007.</li> <li>› Notice must be provided no later than 30 days before participant has the right to diversify out of employer securities.</li> <li>› Notice must describe the right to diversify and explain the importance of asset diversification.</li> <li>› Notice must provide plan contact information.</li> <li>› Model notice issued by IRS in Notice 2006-107.</li> </ul>
Blackout Period Notice	Special Reporting & Disclosure	Individual account plans in pension plans	<p>Individual account plans must provide advance notice to participants and beneficiaries of any period of more than three consecutive business days when there is a temporary suspension, limitation or restriction under an individual account plan on directing or diversifying plan assets, or obtaining loans or distributions. Notice must provide the reasons for the blackout, a description of the participants' and beneficiaries' rights available under the plan during the blackout period, and the expected beginning and ending date of the blackout period.</p> <p>A regularly scheduled limitation or restriction is acceptable if it has been properly disclosed.</p> <ul style="list-style-type: none"> <li>› Applies to individual account plans.</li> <li>› Provided not more than 60 days and not less than 30 days before the commencement of any blackout period. The 30-day advance notice requirement does not apply if: <ul style="list-style-type: none"> <li>· deferring the blackout period for 30 days after giving the notice would result in a violation of ERISA's fiduciary standards;</li> <li>· the events causing the blackout were unforeseeable (e.g., a system outage) and/or beyond the employer/plan administrator's control; or</li> <li>· the blackout is the result of a merger, acquisition, divestiture, or a similar transaction.</li> </ul> </li> </ul>
404(c) Disclosures	Special Reporting & Disclosure	Individual account plans in pension plans	<p>ERISA section 404(c) relieves the plan sponsor and other fiduciaries from liability for losses resulting from participants' direction of their investment choices. Protection under this section applies only to participant-directed investments; it does not apply to investments that are required under the plan or that are directed by the plan sponsor. To take advantage of the protection provided by section 404(c), the plan must meet several specific requirements, including the disclosure requirements discussed herein.</p> <ul style="list-style-type: none"> <li>› Must be provided to plan participants before the investments are to be made and upon request from any plan participant.</li> </ul> <p><i>This is only applicable to defined contribution, individual account plans that allow participants to exercise independent control over the way assets in the individual's account are invested.</i></p>

# Internal Revenue Service Requirements

Form/Notice	Type of Reporting	Plan Type	Type of Information, Requirements & Deadline
Form W-2 (Wage and Tax Statement)	Annual Reporting	Defined contribution pension plans and group health plans	<p>A central component of the U.S. income tax system, Form W-2 is used as an information return to report to the IRS wages paid to employees and the taxes withheld from them. The form is also used to report FICA taxes to the Social Security Administration (SSA). Relevant amounts on Form W-2 are reported by the SSA to the IRS.</p> <p>Employers must complete a Form W-2 for each employee to whom they pay a salary, wage, or other compensation as part of the employment relationship. The Form W-2 reports income on a calendar year (January 1 through December 31) basis, regardless of the fiscal year used by the employer or employee for other Federal tax purposes.</p> <ul style="list-style-type: none"> <li>› Form W-3 should be used to file this information with the SSA.</li> <li>› Sent to plan participants before February 1<sup>st</sup> and to (SSA) before March 1<sup>st</sup> of the calendar year following the distribution.</li> </ul>
Form W-4 (Employee's Withholding Allowance Certificate)	Annual Reporting	Required for any employee that is paid wages	<p>The amount of federal income taxes that an employer must withhold from each employee's wages depends upon several factors, including: the amount of taxable wages paid to the employee, the employee's marital status, and the number of allowances claimed by the employee. The Form W-4 is used by employees to inform their employer of the employee's marital status and the number of withholding allowances that they are claiming for federal income tax purposes.</p> <ul style="list-style-type: none"> <li>› Should be completed on or before the first day of employment. In addition, the IRS suggests that employers ask each employee to complete a new form before the start of each year so that any changes not updated during the current year can be updated prior to the start of the new year.</li> <li>› Can be updated by the employee at any time during the year. Many times a change will occur to employees during the year that will also impact their respective tax liabilities (e.g., marriage, birth of a child, or purchase of a home); such changes will also impact the amount of their withholding and should be reflected on a new Form W-4.</li> </ul>
Form W-4P (Employee's Withholding Allowance Certificate)	Special Reporting	Retirement plans	<p>Form W-4P is meant for U.S. citizens, resident aliens, or their estates who are recipients of payments from pension plans, profit sharing plans, and other deferred compensation plans and annuities. Such entities should use the Form W-4P to instruct payers as to the correct amount of federal income tax to withhold from their payment(s) regardless of the amount of the payment or (b) to have an additional amount of tax withheld.</p> <ul style="list-style-type: none"> <li>› May be completed at any time by the recipient of such a payment, but will only need to be completed once unless the recipient wishes to change their withholding election.</li> </ul>
Reminder of Election Regarding Withholding on Annuity & Pension Plan Payments	Annual Reporting	Defined benefit and defined contribution pension plans	<p>Serves as a reminder to recipients of annuity and/or pension payments of their current withholding election and provides them notice that they may change this status if they choose to do so.</p> <ul style="list-style-type: none"> <li>› Provided to all retirees and any other recipients (e.g., beneficiaries) of periodic payments from the plan.</li> <li>› Required to be sent annually.</li> <li>› Payer is not required to send such a notice if it is reasonable to believe that the entire amount of the payment will not be taxable.</li> <li>› If a withholding is elected, participant will need to complete Form W-4P (Withholding Certificate for Pension or Annuity Payments).</li> </ul>
Notice Regarding Withholding from Annuity & Pension Plan Payments	Special Reporting & Disclosure	Defined benefit and defined contribution pension plans	<p>Provides recipients of annuity and/or pension payments information regarding their right to elect for or against income tax withholding from such periodic payments. If withholding is elected, Form W-4P (Withholding Certificate for Pension or Annuity Payments) will need to be completed by the participant.</p> <ul style="list-style-type: none"> <li>› Optional to provide to plan participants within six months before the first payment is made.</li> <li>› Required to be provided with the first payment and, thereafter, once each calendar year.</li> </ul>
Form 990 and Form 990-EZ (Return of Organization Exempt from Income Tax)	Annual Reporting	Group health plans that are funded by a trust	<p>Form 990 is the annual return of organization exempt from income tax. The Form 990-EZ is the short form generally used when annual gross receipts are less than \$100,000 and total year-end assets are less than \$250,000.</p> <ul style="list-style-type: none"> <li>› Filed with the IRS within four-and-a-half months after the end of the plan year.</li> <li>› Form 8868 can be used to request an automatic 90-day extension of time to file and also a second (not automatic) 90-day extension.</li> <li>› If requested in writing, the form must be provided to plan participants.</li> <li>› The IRS will assess a penalty of \$20 per day for late or incomplete returns (up to a total of \$10,000), unless failure is due to reasonable cause. For organizations with more than \$1 million in receipts, the penalty is \$100 per day, up to a maximum of \$50,000.</li> </ul>

