

Annual Return/Report of Employee Benefit Plan (Form 5500)
OMB Number 1210-0110
September 2014

SUPPORTING STATEMENT FOR PAPERWORK REDUCTION ACT 1995 SUBMISSIONS

2014 Emergency Revision

As further discussed under Items A.1, 8, and 12, below, the Department is revising this ICR pursuant to the emergency PRA clearance procedures set forth under 5 CFR 1320.13 to reflect changes made to the Form 5500 reporting requirements by the Cooperative and Small Employer Charity Pension Flexibility Act (the “CSEC Act”), P.L. 113-97, 128 Stat. 1101, enacted on April 7, 2014. The CSEC Act amended the funding rules for pension plans that are maintained by certain cooperatives or charities. In addition, it 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 the Employee Retirement Income Security Act of 1974 to require 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 provision is effective for plan years beginning on or after December 31, 2013. Therefore, the new information must be reported on the 2014 forms. EBSA must make new forms and amended instructions available by January 2015 so that filers can meet their filing deadlines which generally begin as early as July 31, 2015.

This revision is being made under the emergency Paperwork Reduction Act clearance procedures, because the use of normal clearance procedures would likely disrupt or prevent the Department from complying with the Congressional mandate to collect the information in time for plan year 2014 filings. The multiple employer plan reporting requirements under the CSEC Act apply to plan years beginning after December 31, 2013, thus creating an immediate need for changes to the Form 5500 and Form 5500-SF. Without these changes to the Form 5500 and related instructions, multiple employer plans would have no uniform way to comply with the CSEC Act requirements and there would not be any assurance that uniform information about participating employers in multiple employer plans would be available to the public.¹

A. Justification

13. *Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the*

¹ The Department also is making a no-material change to the instructions for the 2014 forms that adds the words “or Unprocessable” to a caution in the instructions that lets users know that they will get a message of “Processing Stopped” or “Unprocessable,” if they file a submission in the Form 5500 electronic filing system without a valid electronic signature.

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collection of information.

The Employee Retirement Income Security Act of 1974 (ERISA) contains three separate sets of provisions—in Title I (Labor provisions, Title II (Internal Revenue Code provisions), and Title IV (Pension Benefit Guaranty Corporation provisions)—requiring administrators of employee benefit pension and welfare plans (collectively referred to as employee benefit plans) to file returns or reports annually with the federal government.

Title I of ERISA, specifically sections 101(b)(1) and 104(a)(1)(A), requires the administrator of an employee benefit plan to file an annual report containing the information described in section 103 of ERISA with the Department of Labor (the Department). Section 104(a)(2) of ERISA, provides that the Secretary may by regulation prescribe simplified annual reporting for pension plans that cover fewer than 100 participants. Section 109(a) of ERISA, provides that, with certain exceptions, the Secretary may prescribe forms. Sections 104(a)(3) and 110 of ERISA authorize the Secretary to prescribe exemptions and simplified reporting for welfare plans and alternative methods of compliance for pension plans, respectively, if certain findings with respect to such plans can be made by the Secretary. Finally, section 505 of ERISA provides the Secretary with general authority to prescribe such regulations as are “necessary and appropriate” to carry out the provisions of Title I of ERISA.

Provisions in Title II of ERISA require an annual return to be filed on behalf of specified tax-qualified retirement plans with the Internal Revenue Service (IRS). Provisions in Title IV require certain annual reports to be filed for employee benefit plans with the Pension Benefit Guaranty Corporation (PBGC).

Since enactment of ERISA, the Department has cooperated with the IRS and the PBGC to produce the Form 5500 Annual Return/Report, through which the regulated public can satisfy the combined reporting/filing requirements applicable to employee benefit plans. On November 16, 2007, the three agencies, including the Department, adopted revisions to the Form 5500 Annual Return/Report, including the establishment of a new Form 5500-SF (Short Form 5500) for certain small plans, in order to update and streamline the annual reporting process in conjunction with establishing a wholly electronic processing system for receipt of the Form 5500 Annual Return/Reports and to conform the forms to the Pension Protection Act of 2006, Pub. L. No. 109-280 (PPA).² A final rule was published contemporaneously with the revisions including an amendment to the Electronic Filing Rule (72 FR 64710). Specifically, that final rule amends the Department’s regulation at 29 CFR 2520.104a-2 to provide that the electronic filing requirement is applicable only for plan years beginning on or after January 1, 2009.

The Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010 (Pension Relief Act), Pub. L. No. 111-102, enacted June 25, 2010, amended the Code to allow

² 72 FR 63731.

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sponsors of defined benefit pension plans to elect funding relief, including on a retroactive basis. The IRS issued funding relief guidance for multiemployer plans in Notice 2010-83 on November 26, 2010 and for single-employer plans in Notice 2011-03 on December 17, 2010. The IRS Notices include technical revisions to the Form 5500 to conform the actuarial information required to be reported on the Schedule MB (Multiemployer Defined Benefit Plan and Certain Money Purchase Plan Actuarial Information) and Schedule SB (Single-Employer Defined Benefit Plan Actuarial Information) to reflect the funding relief alternatives retroactively available to defined benefit pension plans in connection with their 2008, 2009, and 2010 plan years. The retroactive availability of the funding relief under the Pension Relief Act for sponsors of defined benefit plans created an immediate need for changes to the Schedules MB and SB reporting requirements. Without these changes, filers would be unable to file accurate and complete Schedules MB and SB. In accordance with the IRS Notices, affected filers must provide the required information either as an attachment to the 2011 Annual Return/Report or by way of amendment of the 2008 or 2009 Annual Return/Report. Only a relatively small number of Form 5500 filers, comprised of only those defined benefit plan filers that elect the optional relief offered under the Pension Relief Act for 2008, 2009, or 2010 plan years, are affected by the Schedule MB and SB changes.

In 2008, 2009, and 2010, the Department submitted non-material, nonsubstantive change requests for the Form 5500 instructions for these years, which were approved by OMB. On September 17, 2010, the Department submitted a rollover request to extend OMB approval of the ICR for three years. The Department amended its request to reflect the changes made by the Pension Relief Act and the IRS guidance after receiving OMB approval.

January 2013 Revision

The Department finalized an amendment to the annual reporting requirement to require all ERISA-covered plans plan MEWAs and Entities Claiming Exemption (ECEs) that are subject to the M-1 filing requirements to prove compliance with such requirements in order to satisfy the Form 5500 annual reporting requirements. Accordingly, the Department finalized the requirement to add a new Part III to the Form 5500, which requires plan administrators to report whether an employee welfare benefit plan is a MEWA subject to the Form M-1 requirements. Plan administrators that indicate the plan is a MEWA also are required to enter the receipt confirmation code for the most recent Form M-1 filed with the Department. Failure to answer the Form M-1 compliance questions results in rejection of the Form 5500 as incomplete and civil penalties under ERISA section 502(c)(2) may be assessed. This enhances the Department's ability to enforce the Form M-1 requirements by subjecting plan MEWAs that fail to file Form M-1 to the ERISA section 502(2) civil penalty for failure to file a complete Form 5500.³

³ Although ERISA sections 505 and 734 give the Secretary the authority to require MEWAs that are group health plans to comply with the Form M-1 requirements, there is, however, no corresponding ERISA civil penalty for a failure to comply with those requirements.

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A corresponding change was made that eliminates the limited Form 5500 filing exemption for insured or unfunded, fully insured, or combination unfunded/fully insured plan MEWAs with fewer than 100 participants. It is important to note that while the amendment eliminates the annual reporting exemption for plan MEWAs with fewer than 100 participants, such MEWAs already are subject to the Form M-1 requirements. Moreover, the impact of satisfying the Form 5500 annual reporting requirements would be substantially less burdensome for plan MEWAs, because in addition to being eligible for the simplified annual reporting for small welfare plans, such MEWAs would be exempt from completing Schedule I (Financial Information) and Schedule C (Service Provider Information) of the Form 5500 or require an audit.⁴ Thus, these amendments provide the Secretary an important enforcement tool while imposing minimal burdens on plan MEWAs. The Department's estimate of the hour and cost burden associated with the January 2013 revision is discussed in Items 12 and 13, below.

The Department submitted an additional no-material change to the instructions for the 2014 forms that adds the words "or Unprocessable" to a caution in the instructions that informs users that they will get a message of "Processing Stopped" or "Unprocessable," if they file a submission in the Form 5500 electronic filing system without a valid electronic signature.

