SIMPLIFIED SMALL RETIREMENT PLAN

The SPARK Institute, Inc.

Shaping America's Retirement

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About The SPARK Institute

The SPARK Institute represents the interests of a broad-based cross section of retirement plan service providers and investment managers, including banks, mutual fund companies, insurance companies, third party administrators, trade clearing firms and benefits consultants. Members include most of the largest firms that provide record keeping services to employer-sponsored retirement plans, ranging from one-participant programs to plans that cover tens of thousands of employees. Through the combined expertise of our members, The SPARK Institute provides research, education, testimony and comments on pending legislative and regulatory issues to members of Congress and relevant government agencies. The combined membership services approximately 70 million employer-sponsored plan participants.

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Introduction

The SPARK Institute developed the Simplified Small Retirement Plan ("SSRP" or the "Program")[1] in March 2010, and through this update enhanced it for the purpose of helping create a simplified savings plan program for small employers that have been unwilling to voluntarily adopt one of the currently available employer-sponsored retirement plans. The Program will help solve the retirement plan coverage gap for tens of millions of workers who currently don't have access to employer-sponsored plans.

According to the U.S. Bureau of Labor Statistics, at least 79 percent of private industry workers at employers with at least 100 workers have access to some form of retirement plan.[2] The access rate jumps to 86 percent at employers with at least 500 workers.[3] However, the access rate among employers with 99 or fewer workers is 50 percent.[4] The lower access for workers at small employers is largely due to the legal complexity of retirement plans, potential fiduciary liability faced by employers, and the administrative costs of operating plans under current laws.[5] Other reasons cited by small employers for not offering one of the existing types of savings plans that are available include that required company contributions are too expensive and employer revenues are too uncertain.[6] These reasons are traceable back to surveys conducted from 1998 through 2003.[7] Moreover, plan administration has become even more complex and the financial challenges faced by small employers have increased since then.[8]

The Program is intended to address small employers' concerns by reducing their costs, eliminating administrative complexities and mitigating potential employer fiduciary liability through a plan that service providers will be able to offer and maintain cost effectively. Part I provides a summary of the features and requirements that should be included in the Program. Part II provides additional information regarding each feature and requirement.

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1 This Program was previously known as the Universal Small Plan Employer Retirement Savings Program.

2 "Who Has Benefits in Private Industry in 2012?," Beyond the Numbers: Pay and Benefits, Vol.1, No. 13 (Bureau of Labor Statistics, September 2012).

3 Id.

4 Id.

5 *See* "The Case for Employer-Sponsored Retirement Plans – Coverage, Participation and Retirement Security," The SPARK Institute, pp. 6-9 (May 2009). *See also* "Small Business Retirement Plan Availability and Worker Participation," Kathryn Kobe, Economic Consulting Services, LLC for the Small Business Administration Office of Advocacy, p. 21 (March 2010); and "Who Gets Retirement Plans and Why, 2011," Peter Brady and Michael Bogdan, ICI Research Perspective 18, no. 4 (September 2012) (hereinafter, the "ICI Research Perspective").

6 See the 1998-2003 Small Employer Retirement Surveys ("SERS"), sponsored by the non–partisan Employee Benefit Research Institute ("EBRI"), the American Savings Education Council ("ASEC"), and Mathew Greenwald & Associates (hereinafter, "The SERS Surveys").

7 Id.

8 Other factors that are beyond the scope of this paper affect whether an employer will offer a retirement plan. For example, a small employer may not offer a plan when its employees prefer cash wages to retirement benefits in order to meet more immediate financial needs. *See e.g.*, ICI Research Perspective, pp. 2-3 & 6-8.

I. Summary of SSRP

A. **Employer Eligibility** – An SSRP may be offered by any small employer (i.e., 99 or fewer employees), with at least one non-owner employee.

B. **Automatic Plan Features** – Every SSRP must include automatic enrollment and contribution escalation features with participant opt out. Employers would be permitted to set the initial automatic deferral rate at any amount up to six percent of pay.

C. **Contribution Limits** – SSRPs should be subject to lower contribution limits than 401(k) and "SIMPLE" plans, but have higher limits than IRAs so that workers have reasonable opportunities to save enough for retirement through these plans.

