



DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Definition of Plan Assets—Participant Contributions

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Employee Benefits Security Administration (EBSA)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review - Open for Public Comments" or by using the search function.

FOR FURTHER INFORMATION CONTACT: Michael Howell by telephone at 202-693-6782, or by email at DOL_PRA_PUBLIC@dol.gov.

SUPPLEMENTARY INFORMATION:

The Department's regulation at 29 CFR 2510.3-102 states that monies that a participant pays to, or has withheld by, an employer for contribution to an employee benefit plan become “plan assets” for purposes of Title I of ERISA and the related prohibited transaction provisions of the Internal Revenue Code (the Code) as of the earliest date on which such monies can be reasonably segregated from the employer's general assets.

The regulation also establishes specific maximum time limits for contributions becoming plan assets that apply to employee pension benefit plans (with a special rule for SIMPLE IRA plans) and employee welfare benefit plans. The regulation sets a maximum time limit of 15 business days following the end of the month in which the participant contribution amounts are received or withheld by the employer. The regulation includes a procedure through which an employer receiving or withholding participant contributions for an employee pension benefit plan may obtain a 10-business-day extension of the 15-day maximum time period for contributions received or withheld in a single month if certain requirements, including information collection requirements, are met.

The regulation requires, among other things, that the employer provide written notice to plan participants within five business days after the end of the extension period and the employer's transfer of the contributions to the plan, for which the employer elected to take the extension that month. The notice must explain why the employer could not transfer the participant contributions within the maximum time period, state that the participant contributions in question have in fact been transmitted to the plan, and provide the date on which this was done. The employer must also provide a copy of the participant notice to the Secretary, along with a certification that the notice was distributed to participants and that the other requirements under the extension procedure were met, within five business days after the end of the extension period. For additional substantive information about this ICR, see the related notice published in the *Federal Register* on July 9, 2024 (89 FR 56416).

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and

clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

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 the OMB approves it 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 OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL-EBSA.

Title of Collection: Definition of Plan Assets—Participant Contributions.

OMB Control Number: 1210-0100.

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

Total Estimated Number of Respondents: 251.

Total Estimated Number of Responses: 251.

Total Estimated Annual Time Burden: 12 hours.

Total Estimated Annual Other Costs Burden: \$201.

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

Michael Howell,

Senior Paperwork Reduction Act Analyst.

