

## SUPPORTING STATEMENT FOR PAPERWORK REDUCTION ACT SUBMISSIONS

1. *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 collection of information.*

A growing number of participants and beneficiaries in ERISA-covered retirement plans are preparing for retirement by participating in plans that allow them to direct the investment of assets in their accounts. With the proliferation of these plans, participants and beneficiaries have become increasingly responsible for the adequacy of their retirement savings.

According to the Department's most recent data, there are an estimated 437,000 participant-directed individual account plans, covering an estimated 65 million participants, and holding almost \$2.3 trillion in assets. How well plan participants fare from the return on their retirement investments depends in part on the amount they must pay in fees and expenses.

The Department has become concerned that participants and beneficiaries may not have adequate access to or may not be considering information critical to making informed decisions about the management of their retirement accounts. Participants and beneficiaries particularly need information about the individual and comparable performance of the designated investment alternatives available to them under their employers' plans. In addition, they should have details and explanations about the fees and expenses attendant on each of their investment options. To address this issue, the Department published a final regulation under ERISA section 404(a), with conforming amendments to the regulations under ERISA section 404(c)<sup>1</sup>, 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 beginning on or after January 1, 2010.

The Department believes that the information collections contained in the rule are necessary to establish uniform, basic disclosures for participants and beneficiaries in participant-directed individual account plans without regard to whether they participate in plans that are intended to comply with ERISA section 404(c). Such information collections also are necessary to help participants and beneficiaries

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<sup>1</sup> Under ERISA §404(c) fiduciaries of pension plans that allow participants to exercise control of their individual accounts are not responsible for losses resulting from a participant's exercise of such control. In 1992, DOL issued a regulation describing requirements that plans must meet in order for this section to apply. Among other things, this regulation details the disclosures that §404(c) plans must make to participants in order to afford them a reasonable opportunity to control their accounts. However, the fiduciary relief provided by §404(c) is elective and about 40% of participant directed plans choose not to comply with §404(c).

enrolled in all participant-directed individual account plans make informed decisions regarding the investment of assets in their retirement accounts. Therefore, the Department has included the burdens and costs associated with the information collections contained in the rule under OMB Control Number 1210-0090. This is the control number for the Department's existing regulation under ERISA Section 404(c), which would be amended by the proposal.<sup>2</sup>

The rule contains the following information collections, which are third party disclosures from plan fiduciaries to participants and beneficiaries in participant-directed individual account plans:

***Plan-related Information—29 CFR 2550.404a-5(c).*** The rule 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)). This information must be provided by the time a participant becomes eligible to participate in the plan, and afterwards at least annually. Material 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. Plans may make these disclosures in the summary plan description (SPD).

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)). This information must be provided by the time a participant becomes eligible to participate in the plan, and afterwards at least annually. At last quarterly, plans must furnish statements of the aggregate dollar amount charged to each participant's account for these expenses during the previous quarter. Plans may make the initial and annual disclosures in the summary plan description (SPD) and the quarterly information may be included in the plan's quarterly benefit statements.

The third sub-category of Plan-related Information is Individual Expense Information, which describes expenses assessed against accounts based on the

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<sup>2</sup> See 29 CFR 2550.404c-1. The information collection provisions of the rule impose new hour and cost burdens on all participant directed individual account plans. However, the incremental burden placed on ERISA section 404(c) compliant plans is less than the burden imposed on non-404(c) compliant plans, because several of the rule's disclosure requirements are similar to those contained in the Department existing 404(c) regulation at 29 CFR 2550.404c-1. For example, the Department's existing regulation requires section 404(c) compliant plans to provide general plan, information, pass-through information, and information available upon request to participants and beneficiaries. The primary sources of additional burden for 404(c) compliant plans are the requirements to disclose the actual dollar amounts of administrative and individual expenses charged to participant accounts on a quarterly basis and to provide investment-related information in a comparative format on an annual basis. In addition, the rule is more specific about the frequency and timing of the distribution of the required disclosures, which could impose additional burden on ERISA section 404(c) compliant plans.