Form/Notice	Type of Reporting	Plan Type	Type of Information, Requirements & Deadline
Form 990-T (Exempt Organization Business Income Tax Return)	Special Reporting & Disclosure	Retirement plans and group health plans	<p>IRS Form 990-T must be filed by any non-profit organization (including employee benefit plan trusts) that has unrelated business income of \$1,000 or more. This form is in addition to the requirement to file other returns such as Form 990-EZ, Form 990, or Form 990-PF. The filing requirement for Form 990-T also applies to non-profit organizations that may not be required to file the IRS Form 990 (e.g., a church or school).</p> <ul style="list-style-type: none"> <li>&gt; For qualified plans and IRAs, forms must be filed by the 15<sup>th</sup> day of the fourth month after the close of the taxable year.</li> <li>&gt; For all other organizations, forms must be filed by the 15<sup>th</sup> day of the fifth month after the close of the trusts' tax year.</li> <li>&gt; Automatic three-month extension may be obtained by filing a Form 8868. No signature necessary for automatic three-month extension.</li> <li>&gt; If more time is needed, trusts may file an additional signed Form 8868 to request an additional, but not automatic, three-month extension.</li> <li>&gt; Interest and penalties apply to late payments.</li> </ul>
Form 1099-MISC (Report of Miscellaneous Income)	Annual Reporting	Retirement plans and group health plans	<p>Used to report to the IRS aggregate payments of \$600 or more for rent, medical payments or other services provided to the plan. The total amount of compensation paid should be reported in Box 7 (Non-employee Compensation) of the form.</p> <ul style="list-style-type: none"> <li>&gt; If filing with the IRS, employers must file copies of Form 1099-MISC as well as Form 1096 (the summary and transmittal form for Form 1099-MISC) with the IRS by February 28, 2008 if being filed by paper, or by March 31, 2008 if being filed electronically.</li> <li>&gt; If distributed to the service provider, the payer (i.e., whomever makes the payments reported on this Form) must send to recipients before February 1 of the calendar year following the relevant distribution(s).</li> </ul>
Form 1099-DIV Dividends and Distributions	Annual Reporting	Retirement plans	<p>Form 1099-DIV is used (by Plan Administrators or other payers) to report cash dividends paid on employer stock held by an ESOP that are either paid directly to participants or paid to the plan and later distributed in cash to participants.</p> <ul style="list-style-type: none"> <li>&gt; Must be filed with the IRS by February 28 if filed with the IRS using paper forms or by March 31 if filed electronically.</li> <li>&gt; Must be provided to dividend recipients no later than January 31st of each year.</li> <li>&gt; All forms by the next business day if the due date falls on a Saturday, Sunday or any Federal holiday.</li> </ul> <p>Note: If dividend is paid in same year as a total distribution from the ESOP, the entire distribution may be reported on Form 1099-R (see below for 1099-R information).</p>
Reporting & Withholding on Pensions, etc. (Forms 945, 945-A, and 1099-R)	Special Reporting & Disclosure	Defined benefit and defined contribution pension plans	<p><i>Form 1099-R</i> is used to report to the IRS distributions (including direct rollover payments) from pension, annuity, and profit sharing plans. A copy must also be distributed to the recipient(s) of those payments. <i>Form 945</i> is used to report to the IRS income tax withheld on distributions reported on Form 1099-R. <i>Form 945-A</i> is used by large depositors to summarize to the IRS non-payroll income tax withholding liabilities on a daily basis.</p> <ul style="list-style-type: none"> <li>&gt; Forms 945 and 945-A must be filed with the IRS no later than January 31<sup>st</sup> of each year.</li> <li>&gt; Form 1099-R (with accompanying Form 1096) must be filed with the IRS by February 28<sup>th</sup> of each year.</li> <li>&gt; Must provide Form 1099-R to each payee before February 1<sup>st</sup> and to the IRS. Payer should use Form 1096 in filing with the IRS.</li> <li>&gt; All forms by the next business day if the due date falls on a Saturday, Sunday or any Federal holiday.</li> </ul> <p>NOTE: There is a special exception for distributions to non-resident aliens whose entire service in a given year is performed in a foreign country.</p>
Notification of Age 70½ Distribution Requirements	Special Reporting & Disclosure	Defined benefit and defined contribution pension plans	<p>Required minimum distributions (RMDs) must begin no later than April 1<sup>st</sup> of the calendar year following the year in which a participant attains age 70½ or, if later, April 1<sup>st</sup> following the calendar year in which they retire. Failure to begin RMD payments by the required beginning date may subject the participant to a substantial federal tax penalty.</p> <p>Written notice of such distribution requirements must be provided to:</p> <ul style="list-style-type: none"> <li>&gt; terminated vested participants and active participants (if the plan requires) that reached age 70½ during 2009;</li> <li>&gt; participants older than age 70½ that retired during 2009; and</li> <li>&gt; plan participants in time to process applications and start distributions by April 1<sup>st</sup>.</li> </ul> <p>NOTE: RMDs are not subject to the 20% withholding rule.</p> <p>SPECIAL NOTE: Under the provisions of the Worker, Retiree and Employer Recovery Act of 2008, RMDs for 2009 from defined contribution plans do not have to be taken. Note that if a participant reached age 70 ½ in 2008 and delayed taking the first RMD to 2009, this payment, which is for 2008, must be taken by April 1, 2009.</p>