2014 CSEC Act Revision

As discussed above, the CSEC Act creates additional reporting requirements for multiple employer plans covered by Title I of ERISA. Specifically, section 104(c) of the CSEC Act amends Section 103 of ERISA to require the annual reports of multiple employer plans to include a list of participating employers and a good faith estimate of the percentage of total contributions made by each participating employer during the plan year.

In order to implement the CSEC Act requirements in a timely fashion, the interim final regulation changes the Form 5500/Form 5500-SF as follows for plan years beginning after December 31, 2013. Certain conforming revisions to Part I (Annual Report Identification Information) of the Form 5500 Annual Return/Report are also being made to facilitate multiple employer plans using the Form 5500 to comply with the new requirements imposed by section 104(c) of the CSEC Act. 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. 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.

⁴ These plan MEWAs would only need to file Form 5500 annual return/report and, if applicable, Schedule A (Insurance Information) and Schedule G, Part III (nonexempt transactions).

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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). This attachment, entitled “Multiple Employer Plan Participating Employer Information,” supplements and does not replace other Form 5500 filing requirements that apply to multiple employer plans.

Although the CSEC Act in general was focused on amendments to the funding rules for certain defined benefit pension plans, the annual reporting amendment to section 103 of ERISA did not limit the new reporting requirement to defined benefit pension plans. Rather, the new requirement applies generally to any “multiple employer plan.” Accordingly, the final rule adds instructions for the Form 5500 and Form 5500-SF requiring all multiple employer plans (defined benefit pension plans, defined contribution plans, and welfare plans) required to file the Form 5500 or Form 5500-SF to include with their annual report the new “Multiple Employer Plan Participating Employer Information” attachment. However, multiple employer welfare plans that are exempt under 29 C.F.R. § 2520.104-20 or 29 C.F.R. § 2520.104-44 from the obligation to file financial statements with their annual report are required to include only a list of participating employers with the corresponding EIN/PN numbers in the “Multiple Employer Plan Participating Employer Information” attachment they will submit with their filing.

14. *Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.*

The Form 5500 return/reports are the principal source of information and data available to the Department, the IRS, and the PBGC (the Agencies) concerning the operation of employee benefit plans. For this reason, the Form 5500 constitutes an integral part of the Agencies’ enforcement, research, and policy formulation programs. The annual report also provides a means by which the Agencies can effectively and efficiently identify actual and potential violations of ERISA, thereby minimizing the Agencies’ investigatory contacts with the vast majority of plans, and enabling the Agencies to make the best use of their limited resources. The annual report also provides a fundamental tool for investigators in reviewing the operations and activities of employee benefit plans and identifying potential violations of the statute and regulations. Furthermore, public disclosure of the annual reports is intended to serve as a deterrent to non-compliance with the statutory duties imposed on plan fiduciaries.

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With regard to research and policy formulation, the Form 5500 represents the primary source of data available to federal agencies, Congress, and the private sector for the development and implementation of national pension policy.

In addition to providing the Agencies with important enforcement, research, and policy information, the Form 5500 represents the only source of detailed financial information available to plan participants and beneficiaries who, upon written request, must be furnished a copy of the plan's latest annual report by the plan administrator (ERISA section 104(b)(1)(B)(4)). Moreover, the annual report serves as the basis for the summary annual report, which administrators are generally required to furnish to each participant and beneficiary annually, except those covered by defined benefit plans.

Approximately 800,000 pension and welfare benefit plans must file the Form 5500 under Title I and IV of ERISA and the Code. These plans cover an estimated 150 million participants and hold an estimated \$4.3 trillion in assets. The annual report/reports are therefore important tools for protecting the benefits of millions of American workers.

15. *Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration for using information technology to reduce burden.*

The Agencies currently use an automated processing system, the ERISA Filing Acceptance System 2 or EFAST2, to process the Form 5500 filings. The combined effect of the transition to electronic filing, the implementation of the EFAST2 processing system, and the revised Form 5500 return/reports has reduced lessen the paperwork burden imposed by the reporting requirements that are the basis for this information collection. For example, the Department's share of the hour burden has been reduced from 1.9 million hours when the ICR was extended in 2004 to 530,000 in the current ICR extension request, and its share of the cost burden has been reduced from \$664 million to \$178 million over the same timeframe.

