



## DEPARTMENT OF LABOR

### Agency Information Collection Activities; Request 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, 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 60 days from publication].

**ADDRESSES:** U.S. Department of Labor, Employee Benefits Security Administration, Office of Research and Analysis, Attention: PRA Officer, 200 Constitution Avenue NW, Room N-5718, Washington, DC 20210, or [ebsa.opr@dol.gov](mailto:ebsa.opr@dol.gov).

### SUPPLEMENTARY INFORMATION:

#### I. Current Actions

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. This action is not related to any pending rulemakings and 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 burden estimates follows:

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

**Title:** Loans to Plan Participants and Beneficiaries Who Are Parties in Interest with Respect to the Plan Regulation.

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

**OMB Number:** 1210-0076.

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

**Respondents:** 2,606.

**Responses:** 2,606.

**Estimated Total Burden Hours:** 7,818.

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

**Description:**

Section 406(a)(1)(B) of ERISA prohibits the lending of money or other extensions of credit between a plan and a party in interest. A statutory exemption is provided in ERISA section 408(b)(1), which exempts plan loans made to participants and beneficiaries from the prohibited transaction provisions of sections 406(a), (b)(1), and (b)(2) of ERISA if the loans: (A) are made available to all participants and beneficiaries on a reasonably equivalent basis; (B) are not made available to highly compensated employees, officers, or shareholders in an amount greater than the amount made available to other employees; (C) are made in accordance with specific provisions regarding such loans set forth in the plan; (D) bear a reasonable rate of interest; and (E) are adequately secured.

For purposes of this information collection, section 408(b)(1)(C) of ERISA requires plan loans to be made in accordance with specific provisions set forth in the plan document. The

Department's regulation at 29 CFR § 2550.408b-1(d) prescribes eight specific provisions that must be included in the plan documents, including: (1) an explicit authorization for the plan fiduciary responsible for investing plan assets to establish such a loan program; (2) the identity of the person or position authorized to administer the program; (3) a procedure for applying for loans; (4) the basis on which loans will be approved or denied; (5) limitations (if any) on the types and amounts of loans offered; (6) the procedure for determining a reasonable rate of interest; (7) types of collateral that may secure a participant loan; and (8) the events constituting default and the steps that will be taken to preserve plan assets in the event of such default.

The Department has received approval from OMB for this ICR under OMB Control No. 1210-0076. The current approval is scheduled to expire on August 31, 2026.

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

**Title:** Prohibited Transaction Class Exemption 1985-68 to Permit Employee Benefit Plans to Invest in Customer Notes of Employers.

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

**OMB Number:** 1210-0094.

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

**Respondents:** 1.

**Responses:** 1.

**Estimated Total Burden Hours:** 1.

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

**Description:**

Prohibited Transaction Exemption 85-68 provides that the prohibitions of ERISA sections 406(a), 406(b)(1) and (2), and 407(a) and the taxes imposed by Code section 4975(a) and (b) by reason of Code section 4975(c)(1)(A) through (E) shall not apply to the acquisition of customer notes by a plan from an employer with respect to the plan, and holding of the customer

notes by the plan, or the repurchase of those notes by the employer. For the purpose of this exemption, a customer note is a two-party instrument, executed along with a security agreement for tangible personal property, which is accepted in connection with, and in the normal course of, an employer's primary business activity as a seller of such property. The exemption does not apply to notes of an employer's affiliate.

This exemption includes a recordkeeping provision, whereby plans are required to maintain all records, information, and data which relate to plan investments in customer notes covered by this exemption. The class exemption requires that those records be made unconditionally available to certain persons on request.

The Department has received approval from OMB for this ICR under OMB Control No. 1210-0094. The current approval is scheduled to expire on August 31, 2026

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

**Respondents:** 3,214,973.

**Responses:** 117,968,000.

**Estimated Total Burden Hours:** 1,397,000.

**Estimated Total Burden Cost (Operating and Maintenance):** \$88,872,000.

**Description:**

The Department has promulgated regulations governing the content, style, and format, and furnishing of Summary Plan Descriptions (SPDs), Summary of Material Modifications (SMMs), and Summary of Material Reductions (SMRs) at 29 CFR 102-2 (Style and Format of

Summary Plan Descriptions); 29 CFR 2520.102-3 (Contents of Summary Plan Descriptions); 29 CFR 2520.102-4 (Option for Different Summary Plan Descriptions); 29 CFR 2520.2520.104b-1 (Disclosure); 29 CFR 2520.104b-2 (Summary Plan Descriptions); 29 CFR 104b-3 (Summary of Material Modifications to the Plan and Changes in the Information Required to be Included in the Summary Plan Description); and 29 CFR 104(b)-(4) (Alternative Methods of Compliance for Furnishing the Summary Plan Description and Summaries of Material Modifications of a Pension Plan to a Retired Participant, a Separated Participant, and a Beneficiary Receiving Benefits).