D. **Simplified Plan Documents** – All SSRPs would use the same government-approved prototype plan document. The use of a model plan by all service providers and employers would substantially reduce administrative costs and would relieve employers of the enormous and costly burden of ensuring that their plan documents comply with applicable legal requirements.

E. **Limited Plan Features to Prevent Savings Leakage** – SSRPs would have limited plan features to prevent pre-retirement savings leakage (i.e., no loans and limited hardship withdrawals).

F. **Simplified Administration** – SSRPs would not be subject to existing discrimination testing. The elimination of discrimination testing will substantially reduce the administrative burdens associated with compliance testing. This will encourage greater plan adoption by small employers. The requirements that all employers offer a plan and that such plans include automatic enrollment offset the need for such testing by providing access to a plan for all employees and requiring employees to affirmatively opt out if they choose not to save for retirement.

G. **No Mandatory Employer Contributions** – Employers would not be required to make contributions to the plan. However, voluntary employer matching contributions would be permitted up to 100 percent of the first 6 percent of compensation deferred.

H. **Investment Option Selection and Fiduciary Protections** – SSRP investment options would be required to meet specified minimum requirements for broad-based investment choices. Investment options can either be chosen by the employer, if it prefers to do so and the service provider's arrangement allows for it, or determined by the service provider as part of its product offering. Employers and service providers would be protected from potential liability for investment losses for investments that satisfy safe harbor criteria specified under the Qualified Default Investment Alternative ("QDIA") rules for auto-enrollees or as participant-directed investments meeting the rules and conditions specified under ERISA Section 404(c).

I. **Disclosure** – Service providers would be required to fully disclose all plan fees and expenses to the employer in accordance with the Department of Labor's ("DOL's") 408(b)(2) regulations. Additionally, participants would be furnished with the required disclosures under the DOL's 404a-5 regulations.

J. **Multiple Employer Record Keeping Aggregation** – Under the SSRP, record keepers would be able to aggregate assets across plans and employers in order to help reduce administrative costs and leverage potential investment option economies of scale among many participating small employers. Individual plan and participant assets can be separately accounted for and identified.

K. **Consolidated 5500 Reporting** – Service providers would be permitted to submit consolidated annual Form 5500 reporting at the service provider level for the plans they service. The consolidated 5500 filing would include basic identification information for each individual employer and plan included in the report to enable the DOL and others to track them and collect data in the same manner it does today with individual filings.

L. **Electronic Communications** – In order to help drive better outcomes and reduce administrative costs, participant communications, whether required or voluntary, should be defaulted to electronic delivery. Participants would always have the option to receive any and all information via hard copy at no charge. Participants would also have access to the internet to allow them to retrieve information.

II. Detailed Discussion of Program Features and Requirements

The following sections provide more information about each feature and requirement, including the reasoning and justification for each, and identify legal and regulatory changes that may be needed to create the Program.

A. **Employer Eligibility** – An SSRP may be offered by any small employer (i.e., 99 or fewer employees), with at least one non-owner employee.

The primary objective of the SSRP is to provide small employers with a robust, simple, and cost effective employer-based retirement savings plan alternative to the plans that are currently available. The SSRP is designed to address many of the issues and concerns that have prevented employers from otherwise voluntarily adopting the options that are already available. The greater appeal of the SSRP concept should facilitate policy makers' goals of increasing coverage and access to employer-sponsored retirement plans for more workers. This SSRP would have to be created through Congressional action and, as discussed more fully below, certain aspects of the concept will require changes to certain existing laws and regulations.

The SSRP is designed to address many of the issues and concerns that have prevented employers from otherwise voluntarily adopting the options that are already available.

B. **Automatic Plan Features** – Every SSRP must include automatic enrollment and contribution escalation features with participant opt out.

Among the issues and concerns that the SSRP addresses are lower participation and contribution rates in small employer plans. The success of automatic enrollment and escalation features is well established and documented. According to a recent study, 59 percent of Americans say that employers should automatically enroll employees in a 401(k) plan and 60 percent say the plans should automatically increase their contribution rates every year.[9]

[9] 2012 Wells Fargo Retirement Survey.

