

Appendix F - Streamlined VCP Submission Instructions

General Instructions

Appendix F provides a streamlined application process under the Voluntary Correction Program (“VCP”) to assist applicants in correcting specific operational failures. Appendix F contains four parts. A complete VCP submission under Appendix F consists of (1) all four parts of the Appendix F (including Part IV, the “*Enforcement Resolution*”, (2) one or more of the nine applicable schedules to Appendix F setting forth the failures and correction methods that are the subject of the VCP submission, and (3) supplemental information as required by the Appendix. The contents of Appendix F should not be modified. The failure to provide the information required in the format provided in Appendix F may result in a delay in the processing of the submission. However, if additional space is needed to respond to any of the questions or to provide pertinent information, pages may be added, so long as they are properly referenced in the Appendix itself. Also, since the application may form part of a document that is executed by the Internal Revenue Service, the Appendix itself (as distinguished from any cover letter or other supplemental letters that the applicant is not required to but chooses to provide) should not be submitted under the letterhead of the applicant or the applicant’s authorized representative.

You should complete only Parts I through III of Appendix F. The Enforcement Resolution may only be completed by the Service. If the application is acceptable as submitted, the Service may execute the Enforcement Resolution to indicate its approval of the submission. In such a situation, the executed Enforcement Resolution will be made part of the compliance statement issued with respect to the plan.

.Please ensure that the name of the plan, the plan number, and the applicant’s employer identification number (“EIN”) appear at the top left of each page of Appendix F and any attachments thereto.

NOTE : Appendix F should be used only if all the failures and correction methods that comprise the VCP submission are contained in a schedule to Appendix F. The streamlined application procedure in Appendix F should not be used if any of its provisions (including the failure, correction of the failure, or the applicant’s representation) do not apply to the plan or applicant. If the submission contains some failures that can be addressed by using one or more of the schedules in Appendix F, but also contains failures that cannot be addressed under Appendix F, you may submit Appendix D along with the appropriate schedule or schedules from Appendix F. In making such a submission please:

1. Omit the “general” portion of Appendix F (i.e., Parts I through IV)
2. In the narrative required under Parts II (“Applicant’s Description of Failures”) III (“Applicant’s Description of the Proposed Method of Correction”) and IV (“Applicant’s Proposed Revision to Administrative Procedures”) of Appendix D, make reference to the Appendix F schedules that are attached to Appendix D

Appendix C - If you are submitting a streamlined application under VCP using Appendix F in accordance with [section 11.02 of Rev. Proc. 2008-50, 2008-35 I.R.B. 464](#), Appendix C does not need to be completed.

Special Rules for Anonymous Submissions

When preparing Appendix F in conjunction with the Anonymous Submission procedures under [section 10.10 of Rev. Proc. 2008-50](#), please complete all information unless such information would identify the plan or the applicant. Examples of items you should omit are the name of the applicant, the name of the plan, and the applicant’s EIN. You may wish to prepare a complete application including such information, then remove or redact any identifying information before submitting the application to the Service. If the Service and the plan’s authorized representative agree that the failures identified in the submission may be corrected under VCP using the methods described in the submission, the Service will request that you submit non-redacted versions of Appendix F and the applicable schedule(s). If the Service requires modifications to the failures or correction methods, or if there are other problems with the submission, we may ask that you make corrections or changes to the Appendix F and to one or more of the applicable schedules so that we can use the corrected versions to issue a final compliance statement.

When is a Determination Letter Application Required under VCP?

Under certain circumstances, a determination letter application may be required to be submitted to the Service along with a VCP submission.