These regulations set standards for the content, style, and format of these disclosure documents, the methods of furnishing that will satisfy the statutory disclosure requirements, and alternative methods of compliance.

The Department has received approval from OMB for this ICR under OMB Control No. 1210-0039. The current approval is scheduled to expire on September 30, 2026.

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

***Title:*** Disclosures for Participant Directed Individual Account Plans.

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

***OMB Number:*** 1210-0090.

***Affected Public:*** Private sector, Businesses or other for-profits.

***Respondents:*** 619,650.

***Responses:*** 1,039,819,787.

***Estimated Total Burden Hours:*** 5,204,349.

***Estimated Total Burden Cost (Operating and Maintenance):*** \$221,557,106.

***Description:***

The Department published a final regulation under ERISA section 404(a), with conforming amendments to the regulations under ERISA section 404(c), that requires plan

fiduciaries to disclose plan- and investment-related fee and expense information to participants and beneficiaries in all participant directed individual account plans (e.g., 401(k)-type plans) for plan years that began on or after November 1, 2011, and at least annually thereafter (defined by regulation as at least once in any 14-month period, without regard to whether the plan operates on a calendar or fiscal year basis).

The final rule, 29 CFR 2550.404a-5(c), requires three sub-categories of plan-related information to be provided to participants and beneficiaries. The first sub-category is general plan information, which includes how participants may give investment instructions or exercise proxy voting or tendering rights, restrictions on transferring account assets among investment alternatives, and identification of the plan's designated investment alternatives and designated investment managers (29 CFR 2550.404a-5(c)(1)). The second sub-category of plan-related information is administrative expense information, which refers to explanations of any fees and expenses for general plan administrative services (e.g., legal, accounting, recordkeeping) charged to individual accounts and the basis for allocating such charges among the accounts (e.g., pro-rata, per capita). (29 CFR 2550.404a-5(c)(2)). The third sub-category of plan-related information is individual expense information, which describes expenses assessed against accounts based on the actions taken by individual participants or beneficiaries. This would include charges for processing participant loans and qualified domestic relations orders. (29 CFR 2550.404a-5(c)(3)). Changes to this information must be disclosed at least 30 days but no more than 90 days before the effective date of the change except for unforeseen events or circumstances beyond the plan administrator's control.

The rule also requires plan administrators to disclose three sub-categories of investment-related information to participants and beneficiaries on or before their date of eligibility, which relates to the plans designated investment alternatives. The first sub-category of information is information required to be provided automatically (29 CFR 2550.404a-5(d)(1)). For each designated investment alternative, the plan must disclose specified identifying information, past

performance data, comparable benchmark returns, fee and expense information, and an Internet website address that is sufficiently specific to lead participants and beneficiaries to specified supplemental information for each investment alternative. Investment-related information must be furnished in a chart or similar format designed to help participants compare the plan's investment alternatives across each category of information. (29 CFR 2550.404a-5(d)(2)). To facilitate compliance, the rule includes a model chart that may be used by plan fiduciaries to satisfy this requirement. The second sub-category of investment-related information is post-investment information. Following a participant's investment in an alternative, the plan administrator must provide any materials it receives regarding voting, tender or similar rights in the alternative (“pass-through materials”) to the extent such rights are passed through to the participant or beneficiary (29 CFR 2550.404a-5(d)(3)). The third sub-category of investment-related information is information to be provided upon request (29 CFR 2550.404a-5(d)(4)). Participants may request the plan to provide prospectuses, financial reports, as well as statements of valuation and a list of assets held by an investment alternative.

The Department has received approval from OMB for this ICR under OMB Control No. 1210-0090. The current approval is scheduled to expire on September 30, 2026.

