

§ 2520.103-3

29 CFR Ch. XXV (7-1-05 Edition)

accountants might ordinarily employ in the course of an audit made for the purpose of expressing the opinions required by paragraph (b)(5)(iii) of this section is contained in §2520.103-8.

(iii) *Opinion to be expressed.* The accountant's report shall state clearly:

(A) The opinion of the accountant in respect of the financial statements and schedules covered by the report and the accounting principles and practices reflected therein; and

(B) The opinion of the accountant as to the consistency of the application of the accounting principles with the application of such principles in the preceding year, or as to any changes in such principles which have a material effect on the financial statements.

(iv) *Exceptions.* Any matters to which the accountant takes exception shall be clearly identified, the exception thereto specifically and clearly stated, and, to the extent practicable, the effect of the matters to which the accountant takes exception on the related financial statements given. The matters to which the accountant takes exception shall be further identified as to (A) those that are the result of DOL regulations and (B) all others.

(c) *Electronic filing.* The Form 5500 "Annual Return/Report of Employee Benefit Plan" may be filed electronically or through other media in accordance with the instructions accompanying the form, provided the trust or other entity described in §2520.104-43(b) maintains an original copy, with all required signatures, as part of the trust's or entity's records.

[43 FR 10140, Mar. 10, 1978, as amended at 54 FR 8627, Mar. 1, 1989; 65 FR 21080, Apr. 19, 2000]

§ 2520.103-3 Exemption from certain annual reporting requirements for assets held in a common or collective trust.

(a) *General.* Under the authority of sections 103(b)(3)(G), 103(b)(4), 104(a)(2)(B), 104(a)(3), 110 and 505 of the Act, a plan whose assets are held in whole or in part in a common or collective trust maintained by a bank, trust company, or similar institution which meets the requirements of paragraph (b) of this section shall include as part of the annual report required to be

filed under §§2520.104a-5 or 2520.104a-6 the information described in paragraph (c) of this section. Such plan is not required to include in its annual report information concerning the individual transactions of the common or collective trust. This exemption has no application to assets not held in such trusts.

(b) *Application.* This provision applies only to a plan some or all of the assets of which are held in a common or collective trust maintained by a bank, trust company, or similar institution regulated and supervised and subject to periodic examination by a State or Federal agency. For purposes of this section,

(1) A common or collective trust is a trust which consists of the assets of two or more participating entities and is maintained for the collective investment and reinvestment of assets contributed thereto, and

(2) Plans maintained by a single employer or by the members of a controlled group of corporations, as defined in section 1563(a) of the Internal Revenue Code of 1954, shall be deemed to be a single participating entity.

(c) *Contents.* (1) A plan which meets the requirements of paragraph (b) of this section, and which invests in a common or collective trust that files a Form 5500 report in accordance with §2520.103-9, shall include in its annual report: information required by the instructions to Schedule H (Financial Information) or Schedule I (Financial Information—Small Plan) about the current value of and net investment gain or loss relating to the units of participation in the common or collective trust held by the plan; identifying information about the common or collective trust including its name, employer identification number, and any other information required by the instructions to the Schedule D (DFE/Participating Plan Information); and such other information as is required in the separate statements and schedules of the annual report about the value of the plan's units of participation in the common or collective trust and transactions involving the acquisition and disposition by the plan of units of participation in the common or collective trust.

(2) A plan which meets the requirements of paragraph (b) of this section, and which invests in a common or collective trust that does not file a Form 5500 report in accordance with § 2520.103-9, shall include in its annual report: information required by the instructions to Schedule H (Financial Information) or Schedule I (Financial Information—Small Plan) about the current value of the plan's allocable portion of the underlying assets and liabilities of the common or collective trust and the net investment gain or loss relating to the units of participation in the common or collective trust held by the plan; identifying information about the common or collective trust including its name, employer identification number, and any other information required by the instructions to the Schedule D (DFE/Participating Plan Information); and such other information as is required in the separate statements and schedules of the annual report about the value of the plan's units of participation in the common or collective trust and transactions involving the acquisition and disposition by the plan of units of participation in the common or collective trust.

[43 FR 10140, Mar. 10, 1978, as amended at 65 FR 21081, Apr. 19, 2000]

§ 2520.103-4 Exemption from certain annual reporting requirements for assets held in an insurance company pooled separate account.

(a) *General.* Under the authority of sections 103(b)(3)(G), 103(b)(4), 104(a)(2)(B), 104(a)(3), 110 and 505 of the Act, a plan whose assets are held in whole or in part in a pooled separate account of an insurance carrier which meets the requirements of paragraph (b) of this section shall include as part of the annual report required to be filed under § 2520.104a-5 or § 2520.104a-6 the information described in paragraph (c) of this section. Such plan is not required to include in its annual report information concerning the individual transactions of the pooled separate account. This exemption has no application to assets not held in such a pooled separate account.

(b) *Application.* This provision applies only to a plan some or all of the assets of which are held in a pooled separate

account of an insurance carrier regulated and supervised and subject to periodic examination by a State agency. For purposes of this section, (1) a pooled separate account is an account which consists of the assets of two or more participating entities and is maintained for the collective investment and reinvestment of assets contributed thereto, and (2) plans maintained by a single employer or by members of a controlled group of corporations, as defined in section 1563(a) of the Internal Revenue Code of 1954, shall be deemed to be a single participating entity.

(c) *Contents.* (1) A plan which meets the requirements of paragraph (b) of this section, and which invests in a pooled separate account that files a Form 5500 report in accordance with § 2520.103-9, shall include in its annual report: information required by the instructions to Schedule H (Financial Information) or Schedule I (Financial Information—Small Plan) about the current value of, and net investment gain or loss relating to, the units of participation in the pooled separate account held by the plan; identifying information about the pooled separate account including its name, employer identification number, and any other information required by the instructions to the Schedule D (DFE/Participating Plan Information); and such other information as is required in the separate statements and schedules of the annual report about the value of the plan's units of participation in the pooled separate accounts and transactions involving the acquisition and disposition by the plan of units of participation in the pooled separate account.

(2) A plan which meets the requirements of paragraph (b) of this section, and which invests in a pooled separate account that does not file a Form 5500 report in accordance with § 2520.103-9, shall include in its annual report: information required by the instructions to Schedule H (Financial Information) or Schedule I (Financial Information—Small Plan) about the current value of the plan's allocable portion of the underlying assets and liabilities of the pooled separate account and the net investment gain or loss relating to the