Nonamender failure - If the VCP submission contains failures relating only to required good faith plan amendments under the Economic Growth and Tax Relief Reconciliation Act of 2001, Pub. L. 107-16 (EGTRRA good faith amendments), (2) interim amendments described in [section 5.01 of Rev. Proc. 2007-44, 2007-28 I.R.B. 54](#), or (3) amendments required to reflect the changed operation of the plan on account of the plan sponsor’s decision to implement optional law changes as described in [section 6.05\(3\) of Rev. Proc. 2008-50](#), and the end of the plan’s applicable remedial amendment cycle under Rev. Proc. 2007-44 has not passed, a determination letter application should not be filed with the VCP submission. A plan’s applicable remedial amendment cycle is the cycle during which falls the amendment’s adoption deadline under § 401(b). For example, in

the case of a Cycle D individually designed plan where the sole qualification failure is the failure to adopt an interim amendment listed in the 2008 Cumulative List of Changes in Plan Qualification set forth in [Notice 2008-108, 2008-50 I.R.B. 1275](#), so long as the VCP request is submitted by January 31, 2010, the end of the applicable cycle with respect to such interim amendment, no determination letter request should be filed along with the VCP submission. However, if such VCP request is submitted after January 31, 2010, a determination letter application would be required to be submitted along with the VCP request. Similarly, if the deadline for adopting an interim amendment falls within the plan's next cycle, so long as the applicant submits its VCP request by January 31, 2015, a determination letter application should not be submitted along with the VCP request. (Note that even if a determination letter application is not required to be submitted with a VCP request, if the plan is on-cycle, the plan sponsor should ensure that a determination letter application is filed with the [Cincinnati Submission Processing Center](#) by the end of the applicable cycle.)

For all nonamender failures other than those described in the preceding paragraph, a determination letter application is required to be submitted along with the VCP request and both items must be mailed to the address in Washington, D.C. (see *Where to Mail Your VCP Submission*, below). This is true whether the plan is on-cycle or off-cycle.

Correction by plan amendment of operational or demographic failures - Under certain circumstances, operational and demographic failures are permitted to be corrected through a retroactive plan amendment that either modifies plan provisions to reflect the way the plan was operated or corrects a nondiscrimination failure (see [Rev. Proc. 2008-50, section 4.05](#)). If the plan is off-cycle when such failure is submitted under VCP, the plan sponsor should not submit a determination letter application with its VCP submission. If the plan amendment is accepted as a proper correction for the failure, the compliance statement under VCP will constitute a determination on the effect of the plan amendment on the qualification of the plan; however, the compliance statement is subject to the condition that the amendment be submitted as part of a separate determination letter application to the [Cincinnati Submission Processing Center](#) during the plan's on-cycle year (or if earlier, in connection with the plan's termination), and that a favorable determination letter be issued with respect to the plan. If the plan is on-cycle when the operational or demographic failure is submitted under VCP, the plan sponsor should generally submit its determination letter application with the VCP submission. However, if the VCP submission is made early in the plan's cycle, and the plan sponsor wishes to submit its determination letter application at the end of the plan's cycle, the plan sponsor may make its VCP submission and request that the Service not require a determination letter application to be processed along with the VCP submission.

Exceptions - Notwithstanding the above, a determination letter application is not required if correction by plan amendment is achieved through the adoption of an amendment that is designated as a model amendment by the Service or through the adoption of a prototype or volume submitter plan with an opinion or advisory letter as provided in [Rev. Proc. 2009-6, 2009-1 I.R.B. 189](#), on which the plan sponsor has reliance.

In addition, in the case of a defined contribution plan that is a pre-approved plan (that is, a master and prototype (M&P) or volume submitter (VS) plan), the adoption of an amendment required to correct a failure under VCP will not require the submission of a determination letter with the VCP application and will not cause the plan to lose its status as an M&P or VS plan, provided that no other modification has been made to the plan that would cause the plan to lose its reliance on the opinion or advisory letter. The adopting employer will be allowed to remain within the six-year remedial amendment cycle provided in Rev. Proc. 2007-44. The issuance of the compliance statement with respect to the plan will constitute a determination on the effect of the corrective plan amendment on the qualification of the plan, and a subsequent filing of a determination letter request on such amendment will not be required until the expiration of the next six-year remedial amendment cycle (which currently is January 31, 2017, as provided in section 18.01 of Rev. Proc. 2007-44). For further information see, [memo on Corrective Amendments to Pre-Approved Plans, dated March 11, 2009](#).

