

Employee Benefit Audits: Outlook 2022

Presenters: Bill Enck | David Stone

Agenda

- ▲ **1** Who we are
- ▲ **2** SAS No. 136 – What you need to know to be successful
- ▲ **3** DOL Hot Topic – Cybersecurity
- ▲ **4** Long-term part-time employee rules
- ▲ **5** Proposed changes to retirement plan rules



Learning objectives



- ▲ As a result of this training, attendees will understand recent changes to auditing standards and how they will impact their plans as well as trends/changes in how plans are administered.

About BerryDunn



Founded in **1974**



Sarah Belliveau,
CPA managing
principal and CEO



55 Principals



750+ Employees

Office locations



Portland
ME



Bangor
ME



Manchester
NH



Boston
MA



Hartford
CT



New Haven
CT



Charleston
WV



Phoenix
AZ

Services Comply with Limitations
and Regulations of the AICPA and
Public Company Accounting
Oversight Board (PCAOB)

BDO **Independent Member**
firm of the BDO Alliance

Top
100

“Top 100” ranking from
INSIDE Public Accounting
and *Accounting Today*
since 2011

7th

7th fastest-growing
CPA firm and management
consultancy in the nation



BerryDunn's Employee Benefit Plan Practice



Voluntary, active member of the AICPA's Employee Benefit Plan Audit Quality Center (EBPAQC)



Our team consists of approximately **50** industry specialists



Currently audit over **225** employee benefit plans, including 401(k), 403(b), profit sharing, defined benefit, welfare benefit, and employee stock ownership plans



Prepare more than **100** Form 5500s



Statement on Auditing Standards (SAS) No. 136

What You Need to Know to be Successful

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To enhance the communicative value and transparency of the auditor’s report for ERISA plan financial statements, and to include performance requirements specific to auditing ERISA plans.

