



## **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.

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**SUMMARY:** The Department of Labor (the Department), in accordance with the Paperwork Reduction Act, 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](mailto:ebsa.opr@dol.gov), (202) 693-8410, FAX (202) 219-4745 (these are not toll-free numbers).

**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:** Access to Multiemployer Plan Information.

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

**OMB Number:** 1210-0131

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

**Respondents:** 2,720

**Responses:** 242,000

**Estimated Total Burden Hours:** 31,000

**Estimated Total Burden Cost (Operating and Maintenance):** \$537,000

**Description:** Section 101(k) of the Employee Retirement Income Security Act of 1974 (ERISA), as amended by the Pension Protection Act of 2006 (PPA) requires the administrator of a multiemployer plan to provide copies of certain actuarial and financial documents about the plan to participants, beneficiaries, employee representatives and contributing employers upon request. The rule affects plan administrators, participants and beneficiaries and contributing employers of multiemployer plans. The Department previously submitted an ICR to OMB for approval of this information collection and received OMB approval under OMB Control No. 1210-0131. The current approval is scheduled to expire on August 31, 2019.

**Agency:** Employee Benefits Security Administration, Department of Labor

**Title:** Summary Plan Description Requirements Under the Employee Retirement Income Security Act of 1974, as Amended.

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

**OMB Number:** 1210-0039

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

**Respondents:** 2,981,000

**Responses:** 108,466,000

**Estimated Total Burden Hours:** 279,000

**Estimated Total Burden Cost (Operating and Maintenance):** \$172,736,000

**Description:** Section 104(b) of ERISA requires the administrator of an employee benefit plan to furnish plan participants and certain beneficiaries with a Summary Plan Description (SPD) that describes, in language understandable to an average plan participant, the benefits, rights, and obligations of participants in the plan. The information required to be contained in the SPD is set forth in section 102(b) of ERISA. To the extent there is a material modification in the terms of the plan or a change in the required content of the SPD, section 104(b)(1) of ERISA requires the plan administrator to furnish participants and specified beneficiaries with a summary of material modifications (SMM) or summary of material reductions (SMR). The Department has issued regulations providing guidance on compliance with the requirements to furnish SPDs, SMMs, and SMRs. These regulations, which are codified at [29 CFR 2520.102-2](#), [102-3](#), and [29 CFR 104b-2](#) and [104b-3](#), contain information collections for which the Department has obtained OMB approval under OMB Control No. 1210-0039. The current approval is scheduled to expire on August 31, 2019.

**Agency:** Employee Benefits Security Administration, Department of Labor

**Title:** Securities Lending by Employee Benefit Plans, Prohibited Transaction Exemption 2006-16.

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

**OMB Number:** 1210-0065

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

**Respondents:** 100

**Responses:** 1,000

**Estimated Total Burden Hours:** 192

**Estimated Total Burden Cost (Operating and Maintenance):** \$7,200

**Description:** This ICR covers information collections contained in PTE 2006-16. In 1981 and 1982, the Department issued two related prohibited transaction class exemptions, PTE 81-6 and PTE 82-63, that permit employee benefit plans to lend securities owned by the plans as investments to banks and broker-dealers and to make compensation arrangements for lending services provided by a plan fiduciary in connection with securities loans. In 2006, the Department promulgated PTE 2006-16, which combines and amends the exemptions previously provided under PTE 81-6 and PTE 82-63. The new exemption expands the categories of exempted transactions to include securities lending to foreign banks and broker-dealers that are domiciled in specified countries and to allow the use of additional forms of collateral, all subject to specified conditions.

Among other conditions, the class exemption requires a bank or broker-dealer that borrows securities from a plan to provide the plan with its most recent audited financial statement. The borrower must also affirm, when the loan is negotiated, that there has

been no material adverse change in its financial condition since the previously audited statement.

The exemption also requires the agreements regarding the securities loan transaction or transactions and the compensation arrangement for the lending fiduciary to be contained in written documents. Individual agreements are not required for each transaction; rather the compensation agreement may be made in the form of a master agreement covering a series of transactions. The ICRs contained in PTE 2006-16 were approved by OMB under OMB Control No. 1210-0065. The current approval is scheduled to expire on August 31, 2019.

**Agency:** Employee Benefits Security Administration, Department of Labor

**Title:** Employee Retirement Income Security Act of 1974 Investment Manager Electronic Registration.

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

**OMB Number:** 1210-0125

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

**Respondents:** 4

**Responses:** 4

**Estimated Total Burden Hours:** 4

**Estimated Total Burden Cost (Operating and Maintenance):** \$270

**Description** Section 3(38)(B) of ERISA imposes certain registration requirements on an investment adviser that wishes to be considered an investment manager under ERISA. In

1997, section 3(38) was amended to permit advisers to satisfy the registration requirements by registering electronically with the Investment Adviser Registration Depository (IARD) established and maintained by the Securities Exchange Commission (SEC). The Department promulgated a final regulation to implement the statutory change. The final regulation is codified at 29 CFR 2510.3-38. EBSA submitted an ICR requesting OMB approval of the information collection contained in 29 CFR 2510.3-38, and OMB approved the information collection under OMB control number 1210-0125. The current approval is scheduled to expire on August 31, 2019.