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)). Information describing these charges must be furnished before or upon a participant's eligibility and annually thereafter. Plans must provide quarterly statements identifying and showing the dollar amounts of each expense actually charged to an account. Plans may make the initial and annual disclosures in the summary plan description (SPD) and the quarterly information may be included in the plan's quarterly benefit statements.

***Investment-related Information—29 CFR 2550.404a-5(d).*** 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.<sup>3</sup> 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.

The latest information available to the plan must be furnished annually. Material 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.

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 rule describes the timeframes and acceptable format for providing the disclosures.

## **2014 Direct Final Rule**

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<sup>3</sup> The requirement to disclose the information on or before the date of plan eligibility may be satisfied by furnishing the most recent annual disclosure (and any material modifications) furnished to participants and beneficiaries.

On July 30, 2012, the Department’s Employee Benefits Security Administration (EBSA) issued Field Assistance Bulletin 2012-02R (FAB 2012-02R) providing guidance on thirty-eight frequently asked questions. Q&A 35 clarified that, for most plans, including calendar year plans, the first initial disclosures under the new regulation were required no later than August 30, 2012. FAB 2012-02R did not, however, specifically address the deadline for subsequent annual disclosures.<sup>4</sup>

In Field Assistance Bulletin 2013-02, issued July 22, 2013, the Department made clear that the regulation requires annual disclosures to be made no more than one year exactly (*e.g.*, 365 days) after the prior annual disclosures. Specifically, FAB 2013-02, in relevant part, states “[f]or example, a plan administrator that furnished the first required chart on August 25, 2012, must furnish the next comparative chart no later than August 25, 2013.” This interpretation was intended to prevent inconsistencies, delays, and possible manipulation of the timing of annual disclosures. It also was responsive to the views expressed by some plan administrators, which contrary to EBSA’s intent, interpreted “at least once in any 12-month period” to allow the furnishing of the annual disclosures, for example, on January 1 of one year and December 31 of the following year, thus allowing for approximately 24 months in between disclosures. At the same time, however, EBSA was concerned that the requirement that disclosures be made no more than one year exactly from the prior annual disclosures (as interpreted in FAB 2013-02) might impose undue administrative burdens on plans. Consequently, FAB 2013-02 solicited public comments on whether EBSA should amend the regulation to provide plan administrators with more flexibility as to when they must furnish the annual disclosures.<sup>5</sup> For example, instead of a permanently fixed annual deadline set at one year exactly from the last annual disclosure, EBSA requested comments on whether the deadline should have some degree of elasticity, such as a 30-day or 45-day window from the one-year anniversary of the last annual disclosure.

Based on comments received in response to the FABs, the Department is issuing a direct final rule that replaces the definition contained in paragraph (h)(1) of the current regulation with a new definition that provides a buffer requested by the commenters. The current regulatory language states that the term *at least annually thereafter* “means at least once in any 12-month period, without regard to whether the plan operates on a calendar or fiscal year basis.” The direct final rule replaces “12-month period” with “14-month period.” Thus, the definition, as

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<sup>4</sup> FAB 2012-02R supersedes FAB 2012-02 issued on May 7, 2012. Changes in the superseding bulletin did not affect Question 35.

<sup>5</sup> FAB 2013-02 also provided a one-time “re-set” opportunity under which EBSA, as an enforcement matter, would treat a plan administrator as satisfying the “at least annually thereafter” requirement of the regulation if the administrator furnished certain annual disclosures no later than 18 months from the prior annual disclosures. This temporary relief was granted to plan administrators so that the annual deadline for furnishing comparative charts and other annual disclosures under the regulation could be aligned with the furnishing of other participant notices and disclosures. FAB 2013-02 is not affected by the direct final regulation. Thus, to the extent it is otherwise available, an administrator does not lose the re-set relief in FAB 2013-02 for the second annual disclosure (described as the “2014 comparative chart” in FAB 2013-02) as a result of the direct final regulation.