**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 collection of information.

**OMB Number:** 1210-0121.

**Affected Public:** Private sector, Businesses or other for-profits.

**Respondents:** 760,585.

**Responses:** 55,055,864.

**Estimated Total Burden Hours:** 982,079.

**Estimated Total Burden Cost (Operating and Maintenance):** \$3,101,381.

***Description:***

The Department's 2002 regulatory safe harbor at 29 CFR 2520.104b-1(c) describes the circumstances under which the administrator of an employee benefit plan may furnish required disclosure documents through electronic media. The information collection contains a disclosure requirement and a requirement that participants affirmatively consent to electronic disclosure or confirm consent electronically. The consent serves to demonstrate to the plan administrator that an individual has the ability to access information in the electronic form that will be used for disclosure purposes. Such confirmation will ensure the compatibility of the hardware and software between the individual and the plan, and will also serve to demonstrate that the administrator has taken appropriate and necessary measures reasonably calculated to ensure that the system for furnishing documents results in actual receipt, as required under ERISA. Lastly, where applicable, the consent provides a means for the individual to provide the plan with the correct e-mail address to facilitate the efficiencies that may arise from the use of electronic technologies where appropriate.

In 2020, the Department issued a final rule providing a safe harbor (Notice-and-Access Safe Harbor) for plan administrators who wish to satisfy ERISA's delivery requirements for retirement plan documents by posting them on a website and notifying workers of the online availability of such documents (29 CFR 2520.104b-31). Retirement plan administrators may satisfy their obligation to furnish ERISA-required disclosures by making the information accessible online and furnishing a notice of internet availability of these disclosures to covered individuals. The notice of internet availability must be sent to the electronic address of the participant, for example to the participant's email address and include, among other things, a brief description of the document being posted online, a website address where the document is posted, and instructions for requesting a free paper copy or electing paper delivery in the future. It must be sent each time a retirement plan disclosure is posted to the internet website. To

prevent “email overload,” the 2020 final rule allows a notice of internet availability to incorporate or combine other notices of internet availability in limited circumstances.

The Department has received approval from OMB for this ICR under OMB Control No. 1210-0121. The current approval is scheduled to expire on September 30, 2026.

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

**Title:** Defined Benefit Plan Annual Funding Notice.

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

**OMB Number:** 1210-0126.

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

**Respondents:** 32,209.

**Responses:** 58,201,069.

**Estimated Total Burden Hours:** 166,067.

**Estimated Total Burden Cost (Operating and Maintenance):** \$5,758,314.

**Description:**

In 2012, Congress enacted the Moving Ahead for Progress in the 21st Century Act (MAP-21). The law provides funding interest rate stabilization for single employer defined benefit (DB) plans, effective for plan years beginning on and after January 1, 2012. MAP-21 set a floor (or ceiling) for the interest rates that single employer defined benefit plan administrators generally are required to use to calculate contributions. Under the rules, the generally required interest rates are limited to rates that are within a specified range, or corridor, above or below a 25-year average for the rates.

The Multiemployer Pension Reform Act of 2014 (MPRA), Pub. L. 113-235 (2014), added new disclosure requirements to section 101(f)(2)(B) of ERISA relating to the new multiemployer funding classification of “critical and declining status.” A plan is in critical and declining status if it is in critical status and is projected to become insolvent with 15 years (or

within 20 years if a special rule applies). MPRA requires the annual funding notice of critical and declining status plans to include the projected date of insolvency; a clear statement that such insolvency may result in benefit reductions; and a statement describing whether the plan sponsor has taken legally permitted actions to prevent insolvency. These requirements were added to the final regulation and the multiemployer plan model notice to reflect the MPRA amendments to ERISA section 101(f) and are included in the hour burden to complete that notice.

MPRA requires the annual funding notice of critical and declining status plans to include the projected date of insolvency; a clear statement that such insolvency may result in benefit reductions; and a statement describing whether the plan sponsor has taken legally permitted actions to prevent insolvency. These requirements were added to the final regulation and the multiemployer plan model notice to reflect the MPRA amendments to ERISA section 101(f).