16. *Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.*

The Agencies have developed and use a consolidated annual report that allows filers to satisfy the information collection requirements of all three agencies through a single filing, without duplication of effort or information collection. This eliminates the duplicative reporting that would otherwise result from application of the statutory provisions as written. In addition, while certain information concerning assets (including employee benefit plan assets) held by banks,

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insurance companies and other investment entities may be separately reported to state and Federal regulatory authorities, those reports are not structured to provide meaningful information about those assets specifically attributable to any employee benefit plan, or to employee benefit plan investors as a group distinct from other types of investors. Therefore, there is no similar information gathered or maintained by any state or Federal agency or other source that the Agencies would consider adequate for effectively monitoring the activities of employee benefit plans.

17. *If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize burden.*

For purposes of the Paperwork Reduction Act (PRA) and for other purposes, the Employee Benefit Security Administration (EBSA) defines “small entity” as an employee benefit plan that has fewer than 100 participants. Support for this definition can be found in section 104(a)(2) of ERISA permits the Secretary of Labor to prescribe simplified annual reports for pension plans which cover fewer than 100 participants. Under section 104(a)(3), the Secretary may also provide for simplified annual reporting and disclosure if the statutory requirements of part 1 of Title I of ERISA would otherwise be inappropriate for welfare plans. Some large employers may have small plans, but in general, most small plans are maintained by small employers.

Pursuant to the authority of section 104(a)(3), the Department has created simplified reporting provisions and limited exemptions from reporting and disclosure requirements for small plans, including unfunded or insured welfare plans that cover fewer than 100 participants and satisfy certain other requirements. For example, under these exemptions, and subject to certain other requirements, over 6 million small pension and welfare plans are relieved of the requirement to file an annual return/report and most small plans are not required to engage an independent qualified public accountant (IQPA) to audit their assets for their annual return/reports.

In the past, the Agencies have taken a number of other steps intended to ease small plans’ burdens and costs attributable to the annual return/report. For example, the Agencies currently allow plans with between 80 and 120 participants to continue filing the same category of annual report that was filed the previous year in order to provide administrative flexibility at the small/large plan threshold. In 2009, a simplified reporting option for small plans—the Form 5500-SF—was added to provide simplified reporting for certain small plans (e.g., plans with fewer than 100 participants with easy to value investment portfolios).

18. *Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.*

ERISA and the Code specifically require the annual filing of reports or returns by employee

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benefit plans. A less frequent information collection could contravene statutory requirements and would also impair and inhibit the administration and enforcement of the statute by the Agencies.

19. *Explain any special circumstances that would cause an information collection to be conducted in a manner:*
- *requiring respondents to report information to the agency more often than quarterly;*
 - *requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;*
 - *requiring respondents to submit more than an original and two copies of any document;*
 - *requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;*
 - *in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;*
 - *requiring the use of a statistical data classification that has not been reviewed and approved by OMB;*
 - *that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or*
 - *requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.*

This information collection implicates none of the special circumstances.

20. *If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.*

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or

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those who must compile records should occur at least once every 3 years -- even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

Contemporaneously with the publication of the final regulation, the Department will publish a Federal Register notice notifying the public of its intention to extend the OMB approval for three years. The notice will solicit comments on the proposed CSEC Act revisions to the information collection and provide the public with 60 days to comment as required by 5 CFR 1320.8(d).

21. *Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.*

No payments or gifts are provided to respondents.

22. *Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.*

The Form 5500 filings made under Title I of ERISA are required by law to be made available for public inspection at the Department and at the offices of the plan administrators. Accordingly, the Department of Labor provides no assurance of confidentiality to respondents.

23. *Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.*

This information collection poses no questions of a sensitive nature.

24. *Provide estimates of the hour burden of the collection of information. The statement should:*
- *Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected*

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to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.

- *If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB Form 83-I.*
- *Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 13.*

Because the Form 5500 Series combines the information collection requests of three federal agencies (the Department, the IRS, and the PBGC) into a single return/report, each of the Agencies submits its own ICR and maintains its own OMB approval for the portion of the paperwork burden arising out of the Form 5500 Series that pertains to its own information collections. However, since 1999, the Agencies have adopted a unified approach and methodology for estimating paperwork burden. This ICR requests approval of only the portion of the total paperwork burden of the Form 5500 Series that is attributed to the Department, although it includes information on the other portions of the total paperwork burden. The Department has been advised by the IRS and the PBGC that they intend to submit separate requests for OMB for a revision of the ICR. The discussion below, therefore, describes the unified methodology underlying the Agencies' estimates of the aggregate burden imposed by the forms revisions as a whole, but requests approval only of the Department's portion of that burden.