The SSRP leverages automatic plan features. Employers should be required to include these features in order to help maximize the potential participation and savings rates by their employees, and as a condition to certain favorable features and treatment of the Program. Participants would be permitted to opt out of the plan and the automatic escalation features the same as in any 401(k) plan. The legislation that creates this concept should require the inclusion of the automatic enrollment and escalation features.

C. Contribution Limits – SSRPs should be subject to lower contribution limits than 401(k) and SIMPLE plans, but have higher limits than IRAs so that workers have reasonable opportunities to save enough for retirement through these plans. The contribution limits should also be adjusted for inflation over time.

The Program includes adequate requirements and conditions to ensure that these plans are available to all employees of small employers and that all participants have the opportunity to save the maximum that they are willing and able to save. Other types of arrangements that have lower contribution limits will not allow most employees to save enough for retirement and are less attractive to the owners and decision makers who may otherwise be willing to offer a retirement plan. This approach will encourage the formation of new plans by small employers while preserving, and not detracting from, existing 401(k) and SIMPLE plans.

D. Simplified Plan Documents – All SSRPs would use the same government-approved prototype plan document. The use of a model plan by all service providers and employers would substantially reduce administrative costs and would relieve employers of the enormous and costly burden of ensuring that their plan documents comply with applicable legal requirements. The allowable plan features and plan limitations are summarized in Table 1. In order to implement the Program, a plan document would have to be developed and approved for use.

Removing the application of the nondiscrimination rules to employers eligible to use the SSRP would remove a major impediment to plan adoption and prevent plan terminations when employers are otherwise unable to contribute to their own plans.

E. Limited Plan Features to Prevent Savings Leakage – SSRPs would have limited plan features to prevent pre-retirement savings leakage.

SSRPs would not permit participant loans and would only permit hardship distributions that meet the safe harbor conditions that apply to regular 401(k) plans. Participants who take a hardship withdrawal would not have contributions to the plan suspended. Pre-retirement distributions adversely affect workers' ability to reach their long term retirement savings goals and achieve financial security. The SSRP would limit these options so that participants are less likely to use their retirement savings for other reasons. These limitations are summarized in Table 1.

Table 1

ADOPTION AGREEMENT PROVISION	SSRP ELECTION
TYPE OF ENTITY	Any employer eligible to establish a 401(k) plan with 99 or fewer employees with at least one non-owner employee
PLAN YEAR	Calendar year
VALUATION DATE	Daily
TRUSTEE(S) OR INSURER(S)	Self-trusteed/employer or service provider
PLAN ADMINISTRATOR	Employer
CONTRIBUTION TYPES	Allowed: Elective Deferrals (Pre-tax only), Catch-Up Contributions, Limited Employer Matching Contributions, and Rollover Contributions. Not allowed: Roth, After-tax and Profit Sharing Contributions
ELIGIBLE EMPLOYEES	No exclusions
CONDITIONS OF ELIGIBILITY	Immediate or one year of service
EFFECTIVE DATE OF PARTICIPATION (ENTRY DATE)	Immediate or monthly
SERVICE CREDITING METHOD	Hours worked
VESTING	If employer match is allowed, no vesting would apply – would be 100% vested
NORMAL RETIREMENT AGE	65
EARLY RETIREMENT DATE	None
COMPENSATION	Wages, tips and other compensation on Form W-2 for the plan year
SALARY REDUCTION ARRANGEMENT- ELECTIVE DEFERRALS	Up to the maximum amount allowed by law
Deferral Modifications	Can modify as of each payroll
Automatic Deferral Provisions	Required
Initial Automatic Deferral Percentage	Any amount up to 6%
Escalation of Deferral Amount	2% - up to a maximum of 15%
EMPLOYER MATCHING CONTRIBUTIONS	Voluntary, however, limited to 100% of the first 6% of compensation deferred
Allocation Conditions	None
EMPLOYER PROFIT SHARING CONTRIBUTIONS	None
FORFEITURES	N/A – No money subject to vesting
FORM OF DISTRIBUTIONS	Service providers' option[10]
CONDITIONS FOR DISTRIBUTIONS UPON TERMINATION OF EMPLOYMENT	Distributions may be made as soon as administratively feasible following termination of employment
Participant Consent	For distributions over $1,000; provider option regarding distributions for the $1,000 to $5,000 range
HARDSHIP DISTRIBUTIONS	Allowed; the minimum amount of a distribution is $1,000; safe harbor conditions only; no requirement to suspend contributions for 6 months
IN-SERVICE DISTRIBUTIONS	Not allowed
LOANS TO PARTICIPANTS	Not allowed
ROLLOVERS ACCEPTED	Accepted from other qualified plans, 403(b) plans, 457(b) governmental plans, SEP IRAs, SIMPLE IRAs, and IRAs

