

DOL Expands Delinquent Filer Voluntary Compliance Program to Include Form M-1

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DOL Notice: Delinquent Filer Voluntary Compliance Program, 90 Fed. Reg. 61411 (Dec. 31, 2025)

Available at <https://www.govinfo.gov/content/pkg/FR-2025-12-31/pdf/2025-24082.pdf>

The DOL has expanded the Delinquent Filer Voluntary Compliance (DFVC) Program to include Form M-1 reporting. As background, Form M-1 is required to be filed by multiple employer welfare arrangements (MEWAs), and by entities claiming not to be MEWAs due to the exception for collectively bargained plans (entities claiming exception (ECEs)), either annually or in connection with certain events. Penalties for missed Form M-1 filings can be significant and—as noted in the related news release—until now there was no program offering relief for delinquent Form M-1s. Here are highlights:

- *Eligibility for Form M-1 DFVC Program.* The administrator of a MEWA or ECE that has failed to timely file a required Form M-1 may file under DFVC so long as the administrator has not been notified in writing by the DOL of a Form M-1 filing failure.
- *Submitting Form M-1 Under DFVC.* To make a DFVC submission, whether the failure related to annual filings or reporting for a specified event, the administrator files one complete Form M-1 using the current version of the form and following the instructions for the filing type (annual, registration, origination, or special filing). Filing is made electronically. The DOL’s DFVC Program webpage has been updated with FAQs for MEWA and ECE Form M-1 filers.
<https://www.dol.gov/agencies/ebsa/employers-and-advisers/plan-administration-and-compliance/correction-programs/dfvcp>
- *Reduced Penalty and Other Relief.* The penalty is \$750 for each MEWA or ECE DFVC filing (regardless of the number of missed filings), paid electronically. Because the penalty is imposed on the administrator, not the plan, it may not be paid using plan assets. The relief extends to failures by ERISA plan MEWAs to provide required Form M-1 information on Form 5500 (but not to other Form 5500 deficiencies). That is, if the plan’s Form 5500 did not include Form M-1 information (because Form M-1 had not been filed), a DFVC Form M-1 filer will not be penalized for the Form 5500 omission.

The DOL notes that its acceptance of the DFVC filing and penalty does not represent a determination as to the MEWA’s status as a plan or particular type of plan.

EBIA Comment: Administrators of MEWAs and ECEs will no doubt welcome this relief. Note that some references in the DFVC Program expansion notice could cause confusion—for example, it mentions filing Form M-1 using EFAST (the DOL’s Form 5500 filing system), but Form M-1 is actually filed through its own Online Filing System. Similarly, the notice indicates that payment is to be made through “gov.pay” rather than pay.gov. Fortunately, the information on the DFVC Program webpage seems to be more accurate. For more information, see EBIA’s ERISA Compliance manual at Sections XIX.G (“Form M-1

Obligations for MEWAs and Participating Employers") and XXII.H.3.u ("Form 5500: Part III, Line 11: Form M-1 Compliance Information"). See also EBIA's Self-Insured Health Plans manual at Section XXIX.D ("Other Reporting Requirements").

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