Form/Notice	Type of Reporting	Plan Type	Type of Information, Requirements & Deadline
Notice of Intent to Use Safe Harbor Formula (or 401(k) Safe Harbor Plan Notice)	Special Reporting & Disclosure	§401(k) plans	<p>Written notice to participants describing their rights and obligations under the plan including a description of the levels of any matching contributions, the amount of any qualified non-elective (profit sharing) contribution, the type and amount of compensation that may be deferred, when and how deferral elections are to be made, etc..</p> <ul style="list-style-type: none"> <li>› At least 30 days and no more than 90 days before the beginning of each plan year</li> <li>› In the case of a participant that becomes eligible after the 90th day before the beginning of the plan year, no more than 90 days before the participant becomes eligible and no later than the date that the participant becomes eligible</li> <li>› Any notices provided outside of the 90/30 day window may satisfy the notice requirements if given within a reasonable period before the beginning of the plan year (or the date the participant becomes eligible) based on all of the facts and circumstances surrounding each individual instance</li> </ul>
Notice of Significant Reduction in Rate of Future Benefit Accrual (204(h) notice)	Special Reporting & Disclosure	Defined benefit plans and individual account plans	<p>Written notice to participants, alternate payees and employee organizations representing participants of a plan amendment that significantly reduces or freezes future benefit accruals (including reductions in early retirement benefits or any retirement-type subsidy).</p> <p>The notice must be written to be easily understood by the average plan participant and provide sufficient information for participants to understand the effect of the amendment.</p> <ul style="list-style-type: none"> <li>› At least 45 days before the effective date of the plan amendment marking a decrease in the rate of future benefit accruals</li> <li>› In the case of an amendment that is adopted in connection with a business merger or acquisition involving a plan-to-plan transfer or merger and such amendment affects only an early retirement benefit or retirement-type subsidy (but does not reduce the accrual rate of benefits in the future), no later than 30 days after the effective date of the plan amendment</li> <li>› When a plan amendment offers a choice between a new benefit formula and an old benefit formula, the general timing rules apply, except that each relevant plan participant must be provided with additional information sufficient to enable them to make an informed choice within a period that is within close proximity to the date by which an individual is required to make his or her choice regarding the formula elected</li> <li>› The 45-day advance notice period is reduced to 15 days in the case of 204(h) amendments to small plans (i.e., those with less than 100 participants) and amendments resulting from business merger and acquisition transactions involving a plan to plan transfer or merger</li> </ul> <p><i>Only applicable to plans subject to minimum funding standards.</i></p>
Actuarial Certification for Funding Based Limits on Benefit Increases, Benefit Distributions, and Benefit Accruals	Special Reporting & Disclosure	Defined benefit plans	<p>Plan Actuary must certify adjusted funding target attainment percentage (AFTAP) to Plan Sponsor by first day of 4<sup>th</sup> month of plan year. Absent such certification, the AFTAP is presumed to be 10% less than the AFTAP for the preceding plan year. If Plan Actuary does not certify AFTAP by the first day of the 10<sup>th</sup> month of the plan year, it is presumed to be less than 60%.</p> <ul style="list-style-type: none"> <li>› If the AFTAP is below 60%, the plan is prohibited from triggering shutdown benefits (or any other unpredictable contingent event benefits) or accelerated payments (including lump sums) during the year (allowing only annuity benefits) and would freeze benefit accruals.</li> <li>› If the AFTAP is below 80%, the plan would be prohibited from implementing benefit increases if the AFTAP, after reflecting the plan amendment, would be less than 80% unless the sponsor contributes the cost of the increase or contributes enough to bring the AFTAP to 80%.</li> <li>› If the AFTAP is between 60% and 80%, lump sum payments are limited to the lesser of the present value of the participant's PBGC guaranteed benefit and 50% of the lump sum the participant would otherwise receive. The balance would be payable in the form of an annuity.</li> </ul>
Notice of Benefit Limits and Restrictions	Special Reporting & Disclosure	Defined benefit plans	<p>Written notice to participants and beneficiaries within 30 days after the plan has become subject to funding based limitations on benefit increases, benefit distributions, or benefit accruals.</p>
Change in Funding Method	Special Reporting & Disclosure	Defined benefit pension plans	<p>Permission to change a plan's asset method or interest rate selection method will need approval from the IRS. The process for requesting approval has not been specified. Further, it is not clear if the IRS will allow for certain automatic approvals, similar to those that used to be available under Revenue Procedure 2000-40.</p>

Form/Notice	Type of Reporting	Plan Type	Type of Information, Requirements & Deadline
IRC Sec. 402(f) Explanation of Eligible Rollover Distributions and Certain Tax Options	Special Reporting & Disclosure	Defined benefit and defined contribution pension plans	<p>Notice must explain the following rules:</p> <ul style="list-style-type: none"> <li>› Under which the recipient of a distribution may elect that the distribution be paid in the form of a direct rollover to an eligible retirement plan (i.e., another qualified plan or an IRA)</li> <li>› That require the withholding of tax on the distribution if it is not paid in a direct rollover to an eligible retirement plan</li> <li>› Under which the recipient may defer tax on the distribution if it is contributed in a rollover to an eligible retirement plan within 60 days of the distribution</li> <li>› If applicable, certain special rules regarding the taxation of the distribution.</li> </ul> <p>Timing of the notice:</p> <ul style="list-style-type: none"> <li>› No less than 30 days and no more than 180 days before such distribution is made. Participant may waive the 30-day period provided that the sponsor/plan administrator clearly indicates that the participant has a right to consider the decision of whether or not to elect a direct rollover for at least 30 days after the notice is provided. Notices distributed on or after February 26, 2005 must include a notice related to automatic rollovers.</li> <li>› Alternatively, the Sponsor/Administrator may distribute such a notice more than 180 days prior to any distribution (e.g., in an SPD) and provide the relevant participant with a summary notice during the 180/30-day period (subject to the rules for the participant's waiver of the 30-day period). A summary notice must: <ul style="list-style-type: none"> <li>· set forth the principal provisions of the section 402(f) notice;</li> <li>· refer the participant to the most recent version of the section 402(f) notice (and, in the case of a notice provided in any document containing information in addition to the notice, must identify that document and provide a reasonable indication of where such notice may be found in that document, such as by index reference or by section heading); and</li> <li>· advise the participant that, upon request, a copy of the section 402(f) notice will be provided by the Employer/Administrator without charge to him or her.</li> </ul> </li> </ul>
Notice of Application for Recognition of Exempt Status	Special Reporting & Disclosure	Group health plans	<p>An application for recognition of exemption as a Voluntary Employee Beneficiary Association (VEBA) must be filed with the IRS on Form 1024. The material submitted with the application must show that the applying association:</p> <ul style="list-style-type: none"> <li>› Is in fact a VEBA;</li> <li>› Will provide for the payment of specified benefits (e.g., medical, prescription drug, life, accident, or other benefits) for plan participants and/or their dependents or designated beneficiaries and that substantially all of its operations are for this purpose; and</li> <li>› The association will not allow any of its earnings to be used for any purpose other than the payment of scheduled benefit payments.</li> </ul> <p>An association will NOT be considered tax exempt unless it gives notice to the IRS that it is applying for recognition of exempt status. Notice must be given within 15 months from the end of the month in which the organization or trust is organized.</p>
Notice of Minimum Funding Standard Waiver Application	Special Reporting & Disclosure	Defined benefit pension plans	<p>If an employer is unable to satisfy the minimum funding standard for a plan year without substantial business hardship and if application of the funding standard would be adverse to the interest of plan participants in the aggregate, the IRS may waive any or all of the requirements under this standard. When such a situation occurs, the employer must notify affected parties. Affected parties include participants, beneficiaries, alternate payees under QDROs, and any employee organizations representing employees covered by the plan.</p> <ul style="list-style-type: none"> <li>› Within 14 days before date application for waiver is filed with the IRS.</li> <li>› Must include a description of the present value of vested benefits, the present value of benefits calculated as though the plan terminated, the fair market value of plan assets, and the interest rate used to calculate such values.</li> <li>› User fees do apply to the application for such a waiver (but not to the notice to affected parties).</li> </ul>
Form 5308 Request for Change in Plan/Trust Year	Special Reporting & Disclosure	Retirement plans	<p>Form 5308 is used by plan sponsors of defined benefit plans and money purchase pension plans (including target benefit plans) that want to change their plan year but do not meet all of the automatic approval requirements. It should also be submitted by sponsors of defined benefit plans and defined contribution plans that want to change the plan's trust year and that do not meet all of the automatic approval requirements. Plans that meet the automatic approval requirements (as issued by the IRS) do not need to complete this Form. A user fee is required with the submission of this Form.</p> <ul style="list-style-type: none"> <li>› File Form 5308 on or before the last day of the short-year period to affect such a change in the plan or trust year.</li> <li>› No plan year may be more than 12 months in length.</li> </ul>

