



DEPARTMENT OF LABOR

Employee Benefits Security Administration

Proposed Extension of Information Collection Requests Submitted for Public Comment

AGENCY: Employee Benefits Security Administration, Department of Labor

ACTION: Notice

SUMMARY: The Department of Labor (the Department), in accordance with the Paperwork Reduction Act of 1995 (PRA 95) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. The Employee Benefits Security Administration (EBSA) is soliciting comments on the proposed extension of the information collection requests (ICRs) contained in the documents described below. A copy of the ICRs may be obtained by contacting the office listed in the ADDRESSES

section of this notice. ICRs also are available at [reginfo.gov](http://www.reginfo.gov) (<http://www.reginfo.gov/public/do/PRAMain>).

DATES: Written comments must be submitted to the office shown in the Addresses section on or before [INSERT DATE THAT IS 60 DAYS FOLLOWING THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: G. Christopher Cosby, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW, Room N-5718, Washington, DC 20210, ebsa.opr@dol.gov, (202) 693-8410, FAX (202) 693-4745 (these are not toll-free numbers).

I. SUPPLEMENTARY INFORMATION:

This notice requests public comment on the Department's request for extension of the Office of Management and Budget's (OMB) approval of ICRs contained in the rules and prohibited transaction exemptions described below. The Department is not proposing any changes to the existing ICRs at this time. An agency may not conduct or sponsor, and a person is not required to respond to, an information collection unless it displays a valid OMB control number. A summary of the ICRs and the current burden estimates follows:

Agency: Employee Benefits Security Administration, Department of Labor

Title: Notice to Employees of Coverage Options Under Fair Labor Standards Act
Section 18B

Type of Review: Extension of a currently approved collection of information

OMB Number: 1210-0149

Affected Public: Businesses or other for-profits, Farms, Not-for-profit institutions

Respondents: 6,160,461

Responses: 72,484,292

Estimated Total Burden Hours: 374,502

Estimated Total Burden Cost (Operating and Maintenance): \$12,229,992

Description: Section 1512 of the Affordable Care Act creates a new Fair Labor Standards Act (FLSA) section 18B requiring a notice to employees of coverage options available through the Health Insurance Marketplace. On May 8, 2013, the Department issued Technical Release 2013-2, which provided temporary guidance regarding the notice requirement under FLSA section 18B and announced the availability of the Model Notice to Employees of Coverage Options. This ICR refers to the Model Notice, which was approved by OMB under OMB Control Number 1210-0149 and is currently scheduled to expire on January 31, 2017.

Agency: Employee Benefits Security Administration, Department of Labor

Title: Prohibited Transaction Class Exemption (PTE) 92-6: Sale of Individual Life Insurance or Annuity Contracts By a Plan

Type of Review: Extension of a currently approved information collection

OMB Number: 1210-0063

Affected Public: Businesses or other for-profits

Respondents: 10,600

Responses: 10,600

Estimated Total Burden Hours: 2,100

Estimated Total Burden Cost (Operating and Maintenance): \$5,500

Description: PTE 92–6 exempts from the prohibited transaction restrictions of ERISA the sale of individual life insurance or annuity contracts by a plan to participants, relatives of participants, employers any of whose employees are covered by the plan, other employee benefit plans, owner-employees or shareholder-employees. In the absence of this exemption, certain aspects of these transactions might be prohibited by section 406 of ERISA.

Among other conditions, PTE 1992–6 requires that pension plans inform the insured participant of a proposed sale of a life insurance or annuity policy to the employer, a relative, another plan, an owner-employee, or a shareholder employee. This recordkeeping requirement constitutes an information collection within the meaning of the PRA, which was approved by OMB under OMB Control Number 1210-0063 and is currently scheduled to expire on February 28, 2017.

Agency: Employee Benefits Security Administration, Department of Labor

Title: Loans to Plan Participants and Beneficiaries Who Are Parties in Interest With Respect to The Plan Regulation

Type of Review: Extension of a currently approved collection of information

OMB Number: 1210-0076

Affected Public: Businesses or other for-profits, Not-for-profit institutions

Respondents: 2,500

Responses: 2,500

Estimated Total Burden Hours: 0

Estimated Total Burden Cost (Operating and Maintenance): \$946,000

Description: ERISA prohibits a plan fiduciary from causing the plan to engage in a transaction if he knows or should know that such transaction constitutes direct or indirect loan or extension of credit between the plan and a party in interest. ERISA section 408(b)(1) exempts from this prohibition loans from a plan to parties in interest who are participants and beneficiaries of the plan, provided that certain requirements are satisfied. In final regulations published in the Federal Register on July 20, 1989, (54 FR 30520), the Department provided additional guidance on section 408(b)(1)(C), which requires that loans be made in accordance with specific provisions in the plan. The ICR contained within this rule was approved by OMB under OMB Control Number 1210-0076, which is scheduled to expire on February 28, 2017.