The Department estimates, based on data derived from the 2007 Form 5500 filings (the most recent accurate information available), that a total of 786,000 respondents will file annual reports using the Form 5500 Annual Return/Report.⁵ As further described below, the Department's portion of the annual aggregate hour burden generated by the Form 5500 Annual Return/Report is estimated at 520,000 hours for 2010, 2011, and 2012 with an equivalent cost burden of \$33.7 million for each of these years.⁶ The following paragraphs explain the basis for these estimates.

The Department has adopted several assumptions in performing this burden estimation. First,

⁵ All numbers in this supporting statement are rounded to the nearest 1,000.

⁶ Some numbers do not sum up to the totals due to rounding. The estimate of the sponsor wage rate based on the National Occupational Employment Survey (May 2005, Bureau of Labor Statistics) and the Employment Cost Index (Sept. 2006, Bureau of Labor Statistics) and projected to 2009.

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the methodology used for this ICR excludes certain types of activities entirely from the calculation of “burden.” If an activity is performed for any reason other than compliance with the applicable federal tax administration system or the Title I annual reporting requirements, it is not counted as part of the paperwork burden. For example, most businesses or financial entities maintain, in the ordinary course of business, detailed accounts of assets and liabilities and income and expenses for the purposes of operating the business or entity. The Department has not attributed any recordkeeping burden to the Form 5500 Annual Return/Report because it believes that plan administrators’ practice of keeping financial records necessary to complete the Form 5500 Annual Return/Report arises from usual and customary management practices that would be used by any financial entity and is not the result of any ERISA or Code annual reporting and filing requirements.

This burden analysis includes only the time needed for gathering and processing information associated with compliance with the tax return/annual reporting requirements. In addition, an activity that must be performed for both IRS and Departmental purposes is counted once for burden analysis purposes.

The Agencies also have designed the instruction package for the Form 5500 Annual Return/Report so that filers generally will be able to complete the Form 5500 Annual Return/Report by reading the instructions without needing to refer to the statutes or regulations. The Agencies, therefore, have included in their PRA calculations a burden for reading the instructions and have assumed that there is no additional burden for research.

A new burden estimating model, initially based on the Form 5500 Burden Model that a contractor, Mathematica Policy Research, Inc. (MPR) had used for estimating burdens in October 2004, has been developed, for purposes of this burden analysis, by Actuarial Research Corporation (ARC). ARC assembled a simplified model by drawing on implied burdens associated with subsets of filer groups represented in the MPR model. The new model uses a level of detail consistent with reflecting burden differences associated with the various proposed Forms revisions, as described below.⁷

The types of plans that have similar reporting requirements were grouped together to estimate aggregate burdens for this submission. Thus, calculations were prepared for different subsets of types of plans, as appropriate based on the specific reporting requirements. The universe of filers was first divided into three basic plan types: defined benefit pension plans, defined contribution pension plans, and welfare plans. Each of these major plan types was further subdivided into multiemployer and single-employer plans. Since filing requirements differ substantially for small and large plans, the plan types were also divided by plan size. For large

⁷ The new burden model developed by ARC has been used to calculate burdens for the paperwork reduction burdens of the Notice of Proposed Rulemaking, the Proposed Forms Revisions, and the Notice of Supplemental Proposed Forms Revisions. This burden model was further updated for the Final Forms Revisions and Final Rules.

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plans (100 participants or more), defined benefit plans were further divided into very large (1,000 participants or more) and other large (at least 100 but less than 1,000 participants). For each of these sets of respondents, burden hours per respondent were estimated for the Form 5500 Annual Return/Report itself and for each of up to seven schedules.

In addition to separating plans by type and size, costs were estimated separately for the form and for each schedule. The burden for the Form 5500-SF, as well as the simplified filing requirements for certain small plans was built from the estimated current burden associated with the various line items included in it. When items on a schedule are required by more than one Agency, the estimated burden associated with that schedule was allocated among the Agencies. This allocation was based on whether only a single item on a schedule is required by more than one Agency or whether several or all of the items are required by more than one Agency. Because filers must read not only the instructions for particular items but also instructions pertaining to the general filing requirements, the burden associated with reading the instructions was tallied and allocated accordingly.

