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## **DEPARTMENT OF LABOR**

### **Employee Benefits Security Administration**

#### **Proposed Extension of Information Collection Request Submitted for Public Comment; Revisions to Annual Return/Report -- Multiple Employer Plans**

**AGENCY:** Employee Benefits Security Administration, Department of Labor.

**ACTION:** Notice.

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**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 reporting burden on the public and helps the public understand the Department's information collection requirements and provide the requested data in the desired format. Currently, the Employee Benefits Security Administration is soliciting comments on the revision of the Form 5500 information collection to reflect the hour burden required to implement annual reporting changes for multiple employer plans required by the Cooperative and Small Employer Charity Pension Flexibility Act. A copy of the information collection request (ICR) may be obtained by contacting the office listed in the ADDRESSES section of this notice.

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

**ADDRESSES:** Direct all written comments regarding the information collection request and burden estimates to G. Christopher Cosby, Office of Policy and Research, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N-5718, Washington, D.C. 20210. Telephone: (202) 693-8410; Fax: (202) 219-4745. These are not toll-free numbers. Comments may also be submitted electronically to the following Internet e-mail address: [ebsa.opr@dol.gov](mailto:ebsa.opr@dol.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

Section 103 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1023, and the regulations issued under that section, impose annual reporting and filing obligations on pension and welfare benefit plans, including multiple employer plans. Plan administrators, employers, and others generally satisfy these annual reporting obligations by the filing of the Form 5500 Annual Return/Report of Employee Benefit Plan or Form 5500-SF Annual Return/Report of Small Employee Benefit Plan, including any required schedules and attachments (together “Form 5500 Annual Return/Report”), in accordance with the instructions and related regulations.

The Form 5500 Annual Return/Report is the principal source of information and data available to the Department of Labor (DOL), the Internal Revenue Service (IRS), and the Pension Benefit Guaranty Corporation (PBGC) concerning the operations, funding, and investments of pension and welfare benefit plans. The Form 5500 Annual

Return/Report constitutes an integral part of each Agency's enforcement, research, and policy formulation programs, and is a source of information and data for use by other federal agencies, Congress, and the private sector in assessing employee benefit, tax, and economic trends and policies. The Form 5500 Annual Return/Report also serves as a primary means by which plan operations can be monitored by participants and beneficiaries and by the general public.

The Cooperative and Small Employer Charity Pension Flexibility Act (the "CSEC Act"),<sup>1</sup> enacted on April 7, 2014, created additional annual reporting requirements for multiple employer plans covered by Title I of ERISA. Specifically, section 104(c) of the CSEC Act amended section 103 of ERISA to require in section 103(g) that annual reports of multiple employer plans include "a list of participating employers" and, with respect to each participating employer "a good faith estimate of the percentage of total contributions made by such participating employers during the plan year." The effective date provisions in Section 3 of the CSEC Act make these new annual reporting requirements applicable for plan years beginning after December 31, 2013.

In order to implement the CSEC Act requirements in a timely fashion, the interim final rule published elsewhere in this Federal Register issue changes Form 5500 and Form 5500-SF as follows for plan years beginning after December 31, 2013. First, certain conforming revisions to Part I (Annual Report Identification Information) of the Form 5500 Annual Return/Report are being made to facilitate multiple employer plans

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<sup>1</sup> Pub. L. 113-97, 128 Stat. 1101.

using the Form 5500 to comply with the new requirements imposed by section 104(c) of the CSEC Act. Specifically, Line A of Part I of the Form 5500 and Form 5500-SF currently provide a box to check if the Form 5500 or Form 5500-SF is being filed for a multiple employer plan. A parenthetical is being added next to the box that tells filers checking the box that they must attach a list of participating employers and related information, and directing them to the form instructions for further information and directions on the filing requirements for the attachment. The instructions to the Form 5500 and Form 5500-SF for that box are also being amended to include information and specific directions on completing and filing the required attachment.

The instructions to the Form 5500 and Form 5500-SF will now provide that the Annual Return/Report filed for a multiple employer plan must include an attachment that identifies the participating employers in the plan by name and employer identification number (EIN), and includes for each participating employer an estimate of the percentage of the contributions made by the employer relative to the total contributions made by all participating employers during the plan year. The attachment, entitled “Multiple Employer Plan Participating Employer Information,” supplements and does not replace other Form 5500 reporting requirements that apply to multiple employer plans.

On October 7, 2014, the Office of Management and Budget (OMB) approved the changes to Form 5500 required by the CSEC Act as a revision to OMB Control Number 1210-0110 under the emergency procedures for review and clearance in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C.

Chapter 35) and 5 CFR 1320.13. OMB's approval of the revision currently is scheduled to expire on April 30, 2015.

## **II. Current Actions.**

This notice requests public comment pertaining to the Department's request for extension of OMB's approval of its revision to OMB Control Number 1210-0110 relating to the CSEC Act requirements. After considering comments received in response to this notice, the Department intends to submit an ICR to OMB for continuing approval. No change to the existing ICR is proposed or made at this time. The Department notes that 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 ICR and the current burden estimates follows:

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Annual Information Return/Report.

Type of Review: Revision of a currently approved collection of information.

OMB Number: 1210-0110.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Respondents: 5,527.

Frequency of Responses: Annual.

Responses: 5,527.

Estimated Total Burden Hours: 2,764

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

### **III. Desired Focus of Comments**

The Department of Labor (Department) 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., by permitting electronic submissions of responses.

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

Dated: October 8, 2014.

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

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