Form/Notice	Type of Reporting	Plan Type	Type of Information, Requirements & Deadline
Form 5300 (Application for Determination of Employee Benefit Plan)	Special Reporting & Disclosure	Retirement plans	<p>RS Form 5300 is used to request a determination letter from the IRS for the initial qualification (under the IRC) of a defined contribution or defined benefit plan and the exempt status of any related trust. This Form may also be filed to request a determination letter on the qualified status of a plan at any time such a letter is desired subsequent to its initial qualification even if the plan has not been amended.</p> <ul style="list-style-type: none"> <li>› In 2005, the IRS established a new employee benefit plan determination program. Under the new determination letter program, every individually designed employee benefit plan will have a five-year remedial amendment period. The IRS's goal is to create fixed, regular cycles for the adoption of remedial plan amendments under section 401(b) of the IRC and the submission of determination letter applications.</li> <li>› The five-year remedial amendment periods are staggered over a five-year period, based generally upon the employer identification number (EIN) of the employer that maintains the plan. For detailed information on this schedule, please visit <a href="http://www.irs.ustreas.gov/pub/irs-tege/qab_092707.pdf">http://www.irs.ustreas.gov/pub/irs-tege/qab_092707.pdf</a></li> </ul> <p>The periods are:</p> <ul style="list-style-type: none"> <li>› EINs ending in either 1 or 6 must have been filed by January 31, 2007</li> <li>› EINs ending in either 2 or 7 and multiple employer plans must have been filed by January 31, 2008</li> <li>› EINs ending in either 3 or 8 and governmental plans (including governmental multiemployer and multiple employer plans) must file by January 31, 2009</li> <li>› EINs ending in either 4 or 9 and multiemployer plans must file by January 31, 2010</li> <li>› EINs ending in either 5 or 0 must file by January 31, 2011</li> </ul>
Notice to Interested Parties of Determination Letter Request	Special Reporting & Disclosure	Retirement plans	<p>Advises interested parties that plan sponsor intends to file application with IRS for determination of qualified status of a pension plan and provides them with relevant information related to this plan. It also provides participants with details regarding their rights to comment on the plan.</p> <ul style="list-style-type: none"> <li>› Must post or distribute notice to all interested parties before submitting application for determination with the IRS.</li> <li>› Must provide notice not less than 10 days and not more than 24 days prior to the date that the application for a determination is submitted to the IRS for consideration.</li> </ul>
Form 5307 (Application for Determination for Adopters of Master or Prototype or Volume Submitter Plans)	Special Reporting & Disclosure	Retirement plans	<p>IRS Form 5307 should be used by adopters of master, prototype program or volume submitter plans in order to request a determination letter from the IRS for the qualification of a defined benefit or defined contribution plan and the exempt status of any related trust.</p> <ul style="list-style-type: none"> <li>› Following the approval of a master, prototype, or volume submitter plan, the IRS will announce the deadline by when plan sponsors may timely adopt these plans. A uniform date will apply to adopting employers.</li> <li>› Plan sponsors have a two-year window in which to adopt the updated plans.</li> <li>› In December 2007 the IRS temporarily stopped accepting Form 5307s. The Service took this action because all pre-approved (i.e., master, prototype, and volume submitter) defined contribution plans are required to be restated to comply with the Economic Growth and Tax Relief Reconciliation Act of 2001, Pub.L.107-16 (EGTRRA) and to be submitted to the IRS for a determination letter (if needed) using Form 5307. On April 7, 2008 the IRS announced (see IRS Announcement 2008-23) the two year period during which such plans may submit a Form 5307 to the Service with EGTRRA amendments for consideration. This window runs from May 1, 2008 to April 30, 2010.</li> </ul>
Form 5309 (Application for Determination of Employee Stock Ownership Plan)	Special Reporting & Disclosure	Retirement plans	<p>IRS Form 5309 must be completed and attached to the Form 5300 for an ESOP that is either initially applying for qualification under the IRC or that is being amended and desires a new determination letter. In addition, a copy of all documents and statements required by both of these respective forms must be attached.</p>
Form 5310-A Plan Merger, Consolidation, or Transfer of Assets or Liabilities; Notice of QSLOB Election	Special Reporting & Disclosure	Defined benefit pension plans	<p>Form 5310-A is used by employers to give the IRS notice of:</p> <ul style="list-style-type: none"> <li>› A plan merger or consolidation which is the combining of two or more plans into a single plan.</li> <li>› A plan spin-off which is the splitting of a single plan into two or more spin-off plans.</li> <li>› A plan transfer of plan assets or liabilities to another plan which is the splitting off of a portion of the assets or liabilities of the transferor plan and the concurrent acquisition or assumption of these split-off assets or liabilities by the transferee plan.</li> <li>› Qualified separate lines of business (QSLOBs).</li> </ul> <p>Timing of the notice:</p> <ul style="list-style-type: none"> <li>› Provided at least 30 days before the date of merger, consolidation, or transfer of assets or liabilities to/from a qualified plan.</li> <li>› Notice related to a QSLOB election must be provided on or before the notification date. The notification date for a testing year is the later of (a) the October 15<sup>th</sup> following the testing year or (b) the 15<sup>th</sup> day after the close of the plan year for the respective plan of the employer that begins earliest in the testing year. The testing year is the calendar year.</li> </ul>

Form/Notice	Type of Reporting	Plan Type	Type of Information, Requirements & Deadline
Form 5310 Application for Determination for Terminating Plan	Special Reporting & Disclosure	Retirement plans	<p>When any pension, profit-sharing, or other deferred compensation plan (other than a multiemployer plan covered under PBGC insurance) is being terminated, the plan sponsor or administrator may file a Form 5310 to ask the IRS to make a determination on the plan's qualification status at the time of the plan's termination. Please note, if the plan sponsor or administrator is filing for a determination but will continue to maintain the trust or this is a partial termination only, the sponsor or administrator must use the Form 5300 instead.</p> <ul style="list-style-type: none"> <li>› Form must be accompanied by the appropriate user fee and Form 8717, User Fee for Employee Plan Determination Letter Request.</li> </ul>
Form 5330 (Return of Excise Taxes Related to Benefit Plans)	Special Reporting & Disclosure	Retirement plans	<p>Form 5330 must be submitted to the IRS by employee benefit plans that owe excise taxes due to the following circumstances (note: this list is not all-inclusive):</p> <ul style="list-style-type: none"> <li>› For failure to timely distribute excess contributions or excess aggregate contributions within two-and-a-half months after the end of the plan year.</li> <li>› For failure to timely forward deferred participant contributions to defined contribution plans (these should be forwarded as soon as they can be reasonably segregated from the employer's general assets, but in no case not more than 15 business days following the month in which they were withheld - whichever is less).</li> <li>› For excise tax on asset reversions.</li> <li>› For failure to timely provide a 204(h) notice.</li> </ul>