Applicable cumulative list - Pursuant to [Rev. Proc. 2008-50, section 6.05\(1\)](#), if a determination letter is required, then, unless otherwise specified, the provisions of [Rev. Proc. 2007-44](#) apply. Thus, for example, in the case of an ongoing individually designed plan, a determination letter application will be reviewed with respect to all items of the cumulative list (as defined in [Rev. Proc. 2007-44, section 4](#)) that would apply to the cycle during which the determination letter application is filed.

The following chart summarizes the requirements for submitting a determination letter application under VCP:

Type of Qualification Failure	Off-Cycle Sponsors	On-Cycle Sponsors
Nonamender failures with respect to EGTRRA good faith, interim and optional amendments (for which the applicable remedial amendment period has not expired). (Schedule 1)	No determination letter (DL) application required. Corrective amendments to be included with subsequent on-cycle DL filing along with copy of the VCP compliance statement.	No DL application required. Corrective amendments to be included with on-cycle DL filing along with copy of the VCP compliance statement.

Nonamender failures other than EGTRRA good faith, interim and optional amendments. (Schedule 2)	DL application required. The DL application must be included with the VCP submission and mailed to Washington DC. Plan must comply with the cumulative list in effect on the date the application is mailed to the Service.	DL application required. The DL application must be included with the VCP submission and mailed to Washington DC. Plan must comply with the cumulative list in effect on the date the application is mailed to the Service.
Operational and demographic failures that are corrected via retroactive plan amendment.	No DL application required. Corrective amendments to be included with subsequent on-cycle DL filing to Cincinnati Submission Processing Center, along with copy of VCP compliance statement.	DL application required and must be included with the VCP submission mailed to the Washington DC address.

Where to Mail Your VCP Submission

Mail your VCP submission and accompanying determination letter application, if applicable (see *When is a Determination Letter Application Required under VCP* above), along with the VCP compliance fee and appropriate determination letter user fee, if applicable, to the following address:

Internal Revenue Service
Attention: SE:T:EP:RA:VC
P.O. Box 27063
Washington, DC 20038-7063

Line Instructions - Appendix F

Part I – Plan Information

Line 1 *Applicant's Name*: If the applicant is someone other than the current sponsor of the plan, please attach an explanation along with all identifying information (name, EIN, address, etc.) for the plan sponsor.

Line 5 *Applicant's EIN*: Please make sure to enter the EIN of the applicant, not the EIN of the plan's trust. Do not enter a Social Security Number. If the applicant does not have an EIN, please apply for an EIN using [the procedures found here](#).

Line 6 *Plan No.*: Enter the unique three-digit number used to identify this plan on Form 5500. Not required for SEPs or SIMPLEs.

Line 7 *Plan Name*: List the full name of the plan, as shown on Form 5500 or other related documents.

Line 8 *Type of Submission*: Check only one box.

Line 9 *Type of Plan*: Check only one box.

Line 11 *Number of participants in the plan as provided on the most recently filed Form 5500 series*: With respect to the Form 5500, this is the number shown on line 7(f) of the most recently filed Form 5500. Plans that are not required to file a Form 5500 series return should enter the number of participants as of the last day of the most recently ended plan year. Plans that have been terminated should enter the number of participants on the Form 5500 series return filed the year prior to the year of termination.

Line 12 *Assets in the plan as of the last day of the most recently ended plan year (round to nearest dollar)*: Please provide the total end of year asset information as shown on the most recently filed Form 5500 series return. Plans that are not required to file Form 5500 series return should enter the amount of assets to the extent that information is available to the applicant.

Line 13 *Applicant's Representative's Name*: List an individual (not a corporate or firm name) authorized to represent or receive information about the applicant as shown on [Form 2848](#) or [Form 8821](#). You may list up to three individuals on Form 2848; however, please enter only the primary representative's name on this line.

Line 18 *Representative's E-Mail Address (optional)*: Please note that we may initiate communications with an authorized representative via e-mail, but we will not use any information that might identify the Applicant (e.g., name or EIN) in such electronic communications. Any e-mails will refer only to the nine-digit

control number we have assigned to the submission and that will be provided to the representative if Appendix E (“Acknowledgment Letter”) is properly completed and included with the submission. Therefore, it is important to make note of this control number.