amended by this rulemaking, states that the term *at least annually thereafter* “means at least once in any 14-month period, without regard to whether the plan operates on a calendar year or fiscal year basis.” It is the Department’s view that this definition achieves the correct balance by ensuring that participants and beneficiaries will receive annual disclosures on a consistent and regular basis, and without unwarranted delays in-between disclosures, while at the same time offering plan administrators some flexibility. The direct final rule is effective 90 days after publication in the Federal Register without further action or notice, unless significant adverse comment is received by 30 days after publication in the Federal Register. The amendment is applicable to disclosures made on or after the effective date. If significant adverse comment is received, EBSA will publish a timely withdrawal of the rule in the Federal Register.

2. *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 information collections under this ICR are not for the use of the Department or any other federal agency; they are mandated third-party disclosures. The information will be used by participant and beneficiaries in ERISA-covered participant directed individual account plans to make informed decisions regarding the investment of assets held in their individual accounts. The Department will not collect the information required to be disclosed by the proposal.

3. *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 Department’s separate regulation at 29 CFR 2520.104b-1(c) permits plan administrators to use electronic media to make disclosures required under Title I of ERISA, provided certain conditions are met. Plan administrators may rely on that rule to use electronic communications methods for any required disclosures, including the information collection requirements of this ICR. Moreover, in response to comments regarding the proposed regulation, the Department amended the final rule to provide a more flexible electronic disclosure standard by allowing plan administrators to satisfy the notice requirement by relying on the Department’s electronic media disclosure rule or the guidance issued by the Department of the Treasury and Internal Revenue Service at 26 CFR § 1.401(a)-21 relating to the use of electronic media.

In estimating the burden of this ICR, the Department has assumed, as further described below, that 38 percent of plans will make the required information disclosures through electronic means. Where any of the requisite disclosures cannot be prepared in electronic form, they will have to be distributed as hard copies. Moreover, plan fiduciaries may have to supply paper copies of the

information to participants whom they cannot reach electronically or to those who do not affirmatively consent to receiving documents electronically.

4. *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 information collections associated with the rule do not duplicate information available from any other source. In principal part, this information collection merely insures that existing relevant information is furnished appropriately to plan participants and beneficiaries. In fashioning the regulation, the Department took account of other similar federal and state requirements in order to reduce or eliminate duplication of effort.

The Department consulted with the Securities and Exchange Commission (the SEC) to avoid including duplicative, overlapping, or conflicting requirements in the proposal. In general, the rule follows the SEC's disclosure regime for most investments. The Department knows of no other relevant federal rules that duplicate, overlap, or conflict with the proposed regulations.

5. *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.*

The regulation does not provide special reduced requirements for small plans or small employers, because the information collections are designed specifically to protect the rights of participants and beneficiaries covered by participant-directed individual account plans. The Department believes that the information collections contained in the rule are as important to participants and beneficiaries in small plans (or associated with small employers) as they are to participants and beneficiaries in large plans (or associated with large employers), because participants and beneficiaries in small plans need the same amount and quality of information regarding their investments and investment alternatives as participants and beneficiaries in large plans in order to make informed decisions about the management of the retirement assets in their accounts.

Small business owners who offer their employees pension plans with participant-directed individual accounts may not have the resources to analyze plan fees themselves or to hire an analyst for that purpose. However, in the likely case that small business owners use service providers for plan administration purposes, some of the costs of complying with the new requirements will be borne by the service provider who might be able to distribute them to a large number of clients. While the rule could conceivably discourage some employers from offering plans, the Department notes that the rule builds on existent disclosure requirements for section 404(c) plans.

While the Department did not adopt a delayed effective date for small plans as requested by a commenter on the proposal, it did adopt a delayed applicability date for the rule (plan years beginning on or after January 1, 2010), which should provide small and large plans with sufficient time to develop systems necessary for compliance.