**Agency:** Employee Benefits Security Administration, Department of Labor

**Title:** Prohibited Transaction Class Exemption 88-59, Residential Mortgage Financing Arrangements Involving Employee Benefit Plans.

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

**OMB Number:** 1210-0095

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

**Respondents:** 50

**Responses:** 11,000

**Estimated Total Burden Hours:** 900

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

**Description:** PTE 88-59 provides an exemption from certain prohibited transaction provisions of ERISA and from certain taxes imposed by the Internal Revenue Code of 1986 (Code) for transactions in which an employee benefit plan provides mortgage financing to purchasers of residential dwelling units, provided specified conditions are

met. Among other conditions, PTE 88-59 requires that adequate records pertaining to exempted transactions be maintained for the duration of the pertinent loan. This recordkeeping requirement constitutes an information collection within the meaning of the PRA, for which the Department has obtained approval from OMB under OMB Control No. 1210-0095. The current approval is scheduled to expire on August 31, 2019.

**Agency:** Employee Benefits Security Administration, Department of Labor

**Title:** National Medical Support Notice—Part B.

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

**OMB Number:** 1210-0113

**Affected Public:** Businesses or other for-profit.

**Respondents:** 370,000

**Responses:** 8,700,000

**Estimated Total Burden Hours:** 727,000

**Estimated Total Burden Cost (Operating and Maintenance):** \$4,700,000

**Description:** Section 609(a) of ERISA, requires each group health plan, as defined in ERISA section 607(1), to provide benefits in accordance with the applicable requirements of any “qualified medical child support order” (QMCSO). A QMCSO is, generally, an order issued by a state court or other competent state authority that requires a group health plan to provide group health coverage to a child or children of an employee eligible for coverage under the plan. In accordance with Congressional directives contained in the Child Support Performance and Incentive Act of 1998 (CSPIA), EBSA and the Federal Office of Child Support Enforcement (OCSE) in the Department of

Health and Human Services (HHS) cooperated in the development of regulations to create a National Medical Support Notice (NMSN or Notice). The Notice simplifies the issuance and processing of qualified medical child support orders issued by state child support enforcement agencies, provides for standardized communication between state agencies, employers, and plan administrators, and creates a uniform and streamlined process for enforcement of medical child support obligations ordered by state child support enforcement agencies. The NMSN comprises two parts: Part A was promulgated by HHS and pertains to state child support enforcement agencies and employers; Part B was promulgated by the Department and pertains to plan administrators pursuant to ERISA. This solicitation of public comment relates only to Part B of the NMSN, which was promulgated by the Department. In connection with promulgation of Part B of the NMSN, the Department submitted an ICR to OMB for review, and OMB approved the information collections contained in Part B under OMB control number 1210-0113. The current approval is scheduled to expire on August 31, 2019.

**Agency:** Employee Benefits Security Administration, Department of Labor

**Title:** PTE 80-83—Sale of Securities To Reduce Indebtedness of Party in Interest.

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

**OMB Number:** 1210-0064

**Affected Public:** Businesses or other for-profits.

**Respondents:** 25

**Responses:** 25

**Estimated Total Burden Hours:** 15

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

**Description** PTE 80-83 provides an exemption from certain prohibited transaction provisions of ERISA and from certain taxes imposed by the Code for transactions in which an employee benefit plan purchases securities when the proceeds from such purchase may be used to reduce or retire a debt owed by a party in interest with respect to such plan, provided that specified conditions are met. Among other conditions, PTE 80-83 requires that adequate records pertaining to an exempted transaction be maintained for six years. The Department has received approval from OMB for this ICR under OMB Control No. 1210-0064. The current approval is scheduled to expire on November 30, 2019.

**Agency:** Employee Benefits Security Administration, Department of Labor

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

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

**OMB Number:** 1210-0130

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

**Respondents:** 319

**Responses:** 2,870

**Estimated Total Burden Hours:** 3,333

**Estimated Total Burden Cost (Operating and Maintenance):** \$14,000

**Description** The Interim Final Rule on Statutory Exemption for Cross-Trading of Securities implements the content requirements for the written cross-trading policies and procedures required under section 408(b)(19)(H) of ERISA, as added by section 611(g)

of the PPA. Section 611(g)(1) of the PPA created a new statutory exemption, added to section 408(b) of ERISA as subsection 408(b)(19), that exempts from the prohibitions of sections 406(a)(1)(A) and 406(b)(2) of ERISA those 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, provided that certain conditions are satisfied. Section 611(g)(3) of the PPA further directed the Secretary to issue regulations, within 180 days after enactment, regarding the content of the policies and procedures to be adopted by an investment manager to satisfy the conditions of the new statutory exemption.

