

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Proposed Extension of Information Collection Request Submitted for Public Comment; Proposed Extension of Information Collection; Comment Request; Prohibited Transaction Class Exemption 85-68 - - To Permit Employee Benefit Plans to Invest in Customer Notes of Employers

AGENCY: Employee Benefits Security Administration, Department of Labor

ACTION: Notice

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 proposed extension of the information collection provisions of Prohibited Transaction Class Exemption 85-68. 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 THAT IS 60 DAYS FOLLOWING THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Joseph S. Piacentini, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW, Washington, DC 20210, (202) 693-8410, FAX (202) 693-4745 (these are not toll-free numbers).

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to section 408 of ERISA, the Department has authority to grant an exemption from the prohibitions of sections 406 and 407(a) if it can determine that the exemption is administratively feasible, in the interest of participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan. Prohibited Transaction Class Exemption 85-68 describes the conditions under which a plan is permitted to acquire customer notes accepted by an employer of employees covered by the plan in the ordinary course of the employer's primary business activity. The exemption covers sales as well as contributions of customer notes by an employer to its plan. Specifically, the exemption requires that the employer provide a written guarantee to repurchase a note which becomes more than 60 days delinquent, that such notes be secured by a perfected security interest in the property financed by the note, and that the collateral be insured. The exemption requires records pertaining to the transaction to be maintained for a period of six years for the purpose of ensuring that the transactions are protective of the rights of participants and beneficiaries. This recordkeeping requirement constitutes an information collection within the meaning of the PRA, for which the Department has obtained approval from the Office of Management and Budget (OMB)

under OMB Control No. 1210-0094. The OMB approval is currently scheduled to expire on July 31, 2007.

II. Current Actions.

This notice requests public comment pertaining to the Department's request for extension of OMB approval of the information collection contained in PTE 85-68. 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. 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: Prohibited Transaction Class Exemption 85-68

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

OMB Number: 1210-0094

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

Respondents: 525

Frequency: On Occasion

Responses: 1900

Average Response time: [if applicable]: 1 hour

Estimated Total Burden Hours: 1900 hours

Estimated Total Burden Cost: \$0

III. 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: April 3, 2007

Bradford P. Campbell
Acting Assistant Secretary
Employee Benefits Security Administration

[Billing Code: 4510-29-P]