6. *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.*

If the information collections contained in the rule were not conducted, or were conducted less frequently, participants and beneficiaries in participant- directed individual account plans would be more likely to make inappropriate investment decisions that could reduce their investment returns and lead to lower retirement savings. Moreover, in the aggregate, participants and beneficiaries would spend a considerable amount of time searching for this information.

The rule would help a large number of plan participants by displaying investment-related information in a format that facilitates comparison of investment alternatives. This simplified format will make it easier and less time consuming for participants to find and compare information they need to effectively manage their retirement accounts. The Department believes that these disclosures will benefit plan participants and beneficiaries directly by helping them to pick the lowest cost comparable investment alternatives offered under their plans. Their wiser selections will, in turn, increase their accounts' investment returns, strengthening their retirement savings. As participants and beneficiaries become more sophisticated investors, their behavior will create more competition among the providers of the investment alternatives, which could drive down fund fees. In addition, plan fiduciaries may use the increased disclosures to scrutinize fees in order to select less expensive comparable investment alternatives under the plans. All these benefits depend on the timeliness and frequency of the information collection; the less frequent the disclosures, the less ability participants will have to determine how best to allocate their investments.

7. *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.*

None.

8. *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 record keeping, 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 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.*

The Department's Federal Register notice soliciting comments on the proposed extension of the information collection, as required by 5 CFR 1320.8 (d) was published in the Federal Register on May 22, 2013 (78 FR 30335). It provided the public with 60 days to comment, and no comments were received.

### **2014 Direct Final Rule**

The direct final rule provides the public with 30 days to comment on the revised ICR. The revision to the ICR is discussed in item 1, above.

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

Not applicable.

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

Not applicable.

11. *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.*

None.



1. *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 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.*

The Department has made the following assumptions in order to establish a reasonable estimate of the paperwork burden associated with this ICR:

- Based upon Form 5500 data from the 2011 Plan Year,<sup>6</sup> 505,795 participant-directed individual account plans with 65,948,000 participants will produce and distribute the required disclosures;
- On an annual basis, 14 percent of plans will be new and the remaining 86 percent of plans will be existing plans;
- Plans will distribute 38 percent of disclosures electronically using existing systems in accordance with the Department's standards for electronic communication of required information under 29 CFR 2520.104b-1(c). Therefore, no cost has been attributed to the electronic distribution of information;
- Plans will use existing in-house resources to conduct compliance review, create and distribute disclosures, create the website, and adjust the IT systems necessary to fulfill the requirements of this rule;
- The tasks associated with the ICR will be performed by clerical personnel at an hourly rate of \$29.14, legal professionals at an hourly rate of \$126.07, accountants at an hourly rate of \$67.76, and IT professionals at an hourly rate of \$73.42.<sup>7</sup>

#### Plan-Related Information

The rule requires all plans to provide General Plan Information annually and Administrative and Individual Expense Information quarterly.

The Department assumes that every year, new plans will have in-house legal staff spend 30 minutes conducting compliance review and developing the General Plan Information disclosure for a total of 35,000 hours at an equivalent cost of \$4.5 million, while clerical staff will spend 30 minutes gathering documents and

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<sup>6</sup> The most recent year available.

<sup>7</sup> The Department estimates 2013 hourly labor rates include 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 (September 2012, Bureau of Labor Statistics); the 2011 estimated labor rates are then inflated to 2013 labor rates.

providing administrative support for the legal staff for a total of 35,000 hours at an equivalent cost of \$1 million. Existing plans will have in-house legal staff spend 15 minutes conducting compliance review and updating the General Plan Information disclosure for a total of 109,000 hours at an equivalent cost of \$13.7 million, while clerical staff will spend 15 minutes gathering documents and providing administrative support for the legal staff for a total of 109,000 hours at an equivalent cost of \$3.2 million. The General Plan Information disclosure will be sent to all participants (65.9 million participants) and 62 percent of the disclosures (40.9 million disclosures) will be sent by mail. Clerical staff is assumed to spend, on average, two minutes per disclosure to copy and mail this information for a total of 1.4 million hours at an equivalent cost of \$39.7 million.