# Joint DOL/IRS Requirements

Form/Notice	Type of Reporting	Plan Type	Type of Information, Requirements & Deadline
Form 5500 (Annual Return/Report of Employee Benefit Plan)	Annual Reporting	Retirement plans and group health plans	<p>The Form 5500 is the annual return/report of employee benefit plan.</p> <ul style="list-style-type: none"> <li>&gt; <u>Generally</u>, by the last day of the seventh month after the end of the plan year.</li> <li>&gt; If the plan year and tax year coincide for a single employer or a controlled group filing a consolidated return and the due date is later than the last day of the seventh month after the end of the plan year, the due date for filing the federal corporate income tax return will also be the filing deadline for the Form 5500.</li> <li>&gt; For a <u>short plan year</u>, by the last day of the seventh month after the short year ends. The short year ends on the last day before a change in plan year or the date on which all assets under the plan have been completely distributed (e.g., to participants) or transferred to the control of another qualified plan.</li> <li>&gt; For <u>Direct Filing Entities (DFEs) other than group insurance arrangements</u>, no later than nine-and-a-half months after the end of the DFE year.</li> <li>&gt; A two-and-a-half month extension of time to file will be granted automatically if the form is filed with the IRS before the form's normal due date (not including any extensions). A photocopy of either the corporate tax extension or signed Form 5558 must be attached to the Form 5500.</li> <li>&gt; All forms should be filed by the next business day if the due date falls on a Saturday, Sunday, or any Federal holiday.</li> <li>&gt; The DOL may assess civil penalties up to \$1,100 a day from the date of a plan administrator's failure to file an annual report, though special programs exist to provide some relief from these penalties.</li> </ul> <p><i>There is a filing exception for certain welfare arrangements of non-multiemployer plans, certain apprenticeship plans and certain dependent care assistance plans.</i></p>
Form 5558 (Application for Extension of Time)	Annual Reporting	Retirement plans and group health plans	<p>Form 5558 is required to apply for a one-time extension of time to file the Form 5500, Form 5500-EZ, or Form 5330, with the following exception:</p> <ul style="list-style-type: none"> <li>&gt; Form 5500 and Form 5500-EZ (does not apply to Form 5330) filers are automatically granted an extension of time to file until the extended due date of the Federal income tax return of the employer and are not required to file Form 5558 if : <ul style="list-style-type: none"> <li>· the plan year and the employer's tax year are the same;</li> <li>· the employer has been granted an extension of time to file its Federal income tax return to a date later than the normal due date for filing the Form 5500 or Form 5500-EZ; and</li> <li>· a photocopy of the IRS extension of time to file the Federal income tax return is attached to the Form 5500 or Form 5500-EZ.</li> </ul> </li> <li>&gt; Please note, an automatic extension of time granted under this exception cannot be extended further by filing a Form 5558 after the normal due date of the Form 5500 or Form 5500-EZ.</li> </ul> <p>Form 5558 does not provide (and cannot be used to obtain) an extension of time to file any other forms/documents (e.g., PGBC Form 1, federal income tax return, etc.).</p> <p><i>There is a filing exception for certain welfare arrangements of non-multiemployer plans, certain apprenticeship plans and certain dependent care assistance plans.</i></p>
Section 417(a)(3) Explanation of Qualified Joint & Survivor Annuities (QJSA)	Special Reporting & Disclosure	Retirement plans	<p>The plan sponsor must provide each participant with a written explanation of a QJSA, which specifies the following:</p> <ul style="list-style-type: none"> <li>&gt; the terms and conditions of the QJSA;</li> <li>&gt; the participant's right to make, and the effect of, an election to waive the QJSA distribution option;</li> <li>&gt; the rights of the participant's spouse (spousal consent is required to make such an election);</li> <li>&gt; the right of the participant to make, and the effect of, revoking an election; and</li> <li>&gt; the relative value of other distribution options.</li> </ul> <p>Timing of the notice:</p> <ul style="list-style-type: none"> <li>&gt; No less than 30 days and no more than 180 days before the annuity starting date, unless right to 30-day notice period is waived.</li> <li>&gt; If the 30-day notice period is waived, no less than seven days prior to the distribution date if conditions set forth in IRS Reg. 1.417(e)-1 are satisfied.</li> <li>&gt; Tantamount, sponsor/administrator must provide to relevant plan participants before the annuity starting date, except in the case of a defined benefit plan, which may provide for a retroactive annuity starting date in accordance with IRS Reg. 1.417(e)-1.</li> <li>&gt; The plan need not provide this notice if a plan fully subsidizes a qualified joint and survivor annuity and does not allow a participant to waive it or to select a non-spouse beneficiary.</li> </ul> <p><i>Applicable to plans subject to minimum funding standards and which offer QJSA as a distribution option.</i></p>

Form/Notice	Type of Reporting	Plan Type	Type of Information, Requirements & Deadline
Section 417(a)(3) Explanation of Qualified Pre-retirement Survivor Benefits (QPSA)	Special Reporting & Disclosure	Retirement plans	<p>The plan sponsor must provide each participant with a written explanation of a QPSA, which specifies the following:</p> <ul style="list-style-type: none"> <li>› the terms and conditions of the QPSA (e.g., the circumstances under which it will be paid if elected);</li> <li>› the participant’s right to make, and the financial effect (i.e., an estimate of the reduction to the participant’s estimated normal retirement benefit that would result from an election of the QPSA) of, an election to waive the QPSA;</li> <li>› the rights of the participant’s spouse (spousal consent is required to make such an election); and</li> <li>› the right of the participant to make, and the effect of, revoking an election.</li> </ul> <p>Timing of the notice:</p> <ul style="list-style-type: none"> <li>› During the period from the beginning of the plan year in which participants attain age 32 to the end of the plan year in which participants reach age 34.</li> <li>› Special rules apply for participants that commence participation after age 34 or who separate from service prior to age 35.</li> <li>› The plan need not provide this notice if a plan fully subsidizes a qualified pre-retirement survivor annuity and does not allow a participant to waive it or to select a non-spouse beneficiary.</li> </ul>
Notice of Continuation of Coverage under the Consolidated Omnibus Budget Reconciliation Act (COBRA)	Special Reporting & Disclosure	Group health plans	<p>Upon initial enrollment in the group health plan, a written notice is sent to participants and all beneficiaries (generally only to spouses, as the notice may be provided to the custodial parent of a child who is a beneficiary entitled to benefits under a group health plan) stating their right to continued self-paid coverage, and notice to qualified beneficiaries after a qualifying event. Also, when applicable, a notice to COBRA participants of a change in premium.</p> <ul style="list-style-type: none"> <li>› General or initial notice provided within 90 days after the commencement of coverage under a group health plan.</li> <li>› An SPD containing an initial COBRA notice can be used to satisfy this requirement, if it is provided to plan participants within this 90-day period. The SPD meets the requirement to be provided to beneficiaries (such as spouses) only if it is mailed to the home of the participant and spouse.</li> <li>› Election Notice or Notice of Qualifying Event provided to specific qualified beneficiaries within 14 days after plan administrator is notified of a qualifying event in relation to that qualified beneficiary or other time frame provided under the plan. If the employer and administrator are the same, the employer has up to 44 days after the qualifying event or loss of coverage to provide the notice.</li> <li>› A premium change notice at least one month prior to its effective date.</li> </ul>
Notice of Unavailability of Continuation Coverage Under the Consolidated Omnibus Budget Reconciliation Act (COBRA)	Special Reporting & Disclosure	Group health plans	<p>Written notice to qualified beneficiaries stating the reasons why they are not entitled to coverage under COBRA.</p> <ul style="list-style-type: none"> <li>› Within the same required time frame that the plan sponsor/administrator would have had to provide an election notice had the plan participant been eligible for coverage under COBRA (generally, 14 days after the notice of a qualifying event has been received; 44 days after the notice of a qualifying event if the employer is also the plan administrator).</li> </ul>
Notice of Qualifying Event under COBRA	Special Reporting & Disclosure	Group health plans	<p>The employer must notify the plan administrator of any qualifying event that triggers COBRA rights including: an employee’s death, termination of employment, reduction of hours worked, Medicare entitlement of the employee, or the employer filing bankruptcy. Such notice must provide the plan administrator with sufficient information to enable them to determine the identity of the plan, the covered employee, the nature of the qualifying event, and the date of the event. The administrator must then notify the qualified beneficiary of their rights under COBRA for continued coverage.</p> <ul style="list-style-type: none"> <li>› Employers must notify the plan administrator within 30 days of any qualifying event. (The exact time period varies depending upon the type of qualifying event that has occurred; however, the 30 days cited above is a general rule that is applicable for many, but not all, qualifying events.)</li> <li>› The plan administrator must generally notify the qualified beneficiary within 14 days after receipt of the notification (of the qualifying event) from the employer or qualified beneficiary.</li> <li>› If the employer is the plan administrator, the employer/administrator must provide a notice to the qualified beneficiary no later than 44 days after the date on which the qualifying event occurred or, if a plan provides that COBRA coverage commences on the date of loss of coverage, no later than 44 days after the date on which there is a loss of coverage due to a disqualifying event.</li> </ul>