The burden for a specific type of plan has been estimated in light of the specific items and schedules that type of plan must complete, as well as its size, funding method, and investment structures. For example, the annual report for a large fully insured welfare plan would consist of only the Form 5500 and the Schedule A (Insurance Information), and Schedules C and G, where applicable. By contrast, a large defined benefit pension plan that is intended to be tax-qualified and that uses a trust fund and invests in insurance contracts and direct filing entities would be required to submit an annual report completing the Form 5500, plus Schedule A (Insurance Information), Schedule SB, or MB (Actuarial Information), whichever one is applicable, Schedule C (Service Provider Information), Schedule D (DFE/Participating Plan Information), possibly the Schedule G (Financial Transaction Schedules), Schedule H (Financial Information), and Schedule R (Retirement Plan Information), and would be required to submit an IQPA's report and opinion. The methodology used to develop the aggregate burden estimates attempts to capture, through its categorization, these different reporting burdens, thereby providing meaningful estimates of significant differences in the burdens placed on different categories of filers.

The aggregate baseline burden for the Form 5500 is the sum of the burden estimates per form and schedule filed multiplied by the estimated aggregate number of forms and schedules. The simplified model developed by ARC draws on Form 5500 Annual Return/Report data representing each plan's filing for plan year 2007 (the most recent year for which complete data is available).

Table 1 summarizes the Department's estimates of the aggregate time needed to complete each of the forms for plan years 2011, 2012, and 2013, as listed below, reflecting the combined information collection requirements of the IRS, the Department, and the PBGC. The estimates

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are averages, since the actual time needed for any particular respondent plan to complete any of these forms will vary depending on individual circumstances. The estimated average times for each form for all of the information elements of the three Agencies are:

Table 1: Burden Boxes for Plan Years 2011, 2012, and 2013

Plan Year 2011, 2012, and 2013 Burden	Pension		Welfare	
	Large	Small	Large	Small
Form 5500	1 hr., 54 min.	1 hr., 19 min.	1 hr., 45 min.	1 hr., 14 min.
Sch A	2 hr., 52 min.	2 hr., 51 min.	3 hr., 39 min.	2 hr., 43 min.
Sch MB	7 hr., 52 min.	4 hr., 14 min.		
Sch SB	6 hr., 38 min.	6 hr., 49 min.		
Sch C	3 hr., 4 min.		3 hr., 38 min.	
Sch D	1 hr., 39 min.	20 min	1 hr., 52 min.	20 min.
Sch G	11 hr., 29 min.		11 hr.	
Sch H	7 hr., 42 min.		8 hr., 35 min.	
Sch I		2 hr., 5 min.		1 hr., 55 min.
Sch R	1 hr., 43 min.	1 hr., 5 min.		
Form 5500-SF ⁸		2 hr., 32 min.		2 hr., 32 min.

The aggregate hour burden for the entire Form 5500 Annual Return/Report (including schedules and Short Form 5500) is estimated to be 875,000 hours in 2014, of which the Department allocated share is 555,000 hours with an equivalent cost of \$38.3 million (555,000 hours times \$69 per hour for service of a financial professional).⁹ The aggregate and attributed hour burdens each reflect an allocation of the overall burden between service providers hired by plans and plans that are expected to complete the return/report through use of in-house resources, rather than by purchase of services from third party service providers. The annual cost burden attributable to the Department is further described in the answer to item 13, below.

January 2013 Revision

As stated in Item 1, above, the finalized amendment would require an ERISA-covered plan that

⁸ The burden attributed to the Short Form 5500 in this table, does not include burden for Schedule SB or MB. If Short Form filers need to file Schedule SB or MB, the burden increases accordingly.

⁹ Numbers are rounded. The estimated hourly wage rate includes wages, other benefits, and overhead based on data from the National Occupational Employment Survey (June 2012, Bureau of Labor Statistics) and the Employment Cost Index (Sept. 2012, Bureau of Labor Statistics).

