

Identifying Retirement Plan Opportunities Using Form 5500 Data

Rose Panico-Marino, Managing Director

Verisight Webcast Series

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Objectives

- Locate resources that give you access to retirement plan data from Form 5500 returns
- Use data from Form 5500 to identify opportunities related to:
 - Plan type
 - Plan features
 - Compliance issues

Resources for prospect lists based on Form 5500 data

- Start with your own company or a 401(k) vendor that you like to work with. They may be able to provide you lists of existing plans that meet your targeted criteria, based on
 - Location *[by state or zip code]*
 - Type of plan *[401(k), defined benefit, etc.]*
 - Number of plan participants
 - Amount of plan assets

Resources for prospect lists based on Form 5500 data

Develop your own plan prospect lists using online tools from websites such as:

- www.FreeERISA.com
- www.larkspurdata.com
- www.efast.dol.gov
- Access to Infinata search tool through our partnership with TD Ameritrade (contact your Verisight representative for more information)

Opportunities Based on Plan Type

Identifying Type of Plan

- See plan characteristic codes listed in item 8a on Form 5500 or item 9a on Form 5500-SF
- Defined benefit plans use one or more codes 1A through 1I
- Defined contribution plans use one or more of codes 2A through 2T
 - 2B Target benefit plan
 - 2C Money purchase pension plan
 - 2E Profit sharing plan
 - 2J 401(k) plan
 - 2L or 2M 403(b) plan

Identify Opportunities Based on Plan Type

Defined benefit plans

- Codes 1A and 1B – traditional DB plan with benefit expressed as an annuity payable at retirement age based on pay and/or service
- Code 1C – cash balance DB plan designed to look like a defined contribution plan; benefits expressed as the accumulated account balance from a specified % of pay annual contribution plus a specified annual rate of return

Opportunity

- See if sponsor of a traditional DB plan has considered converting to a cash balance plan that is more easily understood and appreciated by employees.

Opportunities Based on Plan Type

Defined benefit plans

- Code 11 – Frozen Plan *[Plan does not have sufficient assets to be terminated but benefit accruals have ceased]*

Opportunities

- See if plan sponsor has an appropriate investment strategy to meet the short term objective of terminating the plan rather than still using the long term investment strategy of an on-going plan.
- Sponsors of frozen DB plans often adopt a defined contribution to replace the DB plan. See if the employer has optimized the design of the replacement DC plan to reduce the impact of the benefit change on owners, key executives, long-term employees near retirement age, or other targeted groups.

Opportunities Based on Plan Type

Defined contribution plans

- Code 2B – Target Benefit Pension Plan

Opportunities

- See if plan sponsor is aware of the advantages of a class-based or new comparability plan compared to the rarely used target benefit plan design.
 - Greater flexibility in setting contribution levels based on employee category rather than age only
 - Easier for employees to understand than a target benefit plan
 - Employer contributions can be discretionary and flexible from year to year rather than fixed and mandatory as in a target benefit plan
 - Can include a 401(k) salary deferral option, which is not available in a target benefit plan

Opportunities Based on Plan Type

Defined contribution plans

- Code 2C – Money Purchase Pension Plan

Opportunities

- Discuss the advantages of converting a MPPP to a profit sharing plan
 - Replaces a fixed and mandatory annual contribution with a flexible and discretionary annual contribution
 - Allows the inclusion of 401(k) provisions, which can reduce the amount of employer-funded contribution needed to maximize contributions for owners or key executives

Opportunities Based on Plan Type

Defined contribution plans

- Code 2C – Money Purchase Pension Plan

Opportunities

- If Code 2A is not also shown, the plan has a uniform contribution rate for all participants or minimal differences in contribution rates based on Social Security integration.
- Discuss the advantages of a class-based or new comparability formula to maximize contribution rates for owners/key executives and control contribution costs for other participants.
- Class-based contribution rates are usually very effective and appealing to professionals (*law firms, medical practices, architectural and engineering firms, accounting firms, etc.*) and closely-held small businesses.

Opportunities Based on Plan Type

Defined contribution plans

- Code 2E – Profit Sharing Plan

Opportunities

- If code 2J is not also listed, this plan does not include 401(k) salary deferrals and is funded only with employer contributions.
- Discuss the value of adding 401(k) features to increase benefits for owners/key executives and to add a desirable benefit for staff.

Opportunities Based on Plan Type

Defined contribution plans

- Code 2E – Profit Sharing Plan

Opportunities

- If code 2A is not also shown, the plan uses a traditional method to allocate the profit sharing contribution (*pro-rata or integrated with Social Security*).
- Discuss the advantages of using a class-based or new comparability allocation method to maximize benefits for owners/key executives and control costs for contributions to staff
- Class-based allocation method is usually very effective and appealing to professionals (*law firms, medical practices, architectural and engineering firms, accounting firms, etc.*) and closely-held small businesses.