Agency: Employee Benefits Security Administration, Department of Labor

Title: PTE 85-68 to Permit Employee Benefit Plans to Invest in Customer Notes of Employers

Type of Review: Extension of a currently approved collection of information

OMB Number: 1210-0094

Affected Public: Not-for-profit institutions, Businesses or other for-profits

Respondents: 69

Responses: 325

Estimated Total Burden Hours: 1

Estimated Total Burden Cost (Operating and Maintenance): \$0

Description: Pursuant to section 408 of ERISA, the Department has authority to grant an exemption from the prohibitions of sections 406 and 407(a) if it can determine that the exemption is administratively feasible, in the interest of participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan. PTE 85-68 describes the conditions under which a plan is permitted to acquire customer notes accepted by an employer of employees covered by the plan in the ordinary course of the employer's primary business activity. The exemption covers sales as well as contributions of customer notes by an employer to its plan. Specifically, the exemption requires the employer to provide a written guarantee to repurchase a note which becomes more than 60 days delinquent, such notes to be secured by a perfected security interest in the property financed by the note, and the collateral to be insured. The exemption requires records pertaining to the transaction to be maintained for a period of six years for the purpose of ensuring that the transactions are protective of the rights of participants and beneficiaries. This recordkeeping requirement constitutes an information collection within the meaning of the PRA, which was approved by OMB under OMB Control Number 1210-0094 and is currently scheduled to expire on February 28, 2017.

Agency: Employee Benefits Security Administration, Department of Labor

Title: Default Investment Alternatives under Participant Directed Individual Account Plans

Type of Review: Extension of a currently approved collection of information

OMB Number: 1210-0132

Affected Public: Not-for-profit institutions, Businesses or other for-profits

Respondents: 239,000

Responses: 31,100,000

Estimated Total Burden Hours: 201,000

Estimated Total Burden Cost (Operating and Maintenance): \$10,800,000

Description: Section 404(c) of ERISA states that participants or beneficiaries who can hold individual accounts under their pension plans, and who can exercise control over the assets in their accounts “as determined in regulations of the Secretary [of Labor]” will not be treated as fiduciaries of the plan. Moreover, no other plan fiduciary will be liable for any loss, or by reason of any breach, resulting from the participants’ or beneficiaries exercise of control over their individual account assets.

The Pension Protection Act (PPA), Public Law 109–280, amended ERISA section 404(c) by adding subparagraph (c)(5)(A). The new subparagraph says that a participant in an individual account plan who fails to make investment elections regarding his or her account assets will nevertheless be treated as having exercised control over those assets so long as the plan provides appropriate notice (as specified) and invests the assets “in accordance with regulations prescribed by the Secretary [of Labor].” Section 404(c)(5)(A) further requires the Department of Labor (Department) to issue

corresponding final regulations within six months after enactment of the PPA. The PPA was signed into law on August 17, 2006.

The Department of Labor issued a final regulation under ERISA section 404(c)(5)(A) offering guidance on the types of investment vehicles that plans may choose as their “qualified default investment alternative”(QDIA). The regulation also outlines two information collections. First, it implements the statutory requirement that plans provide annual notices to participants and beneficiaries whose account assets could be invested in a QDIA. Second, the regulation requires plans to pass certain pertinent materials they receive relating to a QDIA to those participants and beneficiaries with assets invested in the QDIA as well to provide certain information on request. The ICRs are approved under OMB Control Number 1210-0132, which is scheduled to expire on February 28, 2017.

Agency: Employee Benefits Security Administration, Department of Labor

Title: PTE 96-62, Process for Expedited Approval of an Exemption for Prohibited Transaction

Type of Review: Extension of a currently approved information collection

OMB Number: 1210-0098

Affected Public: Businesses or other for-profits

Respondents: 25

Responses: 11,250

Estimated Total Burden Hours: 200

Estimated Total Burden Cost (Operating and Maintenance): \$40,000

Description: Section 408(a) of ERISA provides that the Secretary of Labor may grant exemptions from the prohibited transaction provisions of sections 406 and 407(a) of ERISA, and directs the Secretary to establish an exemption procedure with respect to such provisions. On July 31, 1996, the Department published PTE 96-62, which, pursuant to the exemption procedure set forth in 29 CFR 2570, subpart B, permits a plan to seek approval on an accelerated basis of otherwise prohibited transactions. A PTE will only be granted on the conditions that the plan demonstrate to the Department that the transaction is substantially similar to those described in at least two prior individual exemptions granted by the Department and that it presents little, if any, opportunity for abuse or risk of loss to a plan's participants and beneficiaries. This ICR is intended to provide the Department with sufficient information to support a finding that the exemption meets the statutory standards of section 408(a) of ERISA, and to provide affected parties with the opportunity to comment on the proposed transaction, while at the same time reducing the regulatory burden associated with processing individual exemptions for transactions prohibited under ERISA. The ICR was approved by OMB under OMB Control Number 1210-0098 and is scheduled to expire on July 31, 2017.

II. Focus of Comments

The Department is particularly interested in comments that:

- Evaluate whether the collections of information are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the collections of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., by permitting electronic submissions of responses.

Comments submitted in response to this notice will be summarized and/or included in the ICRs for OMB approval of the extension of the information collection; they will also become a matter of public record.

Phyllis C. Borzi

Assistant Secretary, Employee Benefits Security Administration, U.S. Department of Labor

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