



A GUIDE TO  
FILING FORM 5500  
FOR  
QUALIFIED  
ERISA PLANS  
USING  
TIAA - CREF  
ANNUITIES



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USING TIAA-CREF ANNUITIES

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*TIAA-CREF has compiled this guide to help answer some questions you and your financial and legal advisors may have as you complete the ERISA reporting for your qualified plan.*

*If you have comments or additional questions, call TIAA-CREF at 888 TIA-SRVC (888 842-7782).*

## TIAA-CREF IN BRIEF

TIAA-CREF is a nationwide portable retirement system for staff members of over 15,000 colleges, universities, independent and public schools (K-12), and nonprofit educational and research institutions. TIAA-CREF, through its subsidiaries, also offers individual and group life insurance, and long-term care insurance.

Teachers Insurance and Annuity Association (TIAA) is the second largest life insurance company in the U.S. Founded in 1918 by the Carnegie Foundation for the Advancement of Teaching, TIAA is incorporated in the State of New York. College Retirement Equities Fund (CREF), established by TIAA in 1952, is an open-end diversified management investment company registered under the Investment Company Act of 1940.

Headquartered in New York City, TIAA-CREF has a nationwide network of Regional Offices across the country. We also have Counseling and Telephone Service Centers in Denver and Charlotte.

## HIGHLIGHTS

- ❖ TIAA-CREF is one of the largest retirement systems in the world, based on assets under management of over \$260 billion.\*

- ❖ More than 2 million people are now accumulating future pension benefits in TIAA-CREF. Nearly 300,000 people are currently receiving annuity income benefits from the TIAA-CREF retirement system.
- ❖ CREF was the nation's first variable annuity. The CREF Stock Account is one of the world's largest singly managed equity accounts based on assets under management.
- ❖ The CREF accounts are included in the databases and periodic reports issued by Morningstar Inc., the Variable Annuity Research & Data Service (VARDS), and Lipper Analytical Services, Inc.
- ❖ TIAA is one of only a few U.S. life insurance companies that hold the highest possible ratings from all four of the nation's leading independent rating agencies — Moody's Investors Service (Aaa), Standard & Poor's Insurance Rating Services (AAA), A.M. Best Company (A++ Superior), and Fitch (AAA). These ratings are based on TIAA's exceptional financial strength, claims-paying ability, and overall operating performance. These ratings apply to TIAA Traditional only, not to the CREF and TIAA Real Estate accounts.

HOW PLANS USING TIAA-CREF CONTRACTS  
ARE STRUCTURED

Unlike many trusteed plans, the retirement plan of an institution using TIAA-CREF contracts is funded by individually owned TIAA and CREF fixed and variable annuities. Contributions made by the institution and the individual employee can be allocated by the employee between the TIAA and CREF contracts.

The TIAA Traditional Annuity is a fully allocated fixed-dollar annuity. Contributions to TIAA Traditional Annuities (TRA) buy a contractual or guaranteed amount of future benefits for the employee. TRA contracts issued by TIAA are backed by its general account. Operating expenses are deducted from TIAA earnings.

The TIAA Real Estate Account variable annuity is an insurance company pooled separate account. To the extent that assets of a plan subject to ERISA are allocated to the Real Estate Account, TIAA will be acting as an "investment manager" (as that term is defined under Section 3(38) of ERISA) and will be a fiduciary under ERISA with respect to such assets.

CREF is registered with the Securities and Exchange Commission (SEC) as an open-end diversified investment company. Contributions to CREF buy shares — accumulation units whose value is calculated daily — in the variable annuity account(s) the employee selected. The value of a participant's accumulation rises and falls with the returns on assets in the portfolios of the accounts he or she chooses.

#### TIAA-CREF'S ROLE IN ERISA REPORTING

TIAA-CREF provides account information for each individual in the plan, as well as a financial summary of your institution's total participation. We also provide detailed instructions, and general guidelines to help you complete the reporting and disclosure required by ERISA, including the schedules that must accompany your Form 5500 filing.