Form/Notice	Type of Reporting	Plan Type	Type of Information, Requirements & Deadline
Notice of Insufficient Payment of COBRA Premium	Special Reporting & Disclosure	Group health plans	<p>Written notice to qualified beneficiaries that payment for COBRA continuation was less than the correct amount.</p> <ul style="list-style-type: none"> <li>› Must be provided to qualified beneficiaries in such a manner that provides a reasonable period of time to cure the deficiency before termination of coverage under COBRA.</li> <li>› In general, a 30-day grace period is considered reasonable.</li> </ul>
Notice of Termination of Continuation Coverage	Special Reporting & Disclosure	Group health plans	<p>Written notice that must be furnished to qualified beneficiaries that their COBRA coverage is terminating prior to the end of their maximum coverage period. This notice must provide the reasons for the early termination, the date of the termination of coverage, and any rights that the qualified beneficiary may have under the plan or applicable law to elect either an alternative group coverage or individual coverage.</p> <ul style="list-style-type: none"> <li>› As soon as is practicable following the plan sponsor/administrator's determination that continuation coverage shall terminate prematurely.</li> <li>› This notice may be combined with a HIPAA certificate of creditable coverage.</li> </ul>
HIPAA Certificate of Creditable Coverage	Special Reporting & Disclosure	Group health plans	<p>Written notice that must be provided to former participants and covered dependents certifying the period of creditable coverage under the plan (or COBRA continuation coverage) or a written statement certifying 18 months of coverage.</p> <ul style="list-style-type: none"> <li>› Provided to former participants and covered dependents upon their loss of health coverage and no later than the deadline for giving the COBRA qualifying event notice (i.e., election notice). The fact that a former participant or beneficiary has elected COBRA coverage does not negate the requirement to provide the HIPAA Certificate of Creditable Coverage.</li> <li>› Provided to an individual that ceases COBRA within a reasonable period of time after the employer/administrator learns that COBRA has ceased.</li> <li>› Upon request, the certificate must be provided in a reasonable and prompt fashion if the request is made while the individual is covered or within 24 months after the coverage ends.</li> </ul>
Notice of Special Enrollment Rights	Special Reporting & Disclosure	Group health plans	<p>Notice to participants of HIPAA's special enrollment rights that allow participants to enroll in a group health plan as a result of certain events, and to avoid a longer pre-existing condition exclusion period than regular enrollees face when enrolling as a result of an event triggering special enrollment rights.</p> <ul style="list-style-type: none"> <li>› Right to enroll during a special enrollment period arises as a result of the loss of other health coverage or upon marriage, birth, adoption, or placement of adoption.</li> <li>› A special enrollment period is a period of at least 30 days after loss of other coverage, marriage, birth of a child to the employee, adoption of a child by an employee, or placement for adoption of a child with the employee or employee's spouse, when an employee would not otherwise be entitled to enroll or change enrollment options in a group health plan.</li> <li>› Notice must be provided on or before the date on which participants are offered the opportunity to enroll in a group health plan.</li> <li>› The DOL has issued model language as a reference.</li> </ul>
General Notice of Preexisting Condition Exclusion	Special Reporting & Disclosure	Group health plans	<p>Written notice advising participants if a medical plan has a pre-existing condition exclusion, the terms of the exclusion and the rights the participants have to demonstrate creditable coverage (including the right to request a certificate of creditable coverage from a prior health plan or insurer).</p> <ul style="list-style-type: none"> <li>› Provided to plan participants and covered dependents if the plan contains preexisting condition exclusion.</li> <li>› If applicable, provided within a reasonable period of time following the receipt of a certificate of creditable coverage.</li> </ul> <p><i>Applicable to plans that contain a preexisting condition exclusion</i></p>

Form/Notice	Type of Reporting	Plan Type	Type of Information, Requirements & Deadline
Individual Notice of Period of Preexisting Condition Exclusion	Special Reporting & Disclosure	Group health plans	<p>Written notice to an individual of determination of the period of creditable coverage, including the basis of determination, an explanation of the participant's opportunity to present additional evidence of creditable coverage, and the individual's remaining preexisting condition exclusion period.</p> <ul style="list-style-type: none"> <li>&gt; Furnished to plan participants and covered dependents upon whom a preexisting condition exclusion is imposed.</li> <li>&gt; Must be provided within a reasonable period of time following the receipt of a certificate of creditable coverage.</li> </ul> <p><i>Applicable to plans that contain a preexisting condition exclusion</i></p>
Notice of Coverage Relating to Hospital Length of Stay in Connection with Childbirth	Special Reporting & Disclosure	Group health plans	<p>Under the Newborns' and Mothers' Health Protection Act, the plan's SPD must include a statement that describes any requirements under federal or state law that are applicable to the plan (and any health insurance coverage offered under the plan) relating to any hospital length of stay in connection with childbirth for a mother or newborn child. If federal law applies in some areas in which the plan operates and state law applies in other areas, the SPD should describe the different areas where each applies and the federal or state requirements applicable in each area.</p> <ul style="list-style-type: none"> <li>&gt; Within the SPD time frame, or</li> <li>&gt; Within the SMM time frame.</li> </ul> <p><i>Applicable to plans that provide maternity or newborn infant coverage</i></p>
Notice of Receipt of Domestic Relations Order	Special Reporting & Disclosure	Retirement plans	<p>Upon receipt of a domestic relations order, the plan administrator is required to promptly notify the affected participant and each alternate payee named in the order of the receipt of the order and to provide a copy of the plan's procedures for determining whether a domestic relations order is a QDRO. Notice must also be provided once the qualified status of the order has been determined.</p> <ul style="list-style-type: none"> <li>&gt; Notice of the determination of the qualified status of the order must be provided within a reasonable time after the order is received and the sponsor/administrator has determined its status.</li> </ul>
Individual Deferred Vested Pension Statement (ERISA section 105(c) and Internal Revenue Code section 6057(e) disclosure requirements)	Special Reporting & Disclosure	Defined benefit and defined contribution plans	<p>Plan administrator must, upon a participant's termination or break in service, provide a statement describing the deferred vested retirement benefit to which the participant is entitled and any forfeiture amounts. The statement should be sent no later than the due date for filing Form SSA, and the description provided to the participant must include the information filed with respect to the participant on Form SSA.</p>