On February 2, 2015, the Department published final rules implementing ERISA section 101(f). As required by statute, the final rule requires the plan administrator of a defined benefit pension plan that is subject to the Pension Benefit Guaranty Corporation's Insurance Program to furnish a funding notice annually to participants, beneficiaries, labor organizations representing such participants or beneficiaries, employers obligated to make contributions to a multiemployer plan, and the Pension Benefit Guaranty Corporation (PBGC). Large plans must furnish the notice by the 120th day following the end of the plan year to which the notice relates. A small plan may furnish a funding notice on or before the due date, with extensions, of the plan's Form 5500 Annual Return/Report filed with the Department.

The Department has received approval from OMB for this ICR under OMB Control No. 1210-0126. The current approval is scheduled to expire on September 30, 2026.

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

**Title:** Default Investment Alternatives under Participant Directed Individual Account Plans.

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

**OMB Number:** 1210-0132.

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

**Respondents:** 384,183.

**Responses:** 49,546,060.

**Estimated Total Burden Hours:** 87,978.

**Estimated Total Burden Cost (Operating and Maintenance):** \$2,183,990.

**Description:**

The Department of Labor finalized a regulation under ERISA section 404(c)(5)(A). The regulation offers guidance on the types of investment vehicles that plans may choose as their “qualified default investment alternative” (QDIA) and receive fiduciary relief. The regulation also outlines two types of information collections. First, it implements the statutory requirement that plans provide annual notices to participants and beneficiaries whose account assets could be invested in a QDIA. Second, the regulation requires plans to disclose certain information regarding a QDIA to those participants and beneficiaries with assets invested in the QDIA as well to provide certain information on request. These two information collections are necessary to inform participants and beneficiaries, who do not make investment elections, of the consequences of their failure to elect investments, the ways in which their account assets will be invested through the QDIA, and of their continuing opportunity to make other investment elections, including options available under the plan.

The Department has received approval from OMB for this ICR under OMB Control No. 1210-0132. The current approval is scheduled to expire on September 30, 2026.

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

**Title:** Notice to Employees of Coverage Options Under Fair Labor Standards Act Section 18B.

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

**OMB Number:** 1210-0149.

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

State, Local, and Tribal Governments.

***Respondents:*** 10,909,076.

***Responses:*** 31,595,244.

***Estimated Total Burden Hours:*** 263,294.

***Estimated Total Burden Cost (Operating and Maintenance):*** \$5,480,827.

***Description:***

Since January 1, 2014, individuals and employees of small businesses have had access to affordable coverage through a competitive private health insurance market – Health Insurance Marketplace. The Marketplace offers “one-stop shopping” to find and compare private health insurance options. Section 1512 of the Affordable Care Act created a new Fair Labor Standards Act (FLSA) section 18B [29 USC 218b] requiring a notice to employees of coverage options available through the Marketplace.<sup>1</sup>

Section 18B of the FLSA, as added by section 1512 of the Affordable Care Act, generally provides that, in accordance with regulations promulgated by the Secretary of Labor, an applicable employer must provide each employee at the time of hiring a written notice: (1) Informing the employee of the existence of the Marketplace (referred to in the statute as the Exchange) including a description of the services provided by the Marketplace, and the manner in which the employee may contact the Marketplace to request assistance; (2) If the employer plan's share of the total allowed costs of benefits provided under the plan is less than 60 percent of such costs, then the employee may be eligible for a premium tax credit under section 36B of the Internal Revenue Code (the Code) if the employee purchases a qualified health plan through the Marketplace; and (3) If the employee purchases a qualified health plan through the

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<sup>1</sup> The Secretary of Labor has delegated responsibility for FLSA section 18B rulemaking to the Employee Benefits Security Administration (EBSA), within the Department of Labor. See Q2 in ACA Implementation FAQ Part V, available at: <http://www.dol.gov/ebsa/faqs/faq-aca5.html>.

Marketplace, the employee may lose the employer contribution (if any) to any health benefits plan offered by the employer and that all or a portion of such contribution may be excludable from income for Federal income tax purposes.

The Department has received approval from OMB for this ICR under OMB Control No. 1210-0149. The current approval is scheduled to expire on September 30, 2026.

## **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 ICR for OMB approval of the information collection; they will also become a matter of public record.

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

Signed at Washington, DC, this 10th day of February 2026.

**Daniel Aronowitz,**

*Assistant Secretary,*

*Employee Benefits Security Administration,*

*U.S. Department of Labor.*