## YOUR ROLE IN ERISA REPORTING

You enter the information for each retirement plan on Form 5500 and the applicable schedules. For a “small plan,” generally defined as a retirement plan that covered fewer than 100 participants as of the beginning of the plan year, the applicable schedules may include: Schedule A (Insurance Information); Schedule D (DFE/Participating Plan Information) as a participating plan if the plan offers the TIAA Real Estate Account as a funding option; Schedule I (Financial Information - Small Plan); Schedule R (Retirement Plan Information); Schedule SSA (Annual Registration Statement Identifying Separated Participants With Deferred Vested Benefits); and Schedule T (Qualified Pension Plan Coverage Information).

For a “large plan,” generally defined as a plan that covered 100 or more participants as of the beginning of the plan year, the applicable schedules may include: Schedule A (Insurance Information); Schedule C (Service Provider Information); Schedule D (DFE/Participating Plan Information) as a participating plan if the plan offers the TIAA Real Estate Account as a funding option; Schedule G (Financial Transaction Schedules); Schedule H (Financial Information); Schedule R (Retirement Plan Information); Schedule SSA (Annual Registration Statement Identifying Separated Participants With Deferred Vested Benefits); and Schedule T (Qualified Pension Plan Coverage Information). In addition, a “large plan” must have an accountant’s audit performed and the accountant’s report included as part of its filing.

See the Form 5500 Instructions, Page 7, “Section 5: What to File” for a discussion of who is a large and small plan including the “80-120 participant rule” and the “short plan year rule.”

You file the completed Form 5500 with the Department of Labor (“DOL”) Pension and Welfare Benefits Administration (“PWBA”) as specified in the Form 5500 Instructions, Page 5 under “Where to File.” The form is in two versions, a version that is completed on a computer (and which can be electronically filed or filed by mail or private delivery service) and a version that can be completed by hand or typewriter (which can *only* be filed by mail or private delivery service). The computer version will require special software that is obtained from a service provider working with the DOL. (See the DOL’s Web page at [www.efast.dol.gov](http://www.efast.dol.gov) for details.) The hand- or typewritten version will require forms obtained directly from the DOL. (Call 800 829-3676 for these forms.) These hand- or typewritten forms are machine-readable and photocopies of them will not be accepted.

You should maintain copies of the completed 5500 report for review by any participant upon request. Within nine months of the close of your plan year, you should distribute copies of your Summary Annual Report to plan participants.

### PREPARING YOUR ERISA REPORTS

You have to prepare separate Form 5500 filings for each plan that you have. The Form 5500 itself covers plan-identifying information, the number of participants at the beginning and end of the plan year, the plan funding and benefit funding arrangement (you must check “insurance” for both because your plan is funded, at least partially, with TIAA-CREF contracts),

and the schedules that you will attach as part of your Form 5500 filing (see “Your Role in ERISA Reporting” above).

Because your plan is funded with TIAA-CREF annuities, you must complete Schedule A (Insurance Information). Section I of the Schedule provides that individual contracts grouped as a unit can be reported on a single Schedule A, and this is the method that should be used with respect to the TIAA-CREF individual annuities or certificates that fund your plan. We provide you with the applicable information in the Filing Summary for Schedule A. Part II, item 4, of the Schedule covers amounts held in the CREF Accounts and the TIAA Real Estate Account. TIAA Traditional Annuities are fully allocated contracts that are reported in Part II, item 5.

In addition to the foregoing, please note that for Form 5500 reporting purposes, you must handle the TIAA Traditional Annuities, the TIAA Real Estate Account, and the CREF accounts differently.

Since CREF is an investment company under the federal securities laws, the assets underlying the CREF accounts are not plan assets and are not reported on Schedule H (Financial Information) of Form 5500. But the CREF units held in participant contracts and certificates are plan assets and must be reported on Schedule H under Part I, line 1c(13), the “Value of interest in registered investment companies” and Part II, line 2b(10) “Net investment gain (loss) from registered investment companies.”

Since TIAA Traditional Annuities are fully allocated insurance contracts, participant allocations to the TIAA Traditional

Annuities are not reported as plan assets on Schedule H of Form 5500. Allocations to TIAA Traditional Annuities are payments to provide benefits and are reported on Part II, line 2e(2) of Schedule H, or if the plan is a small plan, Part I, line 2e of Schedule I (Financial Information - Small Plan).

The TIAA Real Estate Account is an insurance company pooled separate account. Even though the assets underlying the TIAA Real Estate Account are plan assets, they are not reported as plan assets on Schedule H. Instead, TIAA Real Estate Account units held in participant contracts and certificates are reported on Part I, line 1c(10), the “Value of interest in pooled separate accounts” and Part II, line 2b(7) “Net investment gain (loss) from pooled separate accounts.” (For more information on reporting TIAA Real Estate Account assets, see the answer to Question 10 on page 16.)