Journal of Accountancy

The Why

Excerpt from Previous Auditor's Report

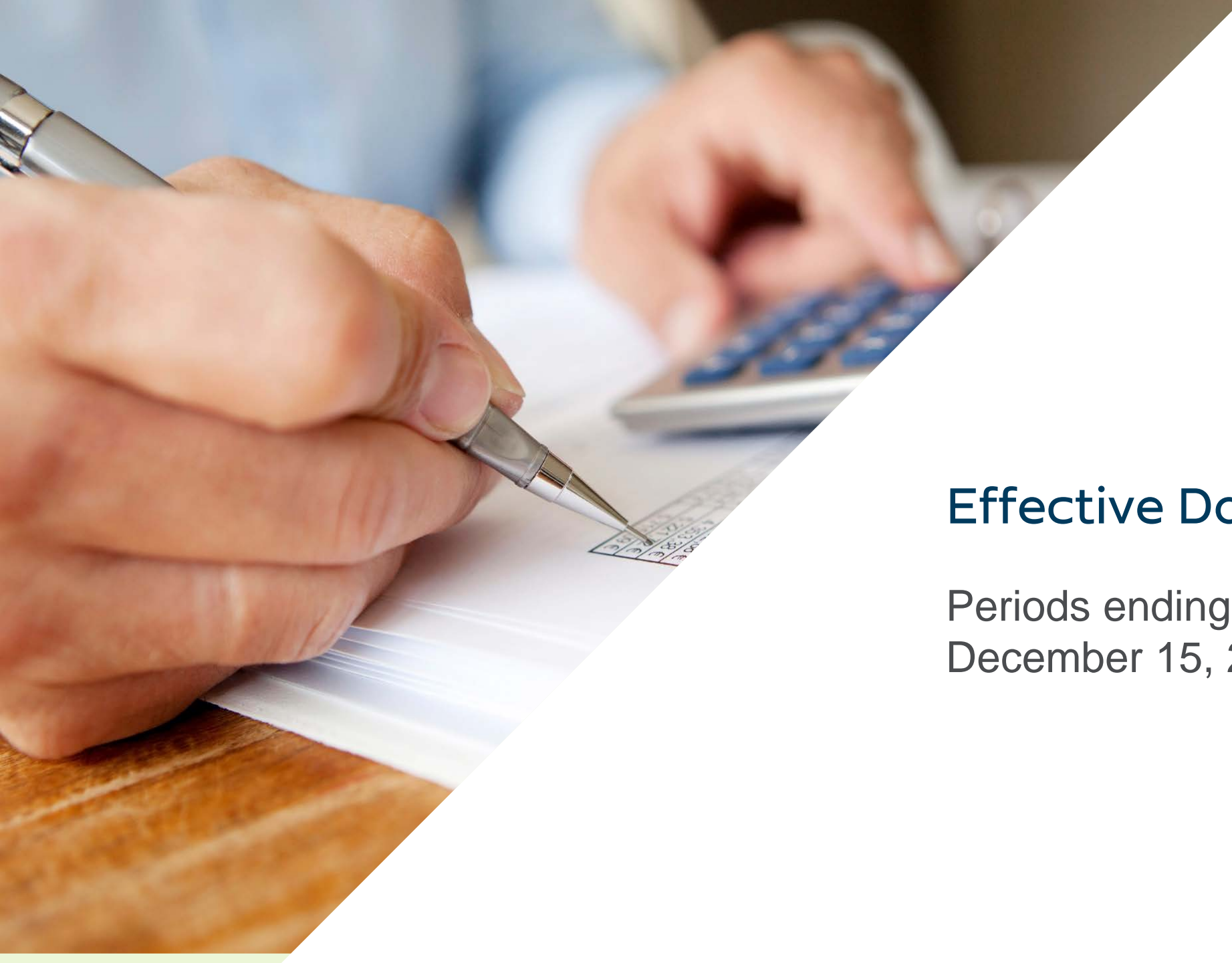
Basis for Disclaimer of Opinion

As permitted by 29 CFR 2520.103-8 of the Department of Labor's Rules and Regulations for Reporting and Disclosure under the Employee Retirement Income Security Act of 1974, the plan administrator instructed us not to perform, and we did not perform, any auditing procedures with respect to the information summarized in Note X, which was certified by Trustee Name, the trustee of the Plan, except for comparing the information with the related information included in the financial statements. We have been informed by the plan administrator that the trustee holds the Plan's investment assets and executes investment transactions. The plan administrator has obtained certifications from the trustee as of December 31, 2020 and 2019 and for the year ended December 31, 2020, that the information provided to the plan administrator by the trustee is complete and accurate.

Disclaimer of Opinion

Because of the significance of the matter described in the Basis for Disclaimer of Opinion paragraph, we have not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion. Accordingly, we do not express an opinion on these financial statements.





Effective Date

Periods ending on or after
December 15, 2021

What is Changing?



Establishes a new form of report




“Limited-Scope Audits” now referred to as ERISA section 103(a)(3)(C) audits



Requires communication of reportable findings with those charged with governance

New Form of Report

- 1** Scope and Nature of ERISA Section 103(a)(3)(C) Audit section required to be presented first
 - 2** Opinion and Basis for Opinion sections required to follow the Scope and Nature section
 - 3** Enhanced auditor reporting relating to going concern
 - 4** Expanded description of management's responsibilities
 - 5** Expanded description of the auditor's responsibilities
 - 6** Required other-matter paragraph
- 



Polling question

What isn't a change SAS 136 makes to the auditor's report?

- a) Adds discussion of going concern
- b) Adds discussion of independence and ethical responsibilities
- c) Provides an opinion
- d) Requires auditors to disclose reportable findings



The Why

Excerpt from New Auditor's Report

Opinion

In our opinion, based on our audit and on the procedures performed as described in the Auditor's Responsibilities for the Audit of the Financial Statements section:

- the amounts and disclosures in the financial statements, other than those agreed to or derived from the certified investment information, are presented fairly, in all material respects, in accordance with accounting principles generally accepted in the United States of America.
- the information in the financial statements related to assets held by and certified to by a qualified institution agrees to, or is derived from, in all material respects, the information prepared and certified by an institution that management determined meets the requirements of ERISA Section 103(a)(3)(C).