Part II Applicant’s Enclosures

VCP Fee - You must enclose full payment of the appropriate compliance fee by check made payable to “United States Treasury.” Submissions that do not include the full payment of the required fee may be returned. Please refer to the following tables to determine the appropriate fee:

Standard Fees	
Number of Participants	Fee
20 or fewer	\$750
21-50	\$1,000
51-100	\$2,500
101-500	\$5,000
501-1,000	\$8,000
1,001-5,000	\$15,000
5,001-10,000	\$20,000
more than 10,000	\$25,000

Exceptions	
Failure	Fee
EGTRRA Good Faith/interim/Optional Amendments (submitted prior to expiration of applicable remedial amendment cycle)Only (Schedule 1)	\$375
Other Nonamender ONLY Failures Submitted Within One Year of Expiration of Remedial Amendment Period (Schedule 2)	50% of Standard Fee
Only 72(p)(2) Loan Failures Where Fewer Than 25% of Participants Were Affected (Schedule 5)	50% of Standard Fee
Only 401(a)(9) Operational Failures Affecting 50 or Fewer Participants (Schedule 8)	\$500
SEPs (Schedule 3) and SIMPLE-IRAs (Schedule 4) (See section 12.05(2) of Rev. Proc. 2008-50 for additional fees that may be required before issuance of the compliance statement.)	\$250
Orphan Plans (See section 12.02(4) of Rev. Proc. 2008-50.)	Fee May Be Waived

Note: If the submission includes more than one type of failure, each of which would qualify for a reduced fee under the “Exceptions” table (above), the total

required VCP is the lesser of the combined reduced fees, or the standard fee applicable to the plan based on the number of participants. For example, If a plan with 45 participants has both an EGTRRA good faith nonamender (Schedule 1) failure and a § 401(a)(9) operational failure, the total VCP fee would be \$875. However, if a plan with 15 participants has the same two failures, its fee would be \$750.

Appendix E, Acknowledgement Letter - Submit a completed Appendix E if you wish for the Service to acknowledge receipt of your VCP submission. Please do not modify the content, including the formatting, of Appendix E.

Documents and attachments specific to certain failures and correction methods are discussed on the applicable schedules.

Part III – *Applicant's Representations*

Item B: One of these boxes must be checked.

Item D: The penalty of perjury statement must be signed by the applicant, and not the applicant's representative. If the applicant is not an individual, the signature must be of a person authorized to sign such documents on behalf of the applicant (e.g., a corporate officer.) This statement should not be completed on the initial filing of an anonymous submission.

Part IV – *Enforcement Resolution*

The application must include the Enforcement Resolution with its VCP submission. Do not complete the Enforcement Resolution. The Enforcement Resolution may only be completed by the Service.

Appendix F Schedule 1

Submit Appendix F, Schedule 1 if the plan sponsor failed to adopt timely (1) required good faith plan amendments under the Economic Growth and Tax Relief Reconciliation Act of 2001, Pub. L. 107-16 (EGTRRA good faith amendments), (2) interim amendments described in [section 5.01 of Rev. Proc. 2007-44](#), or (3) amendments required to reflect the changed operation of the plan on account of the plan sponsor's decision to implement optional law changes described in [section 6.05\(3\) of Rev. Proc. 2008-50](#), and the plan's applicable remedial amendment cycle under [Rev. Proc. 2007-44](#) has not expired. For example, if the remedial amendment cycle for an individually designed plan is Cycle A and the plan sponsor failed to adopt its EGTRRA good faith amendments on a timely basis, Schedule 1 should not be used. Since the plan's remedial amendment cycle has expired, the applicant should use Appendix F, Schedule 2 to submit this failure.

Part II *Description of Method of Correction* - Corrective amendments must be adopted and submitted with this schedule.

Part III - *Change in Administrative Procedures* – Describe the changes to administrative procedures that will be made to ensure that the failure does not recur.