[10] While it is beyond the scope of our proposal to address specific plan distribution options, The SPARK Institute believes that statutory and regulatory enhancements may be appropriate to improve the quality of education participants receive upon becoming eligible for a distribution, to deter pre-retirement cash outs, and to make products and services available which would reduce the risk that participants may outlive their retirement assets.

F. **Simplified Administration** – SSRPs would not be subject to existing discrimination testing. The elimination of discrimination testing will substantially reduce the administrative burdens associated with compliance testing. This will encourage greater plan adoption by employers and help avoid potential plan terminations by those who are unable to make meaningful contributions due to testing failures. The requirement that SSRP plans include automatic enrollment offsets the need for such testing by providing access to a plan and requiring employees to affirmatively opt out if they choose not to save.

Nondiscrimination rules that apply to 401(k) plans are designed to ensure that pension benefits associated with plan deferrals and contributions do not disproportionately accrue to highly compensated employees. The rules are complex and not only increase administrative and compliance costs associated with offering a plan,[11] but in many situations make it very unattractive for small employers to establish plans. Removing the application of the nondiscrimination rules to employers eligible to use the SSRP would remove a major impediment to plan adoption and prevent plan terminations when employers are otherwise unable to contribute to their own plans.

The SPARK Institute notes that exempting SSRPs from the discrimination testing rules will benefit lower-paid workers overall by substantially increasing coverage without causing any potential harm. Although higher-paid workers, who may be the decision makers or owners of the small employer, would not be subject to the contribution limits of these tests, that does not prevent other employees from contributing the maximum otherwise allowed under the plan. Moreover, the incentive of not having to comply with discrimination testing will expand access to employer-sponsored plans, i.e., the SSRP, by encouraging more small employers to offer them. Additionally, employers will be less likely to terminate a SSRP due to the owners' and higher-paid workers' inability to save, which is more likely to be the case under the current types of plans available to small employers. SSRP allows owners and higher-paid workers to save even if lower-paid workers opt out and elect not to do so. According to the ICI Research Perspective, due to discrimination testing, unless an employer's lower-paid workers contribute to the plan, the firm's higher-paid workers' contributions are severely limited resulting in limited benefits to anyone.[12] Small employers that have limited resources for payroll and benefits are less likely to offer a plan with potentially significant administrative costs if the plan is neither likely to be used by lower-paid workers nor enables higher-paid workers an opportunity to save in a meaningful way.[13] Some opposed to this feature of the Program may believe that the discrimination testing rules provide an economic incentive to employers to increase contributions to low-paid workers for the purpose of enabling high-paid workers to receive a higher proportion of compensation in the form of benefits. However, the data regarding voluntary plan adoption among small employers referenced throughout this paper does not support such arguments. While they may have merit in the context of larger employers,

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[11] Every 401(k) plan other than "SIMPLE" plans, "Safe Harbor" plans or "Qualified Automatic Contribution Arrangements" must comply with a series of complex annual tests to prevent "discrimination" in favor of the group of employees referred to as "highly compensated employees." "SIMPLE", "Safe Harbor" and "Qualified Automatic Contribution Arrangements" each require a participating employer to contribute a specific percentage of compensation or an amount equal to a preset ratio of employee deferrals to the plan.

[12] *See* the ICI Research Perspective at p. 7.

[13] Id.

they seem to provide little incentive for small employers at best and, perhaps, hinder plan adoption at worst.