Basis for Opinion

We conducted our audit in accordance with auditing standards generally accepted in the United States of America (GAAS). Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of ABC 401(k) Plan and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our ERISA Section 103(a)(3)(C) audit opinion.



What is Changing?

Changes to Management Responsibilities

- 1

Maintain current plan instruments, including all amendments
- 2

Administer the Plan in accordance with Plan provisions, and maintain sufficient participant records to determine benefits due
- 3

Agree to provide a substantially complete draft Form 5500 prior to the auditor dating the auditor's report
- 4

Agree that you acknowledge and understand your responsibilities when you elect to have an ERISA Section 103(a)(3)(C) audit
- 5

The auditor will ask management how they determined the entity preparing and certifying the investment information is a qualified institution



Auditor's Report

1

Maintain current plan instruments, including all amendments

2

Administer the Plan in accordance with Plan provisions, and maintain sufficient participant records to determine benefits due

5

The auditor will ask management how they determined the entity preparing and certifying the investment information is a qualified institution

2

Responsibilities of Management for the Financial Statements (excerpt)

Management is also responsible for maintaining a current plan instrument, including all plan amendments, administering the plan, and determining that the plan's transactions that are presented and disclosed in the financial statements are in conformity with the plan's provisions, including maintaining sufficient records with respect to each of the participants, to determine the benefits due or which may become due to such participants.

1

Scope and Nature of the ERISA Section 103(a)(3)(C) Audit (excerpt)

Management, having determined it is permissible in the circumstances, has elected to have the audit of ABC 401(k) Plan's financial statements performed in accordance with ERISA Section 103(a)(3)(C) pursuant to 29 CFR 2520.103-8 of the Department of Labor's Rules and Regulations for Reporting and Disclosure under ERISA. As permitted by ERISA Section 103(a)(3)(C), our audit need not extend to any statements or information related to assets held for investment of the plan (investment information) by a bank or similar institution or insurance carrier that is regulated, supervised, and subject to periodic examination by a state or federal agency, provided that the statements or information regarding assets so held are prepared and certified to by the bank or similar institution or insurance carrier in accordance with 29 CFR 2520.103-5 of the Department of Labor's Rules and Regulations for Reporting and Disclosure under ERISA (qualified institution).

5



Determination of a Qualified Institution

5

The auditor will ask management how they determined the entity preparing and certifying the investment information is a qualified institution

- ▲ **1** **Is the investment information prepared and certified by a qualified institution?**
Bank, insurance company, trust company.
- ▲ **2** **Is the certification signed by an authorized representative?**
May be explicitly stated on the certification.
- ▲ **3** **Did the qualified institution certify both the accuracy and completeness of investment information?**
May be explicitly stated on the certification.
- ▲ **4** **Does the certification or the related reporting package include language that qualifies or calls into question whether the investment information is accurate and complete?**
This may jeopardize the ability to conduct an ERISA Section 103(a)(3)(C) audit.
- ▲ **5** **Are the investments certified by the qualified institution properly valued as of the date of the plan's financial statements?**
Although the certification may indicate the investment information is complete and accurate, this does not necessarily mean the information has been prepared in accordance with the applicable financial reporting framework.

Polling question

Which of the following is not a new management responsibility as a result of SAS No. 136?

- a) Maintain current plan instruments, including all amendments
- b) The preparation and fair presentation of financial statements in accordance with the applicable financial reporting framework
- c) Agree to provide a substantially complete draft Form 5500 prior to the auditor dating the auditor's report
- d) Agree that you acknowledge and understand your responsibilities when you elect to have an ERISA Section 103(a)(3)(C) audit



What is Changing?