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is subject to Form M-1 requirements to include proof of filing the Form M-1 as part of the Form 5500. Plan administrators that indicate the plan is subject to the Form M-1 requirements also would be required to enter the receipt confirmation code for the most recent Form M-1 filed with the Department. The Department believes that the burden associated with this revision would be minimal, because plan administrators will know whether they are subject to and in compliance with the Form M-1 requirements and will have the receipt confirmation code for the most recent Form M-1 filing readily available. The Department has included an estimate of 1 minute per entity to satisfy this requirement.

2014 CSEC Act Amendment

As stated in Item 1 above, the CSEC Act revision only applies to multiple employer plans. Based on data from the 2012 Form 5500 filings (the latest year for which complete data is available), the Department estimates that 5,527 multiple employer plans are subject to the requirements of the CSEC Act Amendment (280 defined benefit plan, 4,739 defined contribution plans, and 508 welfare plans). The Department assumes that plan administrators will comply with the new requirements; therefore, the entire burden is hour burden.

Reporting the basic information about participating employers required by the CSEC Act should not be burdensome for multiple employer plan administrators, because multiple employer plans already are required to maintain a list of participating employers and records of the contributions made by each employer. The Department's regulation on content requirements for summary plan descriptions, 29 CFR 2520.102-3, requires, in the case of a plan established or maintained by two or more employers, that the SPD contain a statement that a complete list of the employers sponsoring the plan may be obtained by participants and beneficiaries on request and a statement that the list is available for examination by participants and beneficiaries at the plan administrator's office.

In addition, the Form 5500 currently requires plans to report information on employer contributions as part of the financial information required to be filed. Section 107 of ERISA requires the plan administrator to keep records in sufficient detail to allow the information on the Form 5500 to be "verified, explained, or clarified, and checked for accuracy and completeness." In the Department's view, this would require the plan to keep records sufficient to identify the individual participating employers that made contributions and the amount of the contributions attributable to each individual employer.

Therefore, the Department assumes that on average, it will take a financial professional thirty (30) minutes to comply the CSEC Act amendments by creating an attachment containing the list of participating employer, their EIN, and their percentage of total plan contributions. Based on the foregoing, the Department estimates that 5,527 multiple employer plan administrators will spend approximately 2,764 hours complying with the CSEC Act requirements at an equivalent

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cost of approximately \$191,000 (2,764 hours times \$69 for the services of an in-house financial professional).¹⁰

Time Burden Summary

Activity	Respondents	Annual Responses per Respondent	Total Number of Responses	Total Burden Hours	Time Value	Monetized Burden Hours (Rounded)
Form 5500 including 5500-SF and Schedules	786,000	1	786,000	555,000	\$69/hour	\$38.3 million
January 2013 Revision	48	1	48	1	\$69/hour	\$69
2014 CSEC Revision	5,527	1	5,527	2,764	\$69/hour	\$191,000
<i>Unduplicated Totals</i>	791,575	NA	791,575	557,765	\$69/hour	\$38.5 million

25. *Provide an estimate of the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 or 14).*

Detailed information on the methodology by which the total annual cost burden for this ICR was developed is included in the answer to item 12, above. The total annual cost burdens attributable to the Department for the information collection requirements of the Form 5500 Return/Report, derived as described in the answer to item 12, above, are estimated at \$218.9 million annually. The aggregate tri-agency cost burden for the entire Form 5500 Annual Return/Report is estimated at \$332.4 million annually.

January 2013 Revision

The finalized amendment will provide that plans subject to the Form M-1 requirements are not eligible for the exemption from filing the Form 5500 for small welfare benefit plans that are unfunded or insured and have fewer than 100 participants. Following the methodology used to calculate the burden in the Form 5500 regulations, the Department estimates that small plan

¹⁰ The Department calculated the hourly labor rate using published survey data from the Bureau of Labor Statistics, Occupational Employment Statistics Survey (May 2013), and Employment Cost Index (March 2014) to estimate the cost of benefits in total compensation. A calculation of the 2014 hourly labor cost for financial professionals was estimated at \$69 an hour including wage, benefits, and overhead.