Appendix F Schedule 2

If the plan sponsor failed to adopt timely amendments to comply with required legislative or regulatory changes (other than those described on Appendix F Schedule 1), the applicant should submit Appendix F, Schedule 2.

Part II *Description of Proposed Method of Correction*: Corrective amendments must be adopted within 150 days of the date the compliance statement is issued.

Part III - *Change in Administrative Procedures* – Describe the changes to administrative procedures that will be made to ensure that the failure does not recur.

Part IV *Enclosures*: You must include a determination letter application with your VCP submission unless you are correcting the nonamender failure(s) through the adoption of an amendment designated by the Service as a model amendment or through the adoption of a prototype or volume submitter plan for which you have reliance on the plan's opinion or advisory letter as provided in [Rev. Proc. 2008-8, 2008-1 I.R.B. 233](#).

Appendix F Schedule 3

If the Plan is a SEP or a SARSEP and experienced one or more of the failures shown on Appendix F, Schedule 3, and if the applicant proposes to correct such failure(s) by using the method(s) provided on such schedule, the applicant should submit Appendix F, Schedule 3.

Part I Identification of failure(s) and proposed method of correction: Corrective contributions (including earnings) must be made within 150 days of the date shown on the approved compliance statement. This amount may be estimated if the corrective contribution has not been made as of the date of this application.

Appendix F Schedule 4

If the Plan is a SIMPLE IRA and experienced one or more of the failures shown on Appendix F, Schedule 4, and if the applicant proposes to correct such failure(s) by using the method(s) provided on such schedule, the applicant should submit Appendix F, Schedule 4.

Part I Identification of failure(s) and correction methods: Corrective contributions (including earnings) must be made within 150 days of the date shown on the approved compliance statement. This amount may be estimated if the corrective contribution has not been made as of the date of this application.

Appendix F Schedule 5

If the plan sponsor failed to administer the loans in accordance with the provisions of the Internal Revenue Code ("IRC") § 72(p)(2), the failure solely relates to employees who are neither key employees (as defined in IRC § 416(i)(1)) nor self-employed individuals (as defined in IRC § 401(c)(1)(B)), the applicant should submit Appendix F, Schedule 5.

Appendix F Schedule 6

If the plan sponsor failed to satisfy the criteria for an employer to sponsor either an IRC § 403(b) Plan, or an IRC § 401(k) Plan, the applicant should submit Appendix F, Schedule 6.

Appendix F Schedule 7

If the plan failed to distribute elective deferrals made in excess of the IRC § 402(g) limit, and the applicant proposes to correct such failures using the method described in [Appendix A, section .04](#) of Rec. Proc. 2008-50, the applicant should submit Appendix F, Schedule 7.

Appendix F Schedule 8

If the plan failed to make required minimum distributions pursuant to IRC § 401(a)(9), and proposes to correct such failure using the method described in [Appendix A, section .06](#) of Rev. Proc. 2008-50, then the applicant should submit Appendix F, Schedule 8.

Part I *Identification of Failure*: Total amount of missed required minimum distributions includes missed distribution amounts, excluding earnings, and may be estimated if correction has not yet been made.

Appendix F Schedule 9

The applicant should submit Appendix F, Schedule 9 if the plan experienced one or more of the following failures:

1. IRC § 401(a)(17) failure being corrected using the method described in [Appendix B, section 2.07\(1\)\(a\) of Rev. Proc. 2008-50](#);
2. Hardship distribution failure being corrected using the method described in [Appendix B, section 2.07\(2\)\(a\) of Rev. Proc. 2008-50](#);
3. Loans permitted in operation but not permitted by Plan document being corrected using the method described in [Appendix B, section 2.07\(2\)\(a\) of Rev. Proc. 2008-50](#); or
4. Early inclusion of otherwise eligible employee(s) being corrected using the method described in [Appendix B, section 2.07\(3\)\(a\) of Rev. Proc. 2008-50](#).

Part I *Identification of failure(s) and correction method(s) as set forth in [Rev. Proc. 2008-50, Appendix B, Section 2.07](#)*: Correction must be made within 150 days of the date shown on the approved compliance statement.