Opportunities Based on Plan Type

Defined contribution plans

- Code 2J – employee 401(k) salary deferrals
Code 2K – employer matching contributions

Opportunities

- Plan sponsor may not be getting sufficient employee deferral participation to allow highly compensated employees (HCEs) to maximize their deferrals.
- Demonstrate your knowledge of methods to increase deferral participation rates
 - Improving investment options and employee education
 - Adding an affordable matching contribution (*if there is no match now*)
 - Using automatic enrollment (*Code 2S means auto enrollment is in use*)
 - Adding a safe harbor employer contribution (*match or non-match*)

Opportunities Based on Plan Features

Opportunities Based on Plan Features

Plan Investment Features (defined contribution plans only)

- Code 2G – participants self-direct investment of their entire account
- Code 2H – participants self-direct only a portion of their account

Opportunities

- Discuss services you provide to select and monitor the menu of investment options offered to participants
- Discuss services you provide for trustee-directed accounts
- Ask if plan sponsor uses an Investment Policy Statement
- Discuss the value of your employee education services
- If neither 2G or 2H are listed, ask if the plan sponsor is aware of the potential reduction in its fiduciary liability if participant-directed investments are allowed.

Opportunities Based on Plan Features

Plan Investment Features (defined contribution plans only)

- Code 2F – All or part of the plan is intended to comply with the conditions of ERISA Sec. 404(c)

Opportunities

- See if plan sponsor fully understands all conditions imposed by 404(c) in order for the reduction in fiduciary liability to apply
- See if plan sponsor understands that their fiduciary liability can be limited but can never be eliminated
- Ask if they are using an Investment Policy Statement as the basis for selecting and monitoring plan investment options offered to participants
- Ask how they are meeting the employee education requirements of 404(c)

Opportunities Based on Plan Features

Plan Investment Features (defined contribution plans only)

- Code 2T – Plan uses default investment for participants who fail to direct the investment of their account

Opportunities

- If codes 2F, 2G, and/or 2H are shown but 2T is not listed, ask how the employer deals with participants who do not take actions necessary to indicate their desired investment options
- If code 2T is listed, ask if the default investment being used meets the definition of a Qualified Default Investment Arrangement (QDIA) and thus gives the plan sponsor protection from fiduciary liability for putting the employee's contributions into that investment.

Opportunities Based on Plan Features

Automatic Enrollment – Employee Salary Plans

- Code 2S – Plan uses automatic enrollment for employees who do not make an affirmative election to make salary deferral contributions

Opportunities

- If 2S is not shown for a 401(k) plan [Code 2J], discuss the use of auto enrollment with plan sponsors who face challenges in getting sufficient levels of deferral participation to pass ADP test.

Opportunities Based on Plan Features

Automatic Enrollment – Employee Salary Plans

- Code 2S – Plan uses automatic enrollment for employees who do not make an affirmative election to make salary deferral contributions

Opportunities

- If auto enrollment is being used (or recommended), discuss how to apply auto enrollment strategically to minimize the number of small accounts. Example:
 - If employer has high turnover in first year of employment, apply auto enrollment only after an employee has completed a year of service
 - If eligibility waiting period for deferrals is shorter than waiting period for the match, do not apply auto enrollment until an employee has completed the eligibility requirements for the match.

Opportunities Based on Compliance Issues

Opportunities Based on Compliance Issues

Corrective Distributions

Form 5500 Schedule H, Part II, 2f (*large plans*)

Form 5500 Schedule I, Part I, 2f (*small plans filing long form*)

Form 5500-SF, Part III, 8e (*small plans filing short form*)

Amounts listed in these boxes usually indicate that the plan failed non-discrimination testing on salary deferrals and/or matching contributions.

Opportunity

- Discuss methods plan sponsor can use to avoid failing these tests
 - Stronger employee education program
 - Improvements in the employees' investment options
 - Making plan design changes (see earlier 401(k) slides)

Opportunities Based on Compliance Issues

Fidelity Bond

Form 5500, Schedule H, Part IV, 4e

Form 5500, Schedule I, Part II, 4e

Form 5500-SF, Part V, 10c

ERISA requires the plan sponsor to maintain a fidelity bond to protect the plan against theft of assets. *The face amount of the bond must be at least 10% of the value of plan assets (\$1,000 minimum coverage \$500,000 max in most cases.) The bond must cover everyone who handles plan assets.*

Opportunity

- If no fidelity bond is shown on Form 5500, contact the plan sponsor to discuss their failure to meet this requirement and offer to introduce them to a pro-active TPA or bundled service provider that makes sure the sponsor is aware of all compliance requirements.

Opportunities Based on Compliance Issues

Late Deposit of Participant Contributions

Form 5500, Schedule H, Part IV, 4a

Form 5500, Schedule I, Part II, 4a

Form 5500-SF, Part V, 10a

DOL regulations require deposit of employee deferrals within a few days of the date they were withheld from pay. Late deposits are subject to penalties and must be reported on the 5500.

Opportunity

- If you see late deposit amounts, contact the plan sponsor to discuss the DOL requirements on the timing of these deposits and offer to introduce them to a pro-active TPA or bundled service provider that makes sure the sponsor is aware of all compliance requirements.

QUESTIONS?

For more information or questions, please contact:

Sales@verisightgroup.com

855-751-2127