# Pension Benefit Guaranty Corporation

Form/Notice	Type of Reporting	Plan Type	Type of Information, Requirements & Deadline
PBGC Premium Payment	Annual Reporting	Defined benefit pension plans	<p>A comprehensive premium payment form is used to provide general plan information to the PBGC, as well as participant count information and the amount of premium payments due. Each plan is required to prepare and submit its own individual filing. Premium payments should accompany the submission. The flat-rate premium for 2009 is \$34.00 per participant and additional variable premiums are calculated based on the plan's funding level. Please note, under PPA, the "full-funding limit" exemption for variable rate premiums has been eliminated.</p> <ul style="list-style-type: none"> <li>› New plans or plans filing for the first time must file by the later of the last day of the 16th full calendar month that began on or after the first day of the premium payment year or that began on or after the effective date (in the case of a new plan) or 90 days after the plan adoption date.</li> <li>› Small Plans (prior year participant count fewer than 100) must file by the last day of the 16th full calendar month following the end of the plan year preceding the premium payment year.</li> <li>› Mid-size Plans (prior year participant count 100 to 499) must file their flat-rate premium by the 15th day of the 10th full calendar month in the plan year. The variable-rate premium is due the same date, but an estimate may be paid, with a reconciliation filing due the same as the deadline for Small Plans.</li> <li>› Large Plans (prior year participant count 500 or more) must pay the flat-rate premium by the last day of the 2nd full calendar month in the plan year. An estimate can be paid by that deadline, with a reconciliation filing due by the same deadline as for Mid-size Plans. The variable-rate premium is due the same date as for Mid-size plans. An estimate can be paid by that deadline, with a reconciliation filing due by the same deadline as for Small Plans.</li> <li>› All forms should be filed by the next business day if the due date falls on a Saturday, Sunday, or any Federal holiday.</li> <li>› All plans are required to e-file using the PBGC online system, My PAA. Further information on this is available on the PBGC Web site (<a href="http://pbgc.gov/practitioners/premium-filings/content/page13265.html#GenrallInfo">pbgc.gov/practitioners/premium-filings/content/page13265.html#GenrallInfo</a>).</li> </ul>
Notice of Intent to Terminate	Special Reporting & Disclosure	Defined benefit pension plans	<p>When a plan sponsor elects to terminate a plan, it must provide affected parties (i.e., participants, beneficiaries of deceased participants, alternate payees under QDROs, current employee organizations, any individual that becomes a beneficiary or alternate payee after the proposed termination date and on or before the distribution date, and for any group of employees not currently represented by an employee organization -- the employee organization that last represented the group within the 5-year period leading up to the notice) with a written notice of its intention to terminate the given plan. Such notice must include the proposed termination date, a statement concerning the cessation of participant accruals under the plan, and other relevant information (e.g., insurer identification, the legal effect of the termination, guaranty coverage information, etc.).</p> <ul style="list-style-type: none"> <li>› In a standard termination, provided at least 60 days and no more than 90 days before the proposed plan termination date.</li> <li>› In a distress termination, provided no later than the time the notice of distress plan termination (Form 600) is sent to the PBGC.</li> <li>› Notice of insurer selection may be provided in a supplemental notice sent out no later than 45 days before the date of the distribution.</li> <li>› Notice of annuity contract must be provided to those receiving plan benefits in the form of an annuity no later than 30 days after the contract is available.</li> </ul>
Notice of Termination to the PBGC	Special Reporting & Disclosure	Defined benefit pension plans	<p>When the plan sponsor elects to terminate a pension plan it must provide the PBGC notification of such termination in writing, as well as an enrolled actuary's certification of the sufficiency of the plan as of the proposed date of final distribution. Additionally, the plan administrator must certify: the information on which the enrolled actuary based his or her certification, post-termination distribution amounts, and any missing participant information. The PBGC will review this submission to determine whether the plan should or should not be terminated.</p> <p>In a standard termination:</p> <ul style="list-style-type: none"> <li>› Form 500 (with Schedule EA-S) no later than 180 days after the proposed termination date and</li> <li>› Form 501 no later than 30 days after the last distribution date for any affected party (no later than 30 days after the deemed distribution date, if filed with Schedule MP).</li> <li>› The PBGC will not generally assess a penalty if Form 501 is filed within 90 days after the distribution deadline, including extensions.</li> </ul> <p>In a distress termination:</p> <ul style="list-style-type: none"> <li>› Form 600 at least 60 days and no more than 90 days before the proposed termination date</li> <li>› Form 601 (with Schedule EA-D) no later than 120 days after the proposed termination date and</li> <li>› Form 602 no later than 30 days after the last distribution date for any affected party (no later than 30 days after the deemed distribution date, if filed with Schedule MP).</li> </ul>