G. No Mandatory Employer Contributions – Employers would not be required to make contributions to the plan. However, limited voluntary employer contributions would be permitted.

As is the case for 401(k) plans generally, the SSRP would not mandate that employers contribute to the plan. However, the existing Tax Saver's Credit provides a government incentive for lower-income workers to save for retirement through their employer-sponsored plan, even if the employer is not able to commit to, or cannot afford to, provide the incentive.

Employers would be permitted to make limited voluntary contributions to the plan. As noted in Table 1, voluntary matching contributions would be permitted up to 100 percent of the first 6 percent of compensation deferred. Voluntary matching contributions that meet these requirements would not be subject to the discrimination testing rules, as noted under Section F.

Despite efforts by policy makers over the years to establish plans, like the SIMPLE, which were designed to lessen the compliance burden associated with plan sponsorship,[14] according to data from the Bureau of Labor Statistics' Employee Benefits Survey, only 50 percent of employers with a workforce of 99 or fewer employees offer some form of workplace retirement plan. Many studies and surveys of small employers (companies with up to 100 full-time workers) have sought to better understand the challenges presented by small employers which serve as impediments to the establishment of a retirement plan for their employees. While, as discussed elsewhere in this paper, administrative costs and burdens associated with establishing and running a plan play an important role, one study suggests that perhaps a more important explanation for the lack of plan sponsorship is the financial reality of running a small business.[15] In this respect, The SERS Surveys note that for many small businesses revenue streams are uncertain and their employees tend to be lower paid with a preference for cash and non-retirement benefits. When viewed from this perspective, it is understandable why the imposition of a contribution obligation would serve as a strong disincentive to many small employers who might otherwise be inclined to establish a retirement plan for their employees.

Employers would not be required to make contributions to the plan. However, limited voluntary employer contributions would be permitted.

H. Investment Option Selection and Fiduciary Protections – SSRP investment options would be required to meet specified minimum requirements for broad-based investment choices. Investment options can be chosen by either the employer, if it prefers to do

[14] SIMPLE plans were introduced in 1997 as a way to allow small employers to offer a retirement plan to their employees, without requiring compliance with a lot of complicated rules. For example, under a SIMPLE plan, each employee can defer a total of $11,500 in compensation, or $14,000 if they are fifty or older, but the employer must contribute a 3% match for employees who participate. There are no minimum participation rules and all employer contributions vest immediately.

[15] *See* the SERS Surveys and text accompanying fn. 6.

so and the service provider's arrangement allows, or determined by the service provider as part of its product offering. Employers and service providers would be protected from potential liability for investment losses for investments that satisfy safe harbor criteria specified under the QDIA rules for auto-enrollees or as participant directed investments meeting the rules and conditions specified under ERISA Section 404(c).

Under the Program, a service provider could select and limit the investments that are offered as investment options to the plans and participants as part of its product structure, or permit the employer to select the investment options from a group of available options. Where the service provider "selects" the investment options as part of its product structure, the investment options would have to meet standards established by the DOL, including the use of a QDIA for new enrollees and all other situations where a participant does not give investment directions. Additionally, the provider's product would be required to include a broad range of additional investment choices that meet the conditions to qualify for protection under Section 404(c) of ERISA. Under this structure, the employer's fiduciary responsibility would be limited to prudently selecting and monitoring the service provider. The plan provider's activities would be deemed only as the offering of a product (which could include proprietary funds). A provider's "product offering" should not cause the provider to take on fiduciary responsibility for choosing the investment options used by plans that select the provider's product.

Where the employer, rather than the service provider, selects the investment options, the customary fiduciary requirements would apply to the employer. Employers acting accordingly should be able to rely on the QDIA, 404(c) and other safe harbors and exemptions that are available to employers under existing arrangements.

In order to facilitate this aspect of the Program, any enabling legislation should direct the DOL to issue guidance limiting the scope of an employer's fiduciary responsibilities to selecting and monitoring the service provider when the employer does not pick the investment options. The DOL should be further directed to issue guidance that clarifies the responsibilities of service providers that select the investment options as part of their product structures and extends the QDIA and 404(c) safe harbor to the extent necessary in order to limit service providers' potential fiduciary liability.

