



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), 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: Consent to Receive Employee Benefit Plan Disclosures Electronically

Type of Review: Extension of a currently approved information collection

OMB Number: 1210-0121

Affected Public: Businesses or other for-profits.

Respondents: 35,000

Responses: 4,305,000

Estimated Total Burden Hours: 15,000

Estimated Total Burden Cost (Operating and Maintenance): \$215,000

Description: The Department established a safe harbor pursuant to which all pension and welfare benefit plans covered by Title I of ERISA may use electronic media to satisfy disclosure obligations under Title I of ERISA (29 CFR 2520.104b-1). Employee benefit plan administrators will be deemed to satisfy their disclosure obligations when furnishing documents electronically only if a participant who does not have access to the employer's electronic information system in the normal course of his duties, or a beneficiary or other person entitled to documents, has affirmatively consented to receive disclosure documents. Prior to consenting, the participant or beneficiary must also be provided with a clear and conspicuous statement indicating the types of documents to which the consent would apply, that consent may be withdrawn at any time, procedures for withdrawing consent and updating necessary information, the right to obtain a paper copy, and any hardware and software requirements. In the event of a hardware or software change that creates a material risk that the individual will be unable to access or retain documents that were the subject of the initial consent, the individual must be provided with information concerning the revised hardware or software, and an

opportunity to withdraw a prior consent. The ICR was approved by OMB under OMB Control Number 1210-0121, which is scheduled to expire on March 31, 2018.

Agency: Employee Benefits Security Administration, Department of Labor

Title: Furnishing Documents to the Secretary of Labor on Request Under ERISA 104(a)(6)

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

OMB Number: 1210-0112

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

Respondents: 558

Responses: 558

Estimated Total Burden Hours: 41

Estimated Total Burden Cost (Operating and Maintenance): \$2,732

Description: As a result of the Taxpayer Relief Act of 1997 (TRA 97), the plan administrators of ERISA-covered employee benefit plans no longer need to file copies of the summary plan descriptions and summaries of material modifications that are publicly available. TRA 97 added paragraph (6) to section 104(a) of ERISA. Prior to the TRA 97 amendments, ERISA required certain documents be filed with the Department so that plan participants and beneficiaries could obtain the documents without having to turn to the plan administrator. The new section 104(a)(6) authorizes the Department to request these documents on behalf of plan participants and beneficiaries. The Department issued a final implementing guidance on this matter on January 7, 2002 (67 FR 772). The ICR

was approved by OMB under OMB Control Number 1210-0112, which is scheduled to expire on April 30, 2018.

Agency: Employee Benefits Security Administration, Department of Labor

Title: Annual Funding Notice for Defined Benefit Pension Plans

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

OMB Number: 1210-0126

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

Respondents: 39,061

Responses: 77,100,000

Estimated Total Burden Hours: 576,000

Estimated Total Burden Cost (Operating and Maintenance): \$29,600,000

Description: Section 101(f) of the Employee Retirement Income Security Act of 1974 (ERISA) sets forth requirements applicable to furnishing annual funding notices. Before the enactment of the Pension Protection Act of 2006 (PPA), section 101(f) applied only to multiemployer defined benefit plans. The Department has issued multiple final regulations with regard to this provision, most recently on February 2, 2015 (80 FR 5625).

Section 501(a) of the PPA amended section 101(f) of ERISA and made significant changes to the annual funding notice requirements. These amendments require administrators of all defined benefit plans that are subject to title IV of ERISA, not only multiemployer plans, to provide an annual funding notice to the Pension Benefit

Guaranty Corporation (PBGC), to each plan participant and beneficiary, to each labor organization representing such participants or beneficiaries, and, in the case of a multiemployer plan, to each employer that has an obligation to contribute to the plan. An annual funding notice must include, among other things, the plan's funding percentage, a statement of the value of the plan's assets and liabilities and a description of how the plan's assets are invested as of specific dates, and a description of the benefits under the plan that are eligible to be guaranteed by the PBGC.

The ICR was approved by OMB under OMB Control Number 1210-0126, which is scheduled to expire on April 30, 2018.

Agency: Employee Benefits Security Administration, Department of Labor

Title: ERISA Section 408(b)(2) Regulation

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

OMB Number: 1210-0133

Affected Public: Businesses or other for-profits

Respondents: 51,000

Responses: 1,472,000

Estimated Total Burden Hours: 1,040,000

Estimated Total Burden Cost (Operating and Maintenance): \$1,336,000

Description: On February 3, 2012, the Department published a final regulation under ERISA section 408(b)(2) (the “408(b)(2) regulation”), requiring that certain service providers to pension plans disclose information about the service providers'

compensation and potential conflicts of interest. The disclosed information is intended to assist plan fiduciaries in assessing the reasonableness of contracts or arrangements, including the reasonableness of the service providers' compensation and potential conflicts of interest that may affect the service providers' performance. These disclosure requirements were established to provide guidance for compliance with a statutory exemption from ERISA's prohibited transaction provisions. If the disclosure requirements of the 408(b)(2) regulation are not satisfied, a prohibited provision of services under ERISA section 406(a)(1)(C) will occur, with consequences for both the responsible plan fiduciary and the covered service provider. The ICR was approved by OMB under OMB Control Number 1210-0133, which is scheduled to expire on May 31, 2018.

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.

Joseph S. Piacentini,
Director, Office of Policy and Research,
Employee Benefits Security Administration.

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