### WHAT TIAA-CREF PROVIDES

TIAA-CREF provides you with detailed instructions for completing Form 5500, including item-by-item instructions for completing the financial schedules (Schedule H or, if applicable, Schedule I), which require information on premium contributions, investment gains or losses, and expenses for your qualified plan.

Financial material provided by TIAA-CREF includes a Participant Register and a Participant Register Summary. The Register shows each individual’s opening and closing accumulations and contributions made during the year. It also shows non-premium transactions such as CREF-to-TIAA transfers or the start of retirement income. Anyone who is still in the plan, but for whom premiums are no longer being remitted, is marked on the Register with an asterisk.

The Register Summary shows the same information as the Register, but instead of reporting each employee separately, the Summary provides totals for all participants in your plan. These Summary pages should be used for filling in your Form 5500 and its schedules. One summary covers all employees for whom at least one premium was remitted to TIAA-CREF during the plan year. A separate summary covers individuals for whom premiums were remitted to TIAA-CREF in prior years, but for whom premiums are no longer being remitted. We provide you with this information on non-premium paying individuals because you may be reporting them as participating in your plan. (Please see the answer to Question 6 beginning on page 13.)

TIAA-CREF also provides you with the Filing Summary for Form 5500. This is a report in which asset figures that are required to be entered on the Form 5500 Schedules H and I, as applicable, are calculated for you and provided on the plan level. The system makes 5500 filing easier for institutions, since administrators won't have to add together amounts from multiple Premium Payment Group (PPG) reports to arrive at the asset figures for their plans.

Similarly, we provide you with Filing Summaries for Schedule A and Schedule D, containing plan aggregate information required to be entered on those schedules, and a Forfeiture Summary for the calendar year containing information relating to the plan participant forfeitures during that period. Forfeiture information must be included in Schedules H or I, depending on the size of the plan.

5500 AUDIT QUESTIONS AND ANSWERS

**1. Are CREF contracts and the TIAA Real Estate Account subject to the limited scope audit provisions of Section 103(a)(3)(C) of ERISA and DOL Regulations, Section 2520.103-8?**

**Yes.** Section 103(a)(3)(C) of ERISA and the applicable Department of Labor (DOL) regulation, Section 2520.103-8, provide that the examination and report of an independent qualified public accountant need not extend to any statement or information prepared and certified by a bank or similar institution or by an insurance carrier. The exemption applies to any plan, the assets of which are held by an insurance carrier, bank, or other financial institution regulated, supervised, and periodically examined by a state or federal agency. Both TIAA and CREF qualify for the exemption.

**2. Do TIAA and CREF provide breakdowns of the interest and dividends credited to each participant's account?**

**No.** Such a breakdown is not provided because no such amounts are credited by TIAA or CREF. The CREF accounts and the TIAA Real Estate Account are variable annuity investment options in a variable annuity held pursuant to the terms of a qualified plan. Such options, unlike mutual funds sold directly to the public, are not required to distribute dividends and capital gains on an annual basis. Nor are the investment returns of investment options in a variable annuity subject to federal income taxes on an annual basis, as is generally the case with respect to privately purchased mutual funds. Instead, distribu-

tions from variable annuity contracts are taxed under Section 402 and Section 72 of the Internal Revenue Code when received. Premium contributions to variable annuities purchase units, the value of which is calculated daily. The changes in unit values reflect the gains, losses, dividends, and interest received by the entire account. For purposes of Form 5500 reporting, the investment experience is the unrealized appreciation or depreciation of assets. For Schedule H or Schedule I reporting purposes, these assets are the CREF annuity contract units and TIAA Real Estate Account units, not the underlying assets of the CREF and TIAA Real Estate accounts.

**3. Can you confirm that CREF holds the plan's investment assets and executes investment transactions on behalf of the plan?**

No. The underlying assets of CREF accounts are not plan assets. CREF is an investment company registered under the Investment Company Act of 1940. Under ERISA Section 401(b)(1), the underlying assets of an investment company are not plan assets, though the securities issued by such investment companies are plan assets. As a result, CREF units are plan assets, but the underlying assets of the CREF accounts are not. It is the value of the CREF units that must be reported on Schedule H or Schedule I, and not the value of the assets underlying the accounts.