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MEWAs and ECEs filing a Form 5500 and completing Schedule A and Part III of Schedule G would incur a de minimis annual cost of \$450 to engage a third-party service provider to prepare the form and schedules for submission. The Department does not have sufficient data to determine the number of small plan MEWAs or ECEs that would be required to file the Form 5500 under the final rule. About 10 percent (48) of MEWAs and ECEs filing a Form M-1 in 2010 had less than 100 participants. However, the 2010 form M-1 does not contain sufficient information to determine which of these MEWAs or ECEs would be subject to the requirements of final rule. If all 48 were subject to the rule, the additional burden would be \$21,600 (48*\$450).

2014 CSEC Act Revision

As discussed above, the Department estimates that the entire burden to comply with the CSEC Act revision is hour burden, because the work is performed by an in-house financial professional.

Cost Burden Summary

Activity	Respondents	Annual Responses per Respondent	Cost Burden (Rounded)
Form 5500 including 5500-SF and Schedules	786,000	1	\$218.9 million
January 2013 Revision	48	1	\$21,600
2014 CSEC Revision	5,527	1	\$0
<i>Unduplicated Totals</i>	791,575	NA	<i>\$218.9 million</i>

26. *Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table.*

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The total annual processing cost for all Form 5500 Series filings during the period covered by this ICR extension request is estimated to average \$ 13.2 million annually (including oversight), in accordance with the terms of the EFAST2 vendor contracts. These costs are allocated among the agencies (DOL, PBGC, and IRS) according to the EFAST2 Cost Allocation Model, which was approved by the agencies at the beginning of EFAST2 operations in 2010 as the methodology that would be used for identifying agencies' share of EFAST2 costs. Under the model, the agencies pay for their relative share of the total filing volume. Based on the model, the Department's share of the total cost is approximately \$6.9 million.

The Department's share of Federal FTE costs is estimated at approximately \$967,000, which represents the agencies' best estimate of the EBSA employee time dedicated to EFAST2. The FTE costs are based on the 2012 General Schedule for the Washington-Baltimore-Northern Virginia area and assume that the following employees work on the project:

- (1) Two full-time GS-15, Step 5 FTE(\$140,259) at a loaded compensation rate of approximately \$180,000 (approximately \$360,000 total);
- (2) One GS-15, Step 5 FTE (\$140,259) working 15% at a loaded compensation rate of approximately \$180,000 (approximately \$27,000 total)
- (3) Three full-time GS-14, Step 5 FTE (\$119,238) at a loaded compensation rate of approximately \$153,000 (approximately \$459,000 total)
- (4) One GS-14, Step 5 FTE (\$119,238) working 25% at a loaded compensation rate of approximately \$153,000 (approximately \$38,000 total)
- (5) One GS-13, Step 5 FTE (\$100,904) working 25% at a loaded compensation rate of approximately \$129,157 (approximately \$32,000 total)
- (6) One SES FTE (\$149,627) working 25% at a loaded compensation rate of approximately \$192,000 (approximately \$48,000 total)
- (7) One SES FTE (\$149,627) working one percent at a loaded compensation rate of approximately \$192,000 (approximately \$1,920 total)
- (8) One GS-13, Step 5 FTE (\$100,904) working one at a loaded compensation rate of approximately \$129,157 (approximately \$1,300 total)

The remaining \$5.93 million is allocated to EBSA contractor costs, which include EFAST2 Production System costs such as, EFAST2 Operations (Steady-State, Modifications, Change Maintenance) and Contract Administration (Technical Oversight, System Transition, and Capital Planning).

27. *Explain the reasons for any program changes or adjustments reported in Items 13 or 14.*

The Department is revising the ICR to reflect the hour burden associated with the CSEC Act amendments discussed in Item 1, above for OMB approval under the emergency PRA clearance

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procedures. The revised provisions will add 5527 responses and 2764 burden hours to the information collection budget. As described in Items 12 and 13 above, the Departments estimate that affected entities would spend 1 minute per entity and \$450 to comply with the requirements.

28. *For collections of information whose results will be published, outline plans for tabulation, and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.*

The Form 5500 is not a collection of information for statistical use. Once collected, however, the information is available to the Agencies and the public, and it is used for purposes other than enforcement and disclosure.

29. *If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.*

OMB previously granted approval for the Department to omit the expiration date from the Form 5500. The Department requests continued approval to omit the expiration date.

30. *Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submission."*

The Department seeks no exceptions to the certification statement.

B. Collections of Information Employing Statistical Methods

Statistical methods are not used in these collections of information.