Form/Notice	Type of Reporting	Plan Type	Type of Information, Requirements & Deadline
Notice of Plan Benefits	Special Reporting & Disclosure	Defined benefit pension plans	<p>Notice requirement that applies only to plans in a standard termination (i.e., not those in a distress termination). This notice must specify the amount and form of each individual's benefit as of the proposed plan termination date, the personal data utilized in determining the individual's benefit amount, the lump sum conversion assumptions (including mortality and interest rates), and any other information that the PBGC deems necessary and appropriate.</p> <ul style="list-style-type: none"> <li>› Should be provided to plan participants, beneficiaries of deceased participants, and alternate payees under a QDRO no later than the date that the notice of standard plan termination (Form 500) is sent to the PBGC. Also, promptly to any individual that becomes a beneficiary or alternate payee after the proposed termination date and on or before the distribution date.</li> </ul>
Disclosure of Plan Termination Information to Participants	Special Reporting & Disclosure	Defined benefit pension plans	<p>When a plan sponsor or plan administrator of a specific plan receives notice from the PBGC of a determination that the plan should be terminated involuntarily by the PBGC, it must provide information to any affected party that requests it. The information that must be provided is a disclosure of the information which was provided to the PBGC in connection with the proposed distress or involuntary termination. In addition, the disclosure must be updated if any new information is provided to the PBGC that relates to the previous disclosure. Affected parties include plan participants, beneficiaries, alternate payees, and unions. Information need not be provided to affected parties that do not request it.</p> <ul style="list-style-type: none"> <li>› Provided within 15 days of a written request by an affected party.</li> </ul>
Form 200 Notice of Failure to Make Required Contributions of More than \$1 Million	Special Reporting & Disclosure	Defined benefit pension plans	<p>Notice that must be provided to the PBGC which provides it with the information necessary to make decisions regarding the enforcement of a lien imposed under ERISA in favor of the plan for failure to make certain required contributions of \$1 million or more. This lien will not arise (and there is no need to notify the PBGC) if the total of unpaid balances (including interest) is less than or equal to \$1 million.</p> <ul style="list-style-type: none"> <li>› Provide to the PBGC no later than 10 days after the date that the required payment is due. Contributing sponsor and Parent of Parent-Subsidiary controlled group, if applicable, are both required to file.</li> <li>› Timely submission of Form 200 will also satisfy the reportable event notice requirement, and no submission of Form 10 or Form 10-Advance is necessary.</li> </ul>
Form 10 and Form 10-Advance Notice of Reportable Events	Special Reporting & Disclosure	Defined benefit pension plans	<p>This notice is a statement of the facts related to the reportable event, relevant plan, and actuarial information. Examples of reportable events include:</p> <ul style="list-style-type: none"> <li>› certain decreases in active participants by 20% since the beginning of the plan year or 25% since the beginning of the previous plan year;</li> <li>› the inability of the plan to pay benefits when due;</li> <li>› any changes to the plan's contributing sponsor or controlled group;</li> <li>› any distributions to a substantial owner of \$10,000 or more;</li> <li>› the bankruptcy, insolvency, liquidation, or dissolution of the contributing sponsor or controlled group member;</li> <li>› the plan sponsor's failure to make required minimum funding payments;</li> <li>› the plan sponsor's application for a minimum funding waiver;</li> <li>› the transfer of benefit liabilities outside of controlled groups;</li> <li>› the extraordinary dividend or stock redemption by a controlled group member; and</li> <li>› the default by a controlled group member on a loan balance exceeding \$10 million.</li> </ul> <p>Timing of the notice:</p> <ul style="list-style-type: none"> <li>› Post-Event Notice provided to the PBGC within 30 days after the employer/administrator or contributing sponsor knows, or has reason to know, that a reportable event has occurred. Use Form 10 for this reporting.</li> <li>› Nonpublic sponsors must file an advance notice with the PBGC if they have aggregate unfunded vested benefits in excess of \$50 million and a funded vested benefit percentage of less than 90%. Also, must provide notice of certain reportable events at least 30 days in advance of effective date of event. Use Form 10-Advance for this reporting.</li> <li>› A waiver of notice requirement or extension of notice period may be available. See PBGC Reg. 4043.</li> <li>› All forms should be filed by the next business day if the due date falls on a Saturday, Sunday, or any Federal holiday</li> </ul>

Form/Notice	Type of Reporting	Plan Type	Type of Information, Requirements & Deadline
Notice of Substantial Cessation of Operations	Special Reporting & Disclosure	Defined benefit pension plans	<p>Notice that must be provided to the PBGC furnishing it with information regarding the cessation of operations at a facility in any particular location and its effect on the plan. Such notice is required only when more than 20% of a plan's active participants are separated from employment as a result of a cessation of operations. Only plan administrators of defined benefit pension plans that are subject to the plan termination insurance provisions of ERISA provide this notice.</p> <ul style="list-style-type: none"> <li>› Within 60 days after cessation of operations.</li> </ul>
Notice of Withdrawal of a Substantial Employer	Special Reporting & Disclosure	Defined benefit pension plans	<p>Notification must be provided to the PBGC for single-employer plans with more than one substantial contributing employer when one such employer withdraws from a plan. This notification must include a request for determination of any associated liability. Only plan administrators of defined benefit pension plans that are subject to the plan termination insurance provisions of ERISA are required to provide this notice.</p> <ul style="list-style-type: none"> <li>› Within 60 days after withdrawal from plan.</li> </ul>
Notice of Substantial Employer Status	Annual Reporting	Defined benefit pension plans	<p>Notification must be provided to the PBGC for single-employer plans that have at least two contributing sponsors that are not under a single common control. An employer is considered to be a substantial employer if the employer's required contributions to the plan for each plan year totaled 10% or more of all of the plan's required contributions under either of the following conditions: (1) one of the two immediately preceding plan years or (2) the first two of the three immediately preceding plan years.</p> <ul style="list-style-type: none"> <li>› Notification must be provided within six months after the close of each plan year.</li> </ul> <p><i>Applicable to defined benefit pension plans subject to the plan termination insurance provisions of ERISA where at least two contributing sponsors are not under common control.</i></p>
PBGC Participant Notice (Repealed for all plan years beginning after December 31, 2006)	Special Reporting & Disclosure	Defined benefit pension plans	<p>Section 4011 of ERISA requires that certain underfunded pension plans provide notification to participants of the plan's funding status and the limits on the PBGC's guarantee. This notice is only required for plan years when the variable rate premium is payable and the plan's funded current liability percentage falls below certain levels. A model notice is published annually by the PBGC in a Technical Update and is updated each year to reflect any increases in the maximum guaranteed benefit. Under PPA, ERISA Section 4011 is repealed for plan years beginning after December 31, 2006 and it has been replaced by new disclosure requirements under ERISA Section 101(f).</p> <ul style="list-style-type: none"> <li>› When required, must be provided no later than two months after the Form 5500 Annual Return/Report for the previous year is due (including extensions).</li> </ul>
Reporting By Large Underfunded Plans	Special Reporting & Disclosure	Defined benefit pension plans	<p>For each member of the filer's controlled group and each plan maintained by any member of the controlled group for large, underfunded pension plans, the PBGC must be provided with the following information:</p> <ul style="list-style-type: none"> <li>› Identifying information;</li> <li>› Plan actuarial information (not required for certain small plans with fewer than 500 participants or fully funded pension plans in the controlled group); and</li> <li>› Audited financial statements.</li> </ul> <p>Timing of notification:</p> <ul style="list-style-type: none"> <li>› On or before the 105th day after the close of the filer's "information year" (i.e., annual accounting period). If members of a controlled group (disregarding any exempt entity) report financial information on the basis of different fiscal years, the information year is considered to be the calendar year and the information must be submitted to the PBGC following the end of the calendar year in which the controlled group members' fiscal years end.</li> <li>› Supplemental actuarial information must be submitted within 15 days after the deadline for filing the plan's Form 5500 for the plan year ending within the filer's information year (including extensions), if certain certifications are filed by the regular due date. A request for a waiver or extension must be filed in writing with the PBGC no later than 15 days before the applicable due date.</li> <li>› Beginning with information reporting years ending on or after December 31, 2004, filers began submitting all of the required information to the PBGC electronically in accordance with instructions found on the PBGC Web site.</li> </ul>

## Contact Information

Our locations across the U.S. provide clients with ready access to our most suitable and senior expertise. To learn more contact either:

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