**4. Is the value of TIAA Traditional Annuities reported on Schedule H or Schedule I?**

No. TIAA Traditional Annuity contracts are fully allocated contracts issued by TIAA, which is an insurance company.

According to the instructions to Form 5500, Page 8, under “Limited Pension Plan Reporting,” such contracts are not reported as assets on Schedule H or Schedule I. The value of contributions and transfers to the plan’s TIAA Traditional Annuity contracts is, however, reported on line 2e(2) of Schedule H, and on line 2e of Schedule I as a payment to an insurance carrier for the provision of benefits.

**5. Can you provide us with a breakdown of the plan administrative expenses charged against the assets of the CREF accounts and the TIAA Real Estate Account?**

Plan administrative expenses and fees are reported on line 2i of Schedule H. But since there were no fees or expenses incurred or paid by the plan to CREF or the TIAA Real Estate Account, there are no CREF or TIAA Real Estate Account expenses or fees to report.

The expense deductions for the CREF and TIAA Real Estate accounts, as reported in their respective prospectuses, are factors in determining the unit values of the accounts. However, because these expenses are not paid by the plan, they are not the types of plan expenses that must be reported on Schedule H. The instructions given for line 2i of Schedule H state that the plan must:

Report all administrative expenses (by specified category) paid by or charged to the plan, including those that were not subtracted from the gross income of CCTs, PSAs, MTIAs, and 103-12 IEs in determining their net investment gain(s) or loss(es). Expenses incurred in the general operations of the plan are classified as administrative expenses.

As this instruction shows, plan expenses do not include expenses that are charged against the unit values of accounts in determining their investment experience. A similar instruction is given for line 2h on Schedule I.

**6. How should records on terminated participants be handled? Must they be considered plan participants and should Schedule SSA be included with a plan's Form 5500 filing?**

Usually the determination of whether a terminated employee is a participant in a plan is relatively clear-cut. Generally, if the plan continues to hold assets to fund the benefits to be paid to a terminated employee, then that employee must be considered a plan participant for purposes of Form 5500. However, in the case of defined contribution plans funded with TIAA-CREF contracts, the question of whom to include in a plan filing becomes a little more complicated.

Under the TIAA-CREF system, many rights are vested in the individual participant. Unlike plans that are funded through a trust, individual participants in plans funded with TIAA-CREF contracts already own their contracts. This is true even for participants covered under our group annuity contracts because under those contracts, the participants own their individual certificates.

After an employee terminates employment, the employer has no obligation to make further contributions and will not control when the participant receives distributions. Instead, the terminated employee will exercise his or her own rights under the terms of the TIAA and CREF contracts. In effect, the former

employee is in the same situation as if he or she had received an in-kind distribution of an annuity contract from a trustee pension plan. A number of institutions whose plans are funded with TIAA-CREF contracts have, therefore, taken the position that an individual who has terminated employment is no longer a participant in the plan.

We would, however, recommend the alternative approach of treating individuals who have terminated employment as participants until they actually begin to receive annuity benefits. Under this approach, so long as a former employee still has funds in a deferred contract and that contract is not being used to accept additional contributions from another employer, the individual would still be considered a plan participant. Only his or her employment status has changed; plan benefits remain unchanged.

While either approach for handling terminated employees may be adopted by a plan administrator, all terminated employees must be treated consistently. If an administrator chooses to treat former employees as participants on Form 5500, the unit values of their CREF and TIAA Real Estate accumulations should be reported as assets of the plan, and a Schedule SSA should be included in the 5500 filing for these former employees. If former employees are not treated as participants on Form 5500, the unit values of these individuals' CREF and TIAA Real Estate accumulations should be reported as having been distributed by the plan. In addition, no Schedule SSA should be included in the 5500 filing for these individuals, since they are no longer treated as participants. In addition to treating all former employees in the same way on a Form 5500, administrators should also take a consistent

approach from year to year. If a plan administrator wants to change the approach taken with regard to former employees, the DOL should be notified of the change by including an attachment with the 5500 form for the year in which the change is adopted.

**7. Does TIAA-CREF provide auditors with an SAS 70 report?**

**Yes.** An SAS 70 report for the period January 1, 2002, to December 31, 2002, will be included in your Form 5500 package.

