

Annual Return/Report of Employee Benefit Plan (Form 5500)
OMB Number 1210-0110
July 2016

SUPPORTING STATEMENT FOR PAPERWORK REDUCTION ACT OF 1995
SUBMISSIONS

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 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

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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).¹ 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 CFR2520.104a-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 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 2013, 2014, and 2015, the Department submitted non-material, non-substantive change requests for the Form 5500 instructions for these years, which were approved by OMB. The Department also made the revisions to the information collection that are discussed below.

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

¹ 72 FR 63731.

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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 5500.²

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.³ 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

The Department revised 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

² 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.

³ 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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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 became effective for plan years beginning on or after December 31, 2013. The new information is reported on the 2014 forms. EBSA made new forms and amended instructions available so that filers can meet their filing deadlines which generally begin as early as July 31, 2015. OMB approved the ICR on May 11, 2015, and the ICR is scheduled to expire on August 31, 2018.

Proposed Form Modernization

The Department is issuing a Notice of Proposed Rulemaking (NPRM) and Notice of Proposed Form Revision (NPFR) with the objective of making the Form 5500, including the Form 5500–SF, Short Form Annual Return/Report of Small Employee Benefit Plan and their required schedules and attachments (together Form 5500) into a “21st Century” information collection tool. The project thus is sometimes referred to as the *21st Century Initiative*.

The proposed form revisions are intended to address changes in applicable law, the employee benefit plan and financial markets, corresponding shifts in agency enforcement priorities, and data and research needs for our policy analysis, rulemaking, compliance assistance, and education activities. The revised forms would also serve to reinforce for plan fiduciaries the important duties under ERISA to operate plans prudently and monitor their service providers.

In developing the proposed changes, the Department, IRS, and PBGC took into account recommendations in more than 15 reports from the Government Accountability Office (GAO), the Department’s Office of Inspector General, the United States Treasury Inspector General for Tax Administration, and the ERISA Advisory Council that have been issued since the publication of the last major revision of the Form 5500.⁴

⁴ See, e.g., U.S. Gov’t Accountability Office, *GAO-10-54, Private Pensions: Additional Changes Could Improve Employee Benefit Plan Financial Reporting* (2009) (available at www.gao.gov/assets/300/298052.pdf); U.S. Gov’t Accountability Office, *GAO-14-441, Private Pensions: Targeted Revisions Could Improve Usefulness of Form 5500 Information* (2014) (available at www.gao.gov/products/GAO-14-441); 2013 *ERISA Advisory Council Report: Private Sector Pension De-risking and Participant Protections*, Dep’t of Labor, www.dol.gov/ebsa/publications/2013ACreport2.html); Dep’t of Labor Office Of Inspector Gen., *05-14-003-12-12, EBSA Could Improve Its Usage of Form 5500 Data* (2014) (available at www.oig.dol.gov/public/reports/oa/2014/05-14-003-12-121.pdf); U.S. Gov’t Accountability Office, *GAO-14-92,*

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The proposed forms revisions fall under the following broad goals to improve employee benefit plan reporting for filers, plan participants and beneficiaries, the public, and the Agencies:

(1). *Modernize Financial and Investment Reporting by Pension Plans.* Reporting on the financial operations and integrity of U.S. private pension plans (both defined benefit and defined contribution) is critical given the ongoing importance of such plans to the retirement security of America's workforce. Moreover, improved transparency of financial products and investments acquired by plans will give the Agencies access to information necessary for improved enforcement of existing rules and regulations and is critical to the ability of the Agencies' to fulfill their statutory oversight role. It is also important for ongoing monitoring of retirement plans by employers, plans, participants and beneficiaries, and policy makers. The proposed changes to financial reporting are specifically designed to improve transparency and reliability of reporting on alternative investments (e.g. derivatives), hard-to-value assets, ESOPs, investments through collective investment vehicles, and investments held in participant-directed brokerage accounts. We also expect these form improvements to enable Departmental and private sector users of Form 5500 data to refine analytic strategies for evaluating risks to plans and participants and to identify patterns and trends in plan investments and behavior. Potential risks to plans associated with these investments (e.g., improper valuation, inappropriate illiquidity, conflicts) are the subject of enforcement actions. This data would enable a significant improvement over our current approach to identifying issues

