



AMERICAN ACADEMY *of* ACTUARIES

December 9, 2009

Ms. Debra Golding
Deputy Director, Office of Regulations and Interpretations
U.S. Department of Labor
Employee Benefits Security Administration
Office of Participant Assistance
Suite N-5623
200 Constitution Avenue, NW
Washington, D.C. 20210

RE : Display of Actuarial Information on DOL Website

Dear Ms. Golding:

The American Academy of Actuaries¹ Pension Committee would like to bring to your attention our concern regarding the electronic display of certain information contained in the annual Form 5500 filing for single-employer defined benefit plans, required by ERISA Section 104(b)(5), as amended by Section 504 of the Pension Protection Act of 2006 and respectfully requests your consideration of this matter. Certain information (generally, the Form 5500 and the Schedule SB / MB filed by a plan's Enrolled Actuary (EA)) must be filed in electronic format that accommodates display on the Internet. Such information must be posted on the Department of Labor's (DOL) website within 90 days after the plan sponsor files such information with the DOL. It has come to the attention of the Pension Committee that the postings being made by the DOL include a scan of the physical signature provided by the EA on the Schedule SB / MB in addition to the electronically entered form information.

With respect to other portions of the annual Form 5500 filing that are subject to public inspection, the DOL has been very clear that Social Security numbers are not to be included because the inclusion of such confidential, personal information poses an identity theft risk to an individual plan participant. With respect to this concern expressed by the DOL, we would like to express our concern over an equally troubling matter: the public posting of the actual signature of the EA signing the Schedule SB / MB. Posting of this actual signature poses a potential threat to the individuals serving in this capacity.

While it is our understanding that an individual's signature may not fall under the direct definition of personally identifiable information (PII) applied by information security professionals and the federal government, we believe that the availability of an individual's signature, combined with the ability to easily and quickly access other individual PII via a quick Internet search (either free of charge or for payment of a nominal fee), could provide someone with ample information (e.g., name, employer, home address, phone number, date of birth and mother's maiden name, etc.) to easily commit identity theft

¹ The American Academy of Actuaries is a professional association with over 17,000 members, whose mission is to assist public policymakers by providing leadership, objective expertise, and actuarial advice on risk and financial security issues. The Academy also sets qualification, practice, and professionalism standards for actuaries in the United States.



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against the signing EA. Adding to that list a physical signature provides enough information to uniquely identify the EA.

In addition to the general risk of personal identity theft this poses, there is also a potential risk of professional identity theft. It is our understanding that the Department of the Treasury has previously expressed concern that digital signatures could be sold based on prior inappropriate use of stamped signatures on Schedules SB / MB and other practices. We believe the public posting of the EA's signature makes it even easier to actually falsify submissions to the DOL by reproducing the EA's signature and falsifying other Schedule SB / MB filings as said EA.

Form 5500 information has been readily available on the Internet for several years through free-access sites such as www.freeerisa.com. These websites post an electronic version of the actuarial information for a plan (prior to 2008, the Schedule SB / MB attachment) indicating the name and enrollment number of the EA, as well as the date signed, but **not** the actual signature. This level of disclosure of the identity of the EA responsible for signing the Schedule SB / MB for a plan would seem to satisfy the requirements of ERISA Section 104(b)(5) without exposing the signing EA to greater risk of identity theft or other misuse of the EA's signature. We request that the DOL consider adopting this same level of disclosure for the information that it posts under its ERISA Section 104(b)(5) disclosure requirements, so that it does not post the actual signature of EAs. We also ask that DOL confirm that plan sponsors may delete the signature of the EA from copies of Forms 5500 that they provide in other circumstances, such as in response to a written request under ERISA Section 104(b)(4).

Many calendar-year plans filed their 2008 Form 5500 in October 2009. According to the 90-day posting requirement, the Schedules SB / MB associated with these filings must be posted by the DOL by mid-January 2010. In light of the immediacy of the risk to EAs, we request that the DOL review our comments and take prompt and appropriate action to eliminate this risk. Recognizing the complexity and cost of programming changes, we would recommend the removal of the scanned Schedule SB / MB entirely. A message could be posted on the DOL website advising participants of their right to review a copy of their plan's annual report, which can be obtained from the plan administrator. Alternatively, we request that the DOL consider: (a) the feasibility of replacing those Schedule SB / MB documents currently posted with a new version that redacts or blacks out the signature of the EA in order to prevent identity theft; or (b) permitting EAs to submit a scanned copy without the signature to be used as a replacement. Schedule SB / MB instructions could be modified to require filing of both a signed Schedule SB / MB that includes an actual signature (to alleviate Treasury's concern about the stamped signatures issue) and an identical, dated but unsigned version that facilitates the scanning and posting of information on the Internet.



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Information from the Schedule SB / MB attachment is also required to be posted on any company-sponsored intranet site used for the purpose of communicating benefits information. Posting of the EA's signature on these sites also presents a security risk and we request that the DOL confirm that it would be appropriate for the EA to provide a version to the plan administrator that excludes his or her signature for use in satisfying this posting requirement.

We thank you for the opportunity to share our thoughts with you on this matter. We are available if you require additional follow-up discussion to evaluate the validity of our concerns. If so, please contact Jessica Thomas, the American Academy of Actuaries' pension policy analyst, at 202-785-7968, or Thomas@actuary.org. Thank you for your consideration of this matter.

Sincerely,

John H. Moore, FSA, MAAA, EA, FCA
Chair, Pension Committee
American Academy of Actuaries

Cc: Harlan M. Weller – Department of the Treasury
James E. Holland, Jr. – Internal Revenue Service
Elizabeth A. Goodman – Department of Labor
Joseph Canary – Department of Labor
Michael Packard – Pension Benefit Guaranty Corporation