The Department assumes that Administrative and Individual Expense Information will be included as part of required quarterly statements. Calculating the Expense Information will be performed by outside service providers, and as such, has been included in the cost section in question 13. All other costs associated with this required disclosure are included in the hour and cost burden calculations for producing and distributing quarterly statements, which fall under another ICR.

#### Investment-Related Information

The rule requires all plans to provide, annually, a comparative chart containing specified identifying information, past performance data, comparable benchmark returns, fee and expense information, and a link to a website regarding investment options. The rule also requires all plans to create and maintain a website with investment disclosures. Further, the rule requires plans to provide post-investment “pass through” disclosure materials to participants’ investments in an alternative investment. Finally, the rule requires plans to provide a variety of disclosure materials upon request.

The Department assumes that in-house accountants will spend 5 hours per new plan creating comparative charts and 4 hours per existing plan updating comparative charts for a total of 2.1 million hours at an equivalent cost of \$141.9 million. The comparative chart will be sent to all participants (65.9 million participants) and 62 percent of the disclosures (40.9 million disclosures) will be sent by mail. Clerical workers are assumed to spend, on average, two minutes per disclosure to copy and mail this information for a total of 1.4 million hours at an equivalent cost of \$39.7 million.

The Department assumes that in-house IT staff will spend 3.5 hours per new plan creating, and updating quarterly, a website that meets the requirements of this rule, while in-house IT staff will spend 2 hours per existing plan making quarterly updates of the website. The total hourly burden for IT staff will be approximately 1.1 million hours at an equivalent cost of \$82.1 million.

Because the “pass through” disclosures are only required to be given post-investment to investors choosing alternative investments, the Department assumes that only plan participants in plans with employer securities will receive these disclosures. These disclosures will be sent to all participants in plans with employer securities (15 million participants) and 62 percent of the disclosures (9.3

million disclosures) will be sent by mail. Clerical workers are assumed to spend, on average, two minutes per disclosure to copy and mail this information for a total of 310,000 hours at an equivalent cost of \$9 million.

Finally, the Department estimates that each plan will receive one request for information per year. Each information request will require 1 hour of clerical time to prepare the request and 2 minutes of clerical time to copy and mail the information. Assuming that 62 percent of requests will be mailed, approximately 516,000 hours of clerical burden at an equivalent cost of \$15 million will result.

### Summary

In summary, creating, preparing, and distributing these require disclosures will result in 7.1 million hours of burden annually at an equivalent cost of \$349.8 million.

### **2014 Direct Final Rule**

As discussed under item 1 above, the current regulatory language states that the term *at least annually thereafter* “means at least once in any 12-month period, without regard to whether the plan operates on a calendar or fiscal year basis.” The direct final rule replaces “12-month period” with “14-month period.” Thus, the definition, as amended by this rulemaking, states that the term *at least annually thereafter* “means at least once in any 14-month period, without regard to whether the plan operates on a calendar year or fiscal year basis.” The Department does not expect this amendment to have an impact on the hour burden associated with the ICR, because it solely determines when the disclosures are distributed but does not affect the content of the disclosures.

13. *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.)*

As explained in question 12 above, the rule requires plan-related and investment-related information to be disclosed to participants and beneficiaries covered by participant directed individual account plans. The Department developed estimates for the universe of plans, participants and beneficiaries affected by these information collections. Additional costs in this Question 13 relate solely to the additional costs that arise from determining administrative and individual fees charge against participants’ accounts, printing and distributing the required disclosures, and establishing and maintaining the plans’ websites. The annual cost burden is calculated as follows:

### Plan-Related Information

The Department assumes that plans will send 65.9 million copies of the General Plan Information to plan participants and beneficiaries, which will contain an average of 10 pages. Paper and printing costs are expected to be 5 cents per page and mailing costs are expected to be 86 cents per mailed disclosure. It is assumed that 38 percent of the required plan information will be delivered electronically for a de minimis cost. The mailed copies result in a cost burden of \$55.6 million.