**8. Does TIAA-CREF report the “cost” of units of the CREF and TIAA Real Estate accounts?**

**No.** The DOL has clarified in the revised Form 5500 for 1999 and later years that it is no longer necessary to report “cost” information in the “Schedule of Assets Held for Investment Purposes at End of Year” required by line 4i of Schedule H (formerly line 27(a) of the 1998 Form 5500). The instructions to line 4i of Schedule H clearly provide that “cost information... may be omitted when reporting investments of an individual account plan that a participant or beneficiary directed with respect to assets allocated to his or her own account....” Since TIAA-CREF contracts fund such individual account plans, cost information with respect to them may be omitted from the schedule, which now only requires the identity of the issuer, a description of the investment and the current value as of the end of the year.

**9. Must we provide with respect to our TIAA-CREF annuities the schedule of plan transactions in excess of 5% of the current value of plan assets requested on Line 4j of Schedule H?**

No. The DOL has clarified in the revised Form 5500 for 1999 and later years that transactions “under an individual account plan that a participant or beneficiary directed with respect to assets allocated to his or her own account...should not be taken into account for purposes of preparing the Schedule of Reportable Transactions” required by line 4j of Schedule H. Since TIAA-CREF contracts fund such individual account plans, no Schedule of Reportable transactions is required with respect to them.

**10. How do we report interests in the TIAA Real Estate Account under the Form 5500?**

Plans that have any participants who participated in the TIAA Real Estate Account at any time during the plan year must comply with the instructions for reporting these assets applicable to plans that invest in a so-called “Direct Filing Entity” or “DFE.” The TIAA Real Estate Account is a pooled separate account or “PSA” of TIAA, an insurance company, and is therefore a DFE for Form 5500 reporting purposes. TIAA will, on behalf of the Real Estate Account, file a Form 5500 directly with the DOL, and this will permit plans with assets in the Real Estate Account to follow the instructions applicable to plans with assets in a DFE that does such a direct filing. Specifically, if your plan is a large plan that files Schedule H (Financial Information), Real Estate Account assets are reported in Part I, line 1c(10) (Value of interest in pooled separate

accounts) and Part II, line 2b(7) (Net investment gain (loss) from pooled separate accounts). If your plan is a small plan that files Schedule I (Financial Information - Small Plan), Real Estate Account assets are reported in Part I, line 1a (Total plan assets) and line 2c (Other income). Both large and small plans with Real Estate Account assets must also file Schedule D (DFE/Participating Plan Information), Part I. See our “ERISA Memorandum on Form 5500 for Qualified Plans” for detailed instructions on how to file the Form 5500 and its applicable schedules, including Schedules D, H, and I.

## IMPORTANT DATES FOR ERISA REPORTING

### **Form 5500**

- ❖ No later than the last day of the seventh month following the end of the plan year, you must file a Form 5500 for your plan. Example: If your plan year ends December 31, 2002, then your filing deadline is July 31, 2003.

### **Extension to File**

- ❖ You can apply for an extension of the filing deadline of up to two-and-a-half months. Just apply in advance of the regular filing deadline using Form 5558. Form 5558 continues to be filed with the IRS. A photocopy of the filed Form 5558 must then be included in the plan's Form 5500 filing with the DOL in order for the extension to apply.
- ❖ If your plan year and tax year are the same (e.g., both use the calendar year) and you obtain an extension of the deadline for filing your institution's tax return, then the deadline for filing Form 5500 is automatically extended to the same date as the new deadline for filing the tax return. A photocopy of the application for extension of time to file the institution's tax return must be included in the plan's Form 5500 filing with the DOL in order for the extension to apply.

### **Summary Annual Report**

- ❖ A Summary Annual Report must be sent to each plan participant and beneficiary receiving benefits within 9 months of the end of the plan year.

- ❖ If you obtain an extension of the deadline for filing Form 5500, the deadline for distributing the Summary Annual Report is automatically extended to two months after the new deadline for filing Form 5500.

#### **Fund Sponsor 5500 Information**

- ❖ Fund sponsors must send 5500 information to the plan administrator within 120 days of the close of the plan year.



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(TIAA-CREF), New York, NY

The CREF and the TIAA Real Estate Account variable annuities are distributed by  
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*Managing money for people  
with other things to think about.<sup>SM</sup>*

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