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Requires communication of reportable findings with those charged with governance



Reportable Findings

Reportable findings are:

- 1** An identified instance of noncompliance or suspected noncompliance with laws or regulations
- 2** A finding arising from the audit that is, in the auditor's professional judgment, significant and relevant to those charged with governance regarding their responsibility to oversee the financial reporting process
- 3** An indication of deficiencies in internal control identified during the audit that have not been communicated to management by other parties and that, in the auditor's professional judgment, are of sufficient importance to merit management's attention

DOL Hot Topic – Cybersecurity

DOL issued guidance April 14, 2021 to three distinct groups

Plan sponsors and fiduciaries selecting service providers



- Ask about service providers' information security standards
- Contracts should require compliance with cybersecurity standards

Plan fiduciaries and recordkeepers that run the IT systems



- Formal, well-documented cybersecurity program
- Clearly defined and assigned information security roles and responsibilities

Plan participants and beneficiaries



- Cybersecurity awareness training conducted at least annually for all personnel
- Business resiliency program that addresses business continuity, disaster recovery, and incident response



Setting Every Community Up for Retirement Enhancement (SECURE) Act

Allow long-term part-time employees to participate

- ▲ Effective January 1, 2021
- ▲ Old Rule
 - One year of service/1,000 hours for eligibility
- ▲ New Rule: Dual rule
 - Traditional one year of service/1,000 hours
 - Three consecutive years with at least 500 hours per year
- ▲ Impact
 - Better monitoring of eligibility
 - Earliest entry would typically be January 1, 2024
 - Employees eligible under three-year/500 hours rule can be excluded from testing

Securing a Strong Retirement Act of 2022

- ▲ Referred to as SECURE Act 2.0
 - Expands plan coverage and participation
- ▲ Makes further changes to retirement plan requirements
- ▲ Passed the House by a 414 – 5 vote
- ▲ Senate expected to act on the bill later this year



Securing a Strong Retirement Act of 2022

Changes to long-term part-time employee participation



Current rule

Three years/500 hours



Proposed rule

- Two years/500 hours
- Disregards pre-2021 service for vesting

Polling question

What is the current age for a required minimum distribution?

- a) 70
- b) 70 ½
- c) 72
- d) 73



Securing a Strong Retirement Act of 2022

Changes to required minimum distributions



Current rule

Age 72



Proposed rule

- Age 73 in 2023
- Age 74 in 2030
- Age 75 in 2033

Securing a Strong Retirement Act of 2022

Changes to Required Minimum Distributions



Current rule

50% excise tax for failure to take RMD



Proposed rule

- Excise tax reduced to 25%
- Further reduced to 10% if RMD is from an IRA and timely corrected

Securing a Strong Retirement Act of 2022

Changes to 401(k) and 403(b) Plans



Current rule

Automatic enrollment is optional



Proposed rule

- Requires automatic enrollment for new plans
- Start between 3%-10% of compensation
- Mandatory increases of 1% until reaching 10%

Securing a Strong Retirement Act of 2022

Changes to 401(k) and 403(b) Plans



Current rule

Age 50 and older
catch-up \$6,500



Proposed rule

- Increases catch-up limit for those aged 62 – 64 to \$10,000
- Contributions would be required to be made on a Roth basis

Securing a Strong Retirement Act of 2022

Other Changes to 401(k) and 403(b) Plans



Current rule

Employer contributions
are pre-tax



Proposed rule

Provide participants the
option of receiving employer
contributions on a Roth basis

Securing a Strong Retirement Act of 2022

Other Changes to 401(k) and 403(b) Plans



Current rule

Employer matching contributions
apply to employee salary
deferrals to plan



Proposed rule

Student loan repayments
to qualify for employer
matching contributions

Securing a Strong Retirement Act of 2022

Changes to cash-out limits



Current rule

Account balance less than \$5,000



Proposed rule

- Account balance less than \$7,000



Securing a Strong Retirement Act of 2022

Other Changes to 401(k) and 403(b) Plans

- ▲ Participants self-certify deemed hardship distribution conditions
- ▲ Self-certify distributions for domestic abuse
- ▲ Limits notices to employees who are eligible but do not participate



Securing a Strong Retirement Act of 2022

Other Changes to 401(k) and 403(b) Plans

- ▲ Retirement Savings Lost and Found
- ▲ National online database
- ▲ Managed by the DOL

Questions?

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