Plans will also have to determine the administrative and individual fees that will be charged directly against participants' accounts, which will be included in the plans' quarterly benefit statements.<sup>8</sup> The Department estimates a cost burden of approximately \$16.7 million for new plans to establish information systems or accounting practices that will collect, track and report the actual dollar amounts charged to the individual accounts and \$36 million for existing plans to update systems.<sup>9 10</sup>

#### Investment-Related Information

Disclosing investment related information leads to material costs, if the materials are given out by hand or mailed. As with the disclosure of the General Plan Information, it is assumed that 38 percent of the disclosures will be sent electronically with no associated cost burden. Paper and printing costs are assumed to be 5 cents per page.

The Department assumes that plans will send 65.9 million copies of the Comparative Chart to plan participants and beneficiaries, which will contain an average of three pages. As this information is required to be sent on an annual basis the Department assumes it will be sent with the General Plan Information. Mailing costs are already accounted for in the calculation of the cost burden for the General Plan Information. The resulting annual cost burden for materials is \$6.1 million.

Plans also are required to create and maintain a website. Having a plan website might require plans to rent server space at an estimated cost of \$260 annually per plan. The estimated annual cost of renting the server space is approximately \$131.5 million.

With regard to post-investment pass-through disclosures, it is assumed that this information would primarily be sent to those participants holding company securities. This results in approximately 15 million participants receiving disclosures each year. One disclosure is assumed to be, on average, ten pages long, with mailing costs of \$0.66 per disclosure. This results in an annual cost burden of \$10.8 million.

Finally, each plan is expected to receive one information request per year. Information requests are assumed to be 20 pages in length and come with mailing costs of \$0.86 per disclosure. Of these information requests, 38 percent are assumed to be distributed electronically at de minimis cost, while the remaining 314,000 requests will result in a printing and mailing cost of \$583,000.

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<sup>8</sup> Because these data will be included in quarterly benefit statements, no materials cost has been assessed for this requirement.

<sup>9</sup> According to a GAO report (GAO-03-661T, "Mutual Funds: Information on Trends in Fees and Their Related Disclosure," March 12, 2003, p. 14), which measures the cost of the disclosures of the actual dollar amount of mutual fund investment expenses on a participant level, it cost \$1 per account to generate these disclosures in 2001 and \$0.35 per account to maintain compliance. Using the Consumer Price Index to inflate these values, the costs would be \$1.36 and \$0.48 respectively in 2013. The Department estimates that approximately 1/3 of these costs would be comparable to the costs of complying with this rule.

<sup>10</sup>

## Summary

It is estimated that the total cost burden of these information collections are \$257.3 million.

### 2014 Direct Final Rule

As discussed under item 1 above, the current regulatory language states that the term *at least annually thereafter* “means at least once in any 12-month period, without regard to whether the plan operates on a calendar or fiscal year basis.” The direct final rule replaces “12-month period” with “14-month period.” Thus, the definition, as amended by this rulemaking, states that the term *at least annually thereafter* “means at least once in any 14-month period, without regard to whether the plan operates on a calendar year or fiscal year basis.” The Department does not expect this amendment to have an impact on the cost burden associated with the ICR, because it solely determines when the disclosures are distributed but does not affect the content of the disclosures.

14. *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.*

There is no cost to the Federal Government associated with this information collection.

15. *Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I.*

The previous submission included a number of one-time start-up costs. Since this submission is a renewal without change for an existing ICR, these start-up costs are no longer applicable. Countering the reduction in one-time start-up costs, the number of individual account plans,<sup>11</sup> labor costs, and material costs all increased.

16. *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.*

Not applicable.

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

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<sup>11</sup> Although the number of affected plans increased, the total number of participants in affected plans decreased since the last submission. Both changes reflect updated reporting data from the Form 5500.

Not applicable.

18. *Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submission," of OMB 83-I.*

Not applicable; no exceptions to the certification statement.

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