Private Pensions: Clarity of Required Reports and Disclosures Could Be Improved (2013) (available at www.gao.gov/assets/660/659211.pdf); U.S. Gov't Accountability Office, GAO-14-92, Private Pensions: Clarity Of Required Reports And Disclosures Could Be Improved, Report to Congressional Requesters (2013) (available at www.gao.gov/assets/660/659211.pdf); U.S. Dep't of Labor Office of Inspector Gen., 09-13-001-12-121, Employee Benefits Security Administration Needs to Provide Additional Guidance And Oversight to ERISA Plans Holding Hard-to-Value Alternative Investments (2013) (available at www.oig.dol.gov/public/reports/oa/2013/09-13-001-12-121.pdf); U.S. Gov't Accountability Office, GAO-12-665, Private Sector Pensions: Federal Agencies Should Collect Data and Coordinate Oversight of Multiple Employer Plans (2012) (available at www.gao.gov/assets/650/648285.pdf); U.S. Dep't of Labor Office Of Inspector Gen., 09-12-002-12-121, Changes Are Still Needed In The ERISA Audit Process To Increase Protections For Employee Benefit Plan Participants (2012) (available at www.oig.dol.gov/public/reports/oa/2012/09-12-002-12-121.pdf); U.S. Gov't Accountability Office, GAO-12-325, 401(k) Plans: Increased Educational Outreach and Broader Oversight May Help Reduce Plan Fees (2012) (available at www.gao.gov/products/GAO-12-325); U.S. Gov't Accountability Office, GAO-08-692, Defined Benefit Plans: Guidance Needed to Better Inform Plans of the Challenges and Risks of Investing in Hedge Funds and Private Equity (2012) (available at www.gao.gov/products/GAO-08-692); Treasury Inspector Gen. for Tax Administration, The Employee Plans Function Should Continue Its Efforts to Obtain Needed Retirement Plan Information (2011) (available at www.treasury.gov/tigta/auditreports/2011reports/201110108fr.pdf); 2011 ERISA Advisory Council Report: Hedge Funds and Private Equity Investments, Dep't of Labor, www.dol.gov/ebsa/publications/2011ACreport3.html); 2013 ERISA Advisory Council Report: Locating Missing and Lost Participants, Dep't of Labor, www.dol.gov/ebsa/publications/2013ACreport3.html#2; 2010 ERISA Advisory Council Report: Employee Benefit Plan Auditing and Financial Reporting Models, Dep't of Labor, www.dol.gov/ebsa/publications/2010ACreport2.html; 2008 ERISA Advisory Council Report: Working Group on Hard-to-Value Assets and Target Date Funds, Dep't of Labor, www.dol.gov/ebsa/publications/2008ACreport1.html.

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involving plan investments in derivatives and other hard-to-value assets, which involves less reliable targeting and EBSA opening investigations on a plan-by-plan basis. For defined contribution pension plans, especially participant-directed plans, the proposal also would provide better information on participation rates, investment alternatives, and factors leading to participant selection of alternatives. As Form 5500 information is open to public inspection, not only would the expanded data collection assist in the Agencies' research and policymaking objectives, public access to this information would enable interested private sector and other governmental stakeholders to perform data-based research or help plan sponsors, fiduciaries, and participants and beneficiaries better understand their plan and plan investments.

(2). Support Oversight of Group Health Plans and Ongoing Implementation of the Affordable Care Act (ACA). The proposal would expand group health reporting by adding a new Schedule J (Group Health Plan Information). Large group health plans, all of which are currently required to file a Form 5500, would have to include the new Schedule J with their annual report, with the remaining reporting requirements generally unchanged, except as proposed to be changed for all filers. Small group health plans that are funded with a trust would be required to report the same information as large group health plans funded with a trust; they would no longer be permitted to file the Form 5500-SF. Although this would require such plans to complete the Schedule C and the Schedule H, for plans with simple investments, there should only be a modest burden increase over completing the Form 5500-SF. Any small welfare plans funded with a trust that are invested in assets that are not "eligible plan assets" for purposes of Form 5500-SF filing, would already be required to file the Form 5500, along with the Schedule I, and if applicable, Schedule A.