The Department issued a final cross-trading regulation on October 7, 2008. The recordkeeping requirement in the regulation constitutes an information collection within the meaning of the PRA, for which the Department has obtained approval from OMB under OMB Control No. 1210-0130. The current approval is scheduled to expire on November 30, 2019.

**Agency:** Employee Benefits Security Administration, Department of Labor

**Title:** Plan Asset Transactions Determined by In-House Asset Managers under Prohibited Transaction Class Exemption 96-23.

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

**OMB Number:** 1210-0145

**Affected Public:** Businesses or other for-profits.

**Respondents:** 20

**Responses:** 20

**Estimated Total Burden Hours:** 940

**Estimated Total Burden Cost (Operating and Maintenance):** \$400,000

**Description** PTE 96-23, a class exemption, permits various transactions involving employee benefit plans whose assets are managed by in-house asset managers (INHAMs), provided the conditions of the exemption are met. The Department submitted the ICR included in the Proposed Amendment to PTE 96-23 for Plan Asset Transactions Determined by In-House Asset Managers to OMB for review and clearance at the time the Notice of the proposed exemption was published in the **Federal Register** (June 14, 2010, 75 FR 33642). OMB approved the amendment under OMB control number 1210-0145. The current approval will expire on November 30, 2019.

**Agency:** Employee Benefits Security Administration, Department of Labor

**Title:** Petition for Finding Under Employee Retirement Income Security Act Section 3(40).

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

**OMB Number:** 1210-0119

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

**Respondents:** 41,386

**Responses:** 10

**Estimated Total Burden Hours:** 50

**Estimated Total Burden Cost (Operating and Maintenance):** \$41,000

**Description** Rules codified beginning at 29 CFR 2570.150 set forth an administrative procedure (“procedural rules”) for obtaining a determination by the Department as to whether a particular employee benefit plan is established or maintained under or pursuant to one or more collective bargaining agreements for purposes of section 3(40) of ERISA. These procedural rules concern specific criteria set forth in 29 CFR 2510.3-40 (“criteria rules”), which, if met, constitute a finding by the Department that a plan is collectively bargained. Plans that meet the requirements of the criteria rules are not subject to state law. Among other requirements, the procedural rules require submission of a petition and affidavits by parties seeking a finding. The Department has obtained approval from OMB, under OMB Control No. 1210-0119, for the information collections contained in its rules for a finding under section 3(40). The current approval is scheduled to expire on November 30, 2019.

**Agency:** Employee Benefits Security Administration, Department of Labor

**Title:** Plan Asset Transactions Determined by Independent Qualified Professional Asset Managers under Prohibited Transaction Exemption 84-14.

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

**OMB Number:** 1210-0128

**Affected Public:** Businesses or other for-profits.

**Respondents:** 721,000

**Responses:** 4,620

**Estimated Total Burden Hours:** 111,000

**Estimated Total Burden Cost (Operating and Maintenance):** \$46,200,000

**Description** PTE 84-14, a class exemption that permits various parties that are related to employee benefit plans to engage in transactions involving plan assets if, among other conditions, the assets are managed by “qualified professional asset managers” (QPAMs) that are independent of the parties in interest and which meet specified financial standards. The exemption provides additional exemptive relief for employers to furnish limited amounts of goods and services to a managed fund in the ordinary course of business. Limited relief also is provided for leases of office or commercial space between managed funds and QPAMs or contributing employers. Finally, relief is provided for transactions involving places of public accommodation owned by a managed fund. QPAMs are permitted to manage an investment fund containing the assets of the QPAM's own plan or an affiliate's plan. The Department has obtained approval for the information collections from OMB under OMB Control No. 1210-0128. The current approval is scheduled to expire on December 31, 2019.

**Agency:** Employee Benefits Security Administration, Department of Labor

**Title:** Prohibited Transaction Class Exemption for Certain Transactions Between Investment Companies and Employee Benefit Plans (PTE 77-4).

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

**OMB Number:** 1210-0049

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

**Respondents:** 873

**Responses:** 271,238

**Estimated Total Burden Hours:** 23,040

**Estimated Total Burden Cost (Operating and Maintenance):** \$117,069

**Description** Prohibited Transaction Exemption (PTE) 77-4 provides relief from the restrictions of section 406 of ERISA and from the sanctions resulting from the application of section 4975 of the Code, for an employee benefit plan's purchase or sale of shares of an open-end investment company registered under the Investment Company Act of 1940 (mutual fund) when an investment advisor for the mutual fund or its affiliate is: (1) A plan fiduciary; and (2) not an employer of employees covered by the plan.