I. **Disclosure** – Service providers would be required to fully disclose all plan fees and expenses to the employer in accordance with the DOL's 408(b)(2) regulations. This will help employers make informed decisions when selecting a service provider and will mitigate potential concerns where the employer prefers not to select the plan's investment options, as would be permitted under the Program. Employers will be furnished with the information they need to evaluate the reasonableness of a service provider's compensation and potential conflicts of interest that may affect the quality of the services. Additionally, participants would be furnished with the disclosures required under the DOL's 404a-5 regulations.

J. **Multiple Employer Record Keeping Aggregation** – Under the SSRP, record keepers would be able to aggregate assets across plans and employers in order to help reduce administrative costs and leverage potential investment-option economies of scale among many participating small employers, provided that individual plan and participant assets can be separately accounted for and identified.

In a recent study conducted by Deloitte Consulting, plan size as measured by the number of participants was identified as one of the primary drivers of the overall level of plan fees. The study found that plans with fewer than 100 participants paid higher fees as a percentage of assets than larger plans (See Table 2).[16]

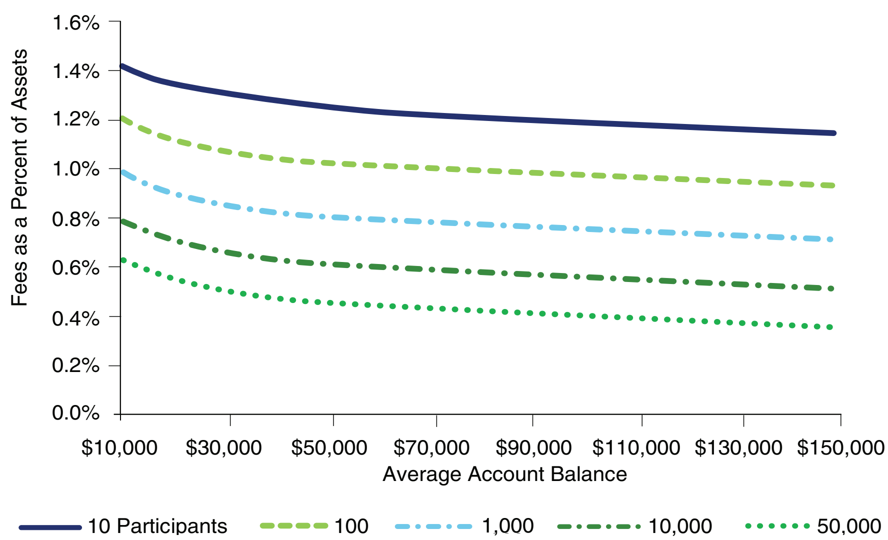
Record keepers should be permitted to leverage the scale that can be created with large numbers of small plans by maintaining SSRPs of unaffiliated small employers on their record keeping systems as a single plan. This would reduce the costs associated with implementing and maintaining large numbers of smaller new plans. The assets of the plans would remain segregated and held in trust for each plan and participant, and plan level reporting and benefit statements would be unaffected.

Another possible advantage of this approach is that smaller plans that are record kept as a single plan may be able to use certain investment options or lower cost investment options that may not otherwise be available to each plan on an individual basis.

K. Consolidated 5500 Reporting – Service providers would be permitted to submit consolidated annual Form 5500 reporting at the service provider level for

Table 2

Predicted Fees as a Percent of Assets by Account Size and Number of Plan Participants (All Other Explanatory Variables = Unweighted Means)



Source: Deloitte/ICI: Inside the Structure of Defined Contribution/401(k) Plan Fees: A Study Assessing the Mechanics of What Drives the "All-In" Fee, copyright 2011, Deloitte Consulting LLP.

[16] "Inside the Structure of Defined Contribution / 401(k) Plan Fees: A Study Assessing the Mechanics of What Drives the 'All-In' Fee," conducted by Deloitte Consulting LLP for the Investment Company Institute (Nov. 2011).

the plans they service. However, the consolidated 5500 filing would include basic identification information for each individual employer and plan in the report to enable the DOL and others to track them and collect data in the same manner it does today with individual filings.