The proposal would expand Form 5500 reporting by group health plans by eliminating obsolete pre-ACA exemptions from Form 5500 reporting. Most small private employer-sponsored group health plans⁵ are fully exempt from any Form 5500 reporting requirements. Accordingly, for policy formulation, research, and regulatory impact analyses, the Department must rely on survey instead of Form 5500 data even to generate estimates of the size of the health plan universe.⁶ The Form 5500 data, as currently limited by the exemption from filing for most small group health plans, can provide the basis only for an incomplete assessment of a large sector of the health plan market made up of ERISA group health plans.

Under the proposal, small group health plans currently exempt from filing an annual report under because they are completely unfunded or combination unfunded/fully

⁵ For Form 5500 reporting purposes, small plans are generally those with fewer than 100 participants.

⁶ Although the IRS collects some information on health plans under the ACA, this data is not public information available to the DOL.

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insured would be required to file a Form 5500 and a Schedule J. Plans that are unfunded, i.e., pay some or all of their benefits out of the plan sponsors' general assets, are exempt from state insurance regulation, making the DOL their sole regulatory agency. However, the DOL does not have any knowledge of their existence. Further, because these plans are small, they are more susceptible to financial difficulties. Because of these concerns, the DOL believes that it is important to have more detailed benefit, financial, and compliance information for plans that are self-insured or partially self-insured than for those small plans that are fully insured. These plans would be required under the proposal to file the complete Form 5500 and Schedule J.

Small group health plans that are fully insured would be required to answer only limited questions on both the Form 5500 and Schedule J. This additional data reporting would give the Agencies the information to identify health insurance plans they regulate and allow them to monitor plan trends and activities, but minimize the reporting burden from more detailed reporting on the Form 5500, Schedule A, and Schedule J.

The proposed changes to group health plan reporting are important to the Department's ability to accomplish effectively its oversight obligations under the ACA and other federal laws governing group health plans, to monitor more effectively health policy issues, and to provide Congress with accurate information about health care issues.

For example, in the ACA, Congress required the Department to use Form 5500 data to prepare an annual "Self-Insured Report" on group health plans. The proposed Form 5500 changes will allow the Department to substantially improve that report. In addition, the Department anticipates that Form 5500 data will similarly be used in future versions of the biennial Mental Health Parity and Addiction Equity Act (MHPAEA) Report to Congress on the compliance of group health plans and health insurance coverage offered in connection with such plans with the requirements of MHPAEA. Information about the amount of outstanding claims for a self-insured plan, a new data element being proposed, is critical to intervention in an underfunded health plan that could prevent a participant from facing bankruptcy over unpaid medical expenses that otherwise would have been covered. Further, the Department can leverage the Form 5500 data to target corrective action from a group health provider that will benefit all of its client plans, while also enabling the provider to respond to just one EBSA inquiry (e.g. correction of an impermissible blanket pre-authorization requirement for mental health benefits), rather than having to respond to multiple inquiries addressed to individual client plans.

In addition, the Form 5500 changes will allow the Department to implement important reporting requirements for group health plans added by the ACA. Sections 2715A and 2717(a) of the PHS Act, as added by the ACA, significantly expand reporting requirements for health plans. PHS Act section 2715A and 2717 are incorporated in

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ERISA through ERISA section 715(a)(1) and the Internal Revenue Code through Code section 9815(a)(1). EBSA is coordinating with the Department of Health and Human Services (HHS) and the Department of the Treasury on using Form 5500 reporting to satisfy some of these reporting requirements.⁷

(3). Modernize Data Collection and Usability. The form improvement project would require additional portions of the Form 5500 to be filed in standardized and “data capturable” formats. Today, the Department allows some important portions of the Form 5500 to be filed as images (e.g., pdf files) rather than in data formats that are more easily converted into database information. Improvements in filing technology introduced by the EFAST system have made evident the utility of having more of the information be in database format. The proposal would require more of the information on retirement, group health and welfare benefit plans, both that which is already required to be collected on attachments and similar new information being proposed, to be filed in more “database friendly” formats. This step is designed to make the Form 5500 more usable by the government and the public. This step is also consistent with the Administration’s “Smart Disclosure” effort because it will enable private sector data users to develop more individualized tools for employers to evaluate their retirement plans and employees to manage their retirement savings. See www.data.gov/consumer/smart-disclosure-policy-resources.

