



BILLING CODE: 4510-29-P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Statutory Exemption for Cross-Trading of Securities

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Employee Benefits Security Administration (EBSA) sponsored information collection request (ICR) titled, “Statutory Exemption for Cross-Trading of Securities,” to the Office of Management and Budget (OMB) for review and approval for continued use without change in accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 et seq.).

DATES: Submit comments on or before [INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site, <http://www.reginfo.gov/public/do/PRAMain>, on the day following publication of this notice or by contacting Michel Smyth by telephone at 202-693-4129 (this is not a toll-free number) or sending an email to [DOL\\_PRA\\_PUBLIC@dol.gov](mailto:DOL_PRA_PUBLIC@dol.gov).

Submit comments about this request to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL-EBSA, Office of Management and Budget, Room 10235, 725 17th Street, N.W., Washington, DC 20503, Fax: 202-395-6881 (this is not a toll-free number), email: [OIRA\\_submission@omb.eop.gov](mailto:OIRA_submission@omb.eop.gov).

FOR FURTHER INFORMATION: Contact Michel Smyth by telephone at 202-693-4129 (this is not a toll-free number) or by email at DOL\_PRA\_PUBLIC@dol.gov.

AUTHORITY: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: The Regulation on Statutory Exemption for Cross-Trading of Securities, 29 CFR 2550.408b-19, implements the content requirements for written cross-trading policies and procedures required under Employee Retirement Income Security Act of 1974 (ERISA) section 408(b)(19)(H). ERISA section 408(b)(19) exempts cross-trading transactions involving the purchase and sale of a security between an account holding assets of a pension plan and any other account managed by the same investment manager from ERISA sections 406(a)(1)(A) and 406(b)(2) prohibitions, provided that certain conditions are satisfied.

Regulations 29 CFR 2550.408b-19 provides that policies and procedures for cross-trading under the statutory exemption must: (1) be written in a manner calculated to be understood by the plan fiduciary authorizing cross-trading, (2) be sufficiently detailed to facilitate a periodic review of all cross-trades by a compliance officer designated by the investment manager and a determination by the compliance officer that the cross-trades comply with the investment manager's written cross-trading policies and procedures, and (3) include, at a minimum: (A) a statement of general policy describing the criteria that will be applied by the investment manager in determining whether execution of a securities transaction as a cross-trade will be beneficial to both parties to the transaction; (B) a description of how the investment manager will determine the price at which the securities are cross-traded, in a manner that is consistent with 17 CFR 270.17a-7(b) and Securities and Exchange Commission interpretations thereunder,

including the identity of sources used to establish the price; (C) a description of how the investment manager's policies and procedures will mitigate any potentially conflicting division of loyalties and responsibilities to the parties involved in any cross-trade transaction; (D) a requirement that the investment manager allocate cross-trades among accounts participating in the cross-trading program in an objective and equitable manner and a description of the policies and procedures that will be used; (E) the identity of the compliance officer responsible for reviewing the investment manager's compliance with ERISA section 408(b)(19) and its written cross-trading policies and procedures and the compliance officer's qualifications for this position; (F) the steps to be performed by the compliance officer during its periodic review of the investment manager's purchases and sales of securities to ensure compliance with the written cross-trading policies and procedures; and (G) a description of the procedures by which the compliance officer will determine whether the requirements of section ERISA section 408(b)(19) are met.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. See 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1210-0130. OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on May 31, 2013. The DOL seeks OMB to extend

PRA authorization for this information collection for three (3) more years without any change to existing requirements. It should be noted that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional information, see the related notice published in the Federal Register on November 27, 2012 (77 FR 70828).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the ADDRESSES section within 30 days of publication of this notice in the Federal Register. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1210-0130. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is 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 burden of the proposed collection 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., permitting electronic submission of responses.

Agency: DOL-EBSA.

Title of Collection: Statutory Exemption for Cross-Trading of Securities.

OMB Control Number: 1210-0130.

Affected Public: Private Sector—businesses or other for-profits and not-for-profit institutions.

Total Estimated Number of Respondents: 315.

Total Estimated Number of Responses: 2,834.

Total Estimated Annual Burden Hours: 3,290.

Total Estimated Annual Other Costs Burden: \$14,000.

Dated: May 15, 2013.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2013-12369 Filed 05/23/2013 at 8:45 am; Publication Date: 05/24/2013]