Section II(d) of PTE 77-4 contains certain conditions for the exemptive relief and provides, in pertinent part, that: A second fiduciary with respect to the plan, who is independent of and unrelated to the fiduciary/investment adviser or any affiliate thereof, receives a current prospectus issued by the investment company, and full and detailed written disclosure of the investment advisory and other fees charged to or paid by the plan and the investment company, including the nature and extent of any differential between the rates of such fees, the reasons why the fiduciary/investment adviser may consider such purchases to be appropriate for the plan, and whether there are any limitations on the fiduciary/investment adviser with respect to which plan assets may be invested in shares of the investment company and, if so, the nature of such limitations. Delivery of a "summary prospectus" may be used to satisfy the condition in section II(d) of PTE 77-4 requiring the delivery of a mutual fund's prospectus to the second fiduciary if the summary prospectus meets the requirements of the Securities and Exchange Commission's (SEC) revised disclosure provisions for mutual funds including a summary prospectus rule that were published in 2009. Pursuant to the SEC's revised disclosure

provisions, mutual funds also are required to send the full prospectus to the investor upon an investor's request and to provide the full prospectus on-line at a specified Internet site. The Department previously submitted an ICR to OMB for approval of the information collections in PTE 77-4 and received OMB approval under OMB Control No. 1210-0049. The current approval is scheduled to expire on December 31, 2019.

**Agency:** Employee Benefits Security Administration, Department of Labor

**Title:** Notice Requirements of the Health Care Continuation Coverage Provisions.

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

**OMB Number:** 1210-0123

**Affected Public:** Businesses or other for-profits.

**Respondents:** 605,869

**Responses:** 16,052,495

**Estimated Total Burden Hours:** 0

**Estimated Total Burden Cost (Operating and Maintenance):** \$30,490,898

**Description** The continuation coverage provisions of section 601 through 608 of ERISA (and parallel provisions of the Code) generally require group health plans to offer qualified beneficiaries the opportunity to elect continuation coverage following certain events that would otherwise result in the loss of coverage. Continuation coverage is a temporary extension of the qualified beneficiary's previous group health coverage. The right to elect continuation coverage allows individuals to maintain group health coverage under adverse circumstances and to bridge gaps in health coverage that otherwise could limit their access to health care. The Consolidated Omnibus Budget Reconciliation Act of

1985 (COBRA) provides the Secretary of Labor (the Secretary) with authority under section 608 of ERISA to carry out the continuation coverage provisions. The Conference Report that accompanied COBRA divided interpretive authority over the COBRA provisions between the Secretary and the Secretary of the Treasury (the Treasury) by providing that the Secretary has the authority to issue regulations implementing the notice and disclosure requirements of COBRA, while the Treasury is authorized to issue regulations defining the required continuation coverage. The ICR contained in these rules was approved by OMB under OMB Control No. 1210-0123. The current approval is scheduled to expire on December 31, 2019.

**Agency:** Employee Benefits Security Administration, Department of Labor

**Title:** Model Employer Children's Health Insurance Program Notice.

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

**OMB Number:** 1210-0137

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

**Respondents:** 5,897,699

**Responses:** 175,973,641

**Estimated Total Burden Hours:** 706,828

**Estimated Total Burden Cost (Operating and Maintenance):** \$16,963,859

**Description:** The Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA, Pub. L. 111-3) was signed into law on February 4, 2009. Under ERISA section 701(f)(3)(B)(i)(I), PHS Act section 2701(f)(3)(B)(i)(I), and section 9801(f)(3)(B)(i)(I) of the Code, as added by CHIPRA, an employer that maintains a

group health plan in a State that provides medical assistance under a State Medicaid plan under title XIX of the Social Security Act (SSA), or child health assistance under a State child health plan under title XXI of the SSA, in the form of premium assistance for the purchase of coverage under a group health plan, is required to make certain disclosures. Specifically, the employer is required to notify each employee of potential opportunities currently available in the State in which the employee resides for premium assistance under Medicaid and CHIP for health coverage of the employee or the employee's dependents. ERISA section 701(f)(3)(B)(i)(II) requires the Department of Labor to provide employers with model language for the Employer CHIP Notices to enable them to timely comply with this requirement. This ICR relates to the Model Employer CHIP Notice, which was approved by OMB under OMB Control No. 1210-0137. The current approval is scheduled to expire on December 31, 2019.

### **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.

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Joseph S. Piacentini

Director, Office of Policy and Research

Employee Benefits Security Administration

[Billing Code: 4510-29-P]

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