The Form 5500 Annual Return/Report is the principal source of data available to the DOL, IRS and PBGC concerning the operations, funding and investments of employee benefit plans and forms an integral part of each agency's enforcement, research and policy formulation programs. It is a source of information for Congress and the private sector in assessing employee benefit, tax, and economic trends and policies. These uses must be balanced, particularly in light of the PPA guidance regarding small employers, between ensuring adequate reporting and disclosure on the one hand, and the administrative costs and burdens attendant to maintaining a plan on the other hand.[16]

Consolidated 5500 reporting would help reduce administrative costs for employers. In addition, under the electronic filing rules that require plan sponsors to obtain signing credentials and file their reports, the ability to have a SSRP service provider file a consolidated 5500 for a plan sponsor will reduce the amount of time and some of the fear associated with government reporting.

Consolidated reporting would also be appropriate for SSRP plans because the Program requirement, by definition, reduces the need for more complex informational reporting. These plans must use the same pre-approved prototype document, with limited availability for distributions and no loans. Additionally, these plans would not permit investments in products other than "eligible assets" as described in the instructions to Form 5500-SF.

General Description of the Consolidated Reporting Approach – All SSRPs would be eligible to report on the Form 5500-SF. That form includes general plan data (e.g., identification information, number of participants, etc.), financial data (e.g., income, fees, benefits paid, etc.), compliance information (e.g., late deposits, fidelity bond coverage, loans, blackouts, etc.), and information concerning plan termination. Generally, no additional schedules or attachments would be required.

The consolidated reporting approach will balance the need for individual plan information against the cost and complexity of requiring individual filings by using the following general approach and guidelines:

1. The consolidated filing will include basic identification information for each individual employer and plan. This will include information similar to what is currently requested in Part II, questions 1-5 of the current 5500-SF, including the plan name, employer EIN, and number of participants at the beginning and end of the year. Each plan will be assigned a status code indicating whether, during the reporting year, the plan: was included in that service provider's filing for the first time; was transferred to a new service provider; was terminated; or has not changed its status from the previously reported

[16] *See* 72 Fed. Reg. 64,731 – 64,732 (2007).

In order to help drive better outcomes and reduce administrative costs, electronic delivery should be permitted to be the default delivery method for all participant communications.

year. This will enable the DOL to track plans and collect data in the same manner it does today with individual filings.

2. Each individual employer and plan will be required to certify answers to the service provider on compliance questions similar to Part V of the 5500-SF, as adapted for this Program. In the event any question is answered in a way indicating a potential compliance issue, the plan(s) and associated issue(s) will be separately identified on a schedule attached to the consolidated report, or the plan will be required to file its own 5500.

3. Financial information similar to what is required in Part III, Questions 7 & 8 of the 5500-SF will be reported on an individual plan basis. This will include the plan's beginning and ending asset balance, contributions received and distributions paid, earnings from plan investments, and direct expenses paid from plan assets.

   In order to facilitate this aspect of the Program, changes to ERISA Section 104(a) and related regulations would be required. In addition, a new 5500 form would have to be created and the DOL would have to issue guidance with respect to the consolidated reporting.

L. **Electronic Communications** – In order to help drive better outcomes and reduce administrative costs, electronic delivery should be permitted to be the default delivery method for all participant communications. Participants would always have the option to request, via telephone, and receive hard copies of any and all information at no charge to them. Additionally, participants that do not have an email address would automatically receive hard copies. Participants would also have internet access to view, print and request the communications.

   Electronic delivery of communications will also allow for more personalized and timely communications. Electronic communications, via email and the internet, can be customized to each individual based on the participant's needs, interests and demographics. Studies show that workers are more likely to act on their investments if they receive information electronically.

Conclusion

The SPARK Institute believes that this Program can provide a cost-effective way for more employees to be able to save through workplace savings plans and to leverage the current 401(k) system infrastructure and experience. We note, however, that we oppose any mandatory employee savings program that requires the government to be the guarantor of a minimum rate of return and that limits the investment options available to employees.

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