(4). Update and Improve Reporting of Service Provider Fee and Expense Information. The proposed form changes include a further step in the Department’s long-term initiative focused on improved transparency and oversight of service provider fees and investment expenses. The Department initially expanded the information that plans have to report regarding service provider fees in the 2009 Form 5500. The Department’s service provider fee disclosure regulation was finalized in 2010 and became effective generally in 2012 (29 CFR 2550.408b-2). That regulation required service providers to improve disclosures to plans regarding fees and compensation they receive from third parties in connection with the services they provide to the plan. The form changes included in this proposal are designed to harmonize Form 5500 reporting requirements with the now final fee disclosure regulation. We believe the annual reporting on the Form 5500 of compensation actually received by a service provider and its sources will provide a powerful tool for plan fiduciaries, the Department, and the public to improve their evaluation of investment, recordkeeping, and administrative service arrangements involving employee benefit plans. For example, private sector companies have already made innovative uses of Form 5500 data by creating tools for evaluating and benchmarking 401(k) plans. Failures to disclose indirect compensation received by a service provider also have resulted in EBSA obtaining corrective monetary recoveries to

⁷ Section 2715A of the PHS Act extends certain transparency reporting provisions set forth in section 1311(e)(3) of the PHSA (applicable to issuers of “qualified health plans”) to large group health plans and self-insured health plans.

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plans. The Department expects that the proposed form changes will enable it to compare service provider disclosures under the ERISA section 408b-2 regulation of anticipated compensation to a Form 5500 report of compensation actually received in a way that should provide the basis for improved enforcement actions.

The Department published a separate final rule that also became effective generally in 2012 that required 401(k)-type plans to improve disclosures to participants and beneficiaries about plan fees and investment-related expenses (29 CFR 2550.404a-5). The form changes included in this proposal would require that plans file with their Form 5500 the comparative chart that they must disclose under that regulation to plan participants and beneficiaries. We expect this requirement to improve transparency regarding investment alternatives made available to participants and beneficiaries in 401(k) type plans and enable private sector data users to develop more individualized tools for employers to evaluate their retirement plans and employees to manage their retirement savings.

(5). Improving Employee Benefit Plan General Compliance with ERISA and the Code.

The Form 5500 and related financial audit requirements historically have served to establish discipline for plan fiduciaries by requiring an annual examination of the employee benefit plan's financial and administrative operations. The proposal would add selected new questions regarding plan operations, service provider relationships, and financial management of plans intended to compel fiduciaries to meet their responsibilities to evaluate plan and service provider compliance with important ERISA and Code requirements and to provide the Agencies with improved tools to focus oversight and enforcement resources.

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

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disclosure of the annual reports is intended to serve as a deterrent to non-compliance with the statutory duties imposed on plan fiduciaries.

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 822,000 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 142 million participants and hold an estimated \$8.5 trillion in assets. The annual report/reports are therefore important tools for protecting the benefits of millions of American workers.

Proposed Form Modernization

The proposed revisions will be used in the same manner as the existing Form 5500. The only significant change resulting from these revisions is in the number of filers: upon enactment of the revisions, approximately 2.97 million pension and welfare benefit plans will be required to file the Form 5500 under Title I and IV of ERISA and the Code. The Department lacks reliable data on the number of participants and asset holdings of these additional filers.

The increased number of filings largely is attributable to the rescission of filing relief for small welfare plans that offer group health benefits. The Department has concluded that some level of reporting is necessary by all group health plans in order for the Department to fulfill its ability to accomplish effectively its oversight obligations under the ACA and other federal laws governing group health plans, to monitor more effectively health policy issues, and to provide Congress with accurate information about health care issues. to our ability to accomplish effectively our oversight obligations under the ACA and other federal laws governing group health plans, to monitor more effectively health policy issues, and to provide Congress with accurate information about health care issues. For example, in the ACA, Congress required the Department to use Form 5500 data to prepare an annual "Self-Insured Report" on group health plans. The proposed Form 5500 changes will allow the Department to substantially improve that report. In addition, the

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Department anticipates that Form 5500 data will similarly be used in future versions of the biennial Mental Health Parity and Addiction Equity Act (MHPAEA) Report to Congress on the compliance of group health plans and health insurance coverage offered in connection with such plans with the requirements of MHPAEA. In order to minimize filer burden, while requiring some level of reporting from all group health plans, the Department is offering simplified reporting for small, fully insured group health plans, by requiring those plans to complete only lines 1-5 of Form 5500 and lines 1-8 of Schedule J. Small fully insured group health plans comprise 1.87 million of the 2.15 million small group health plans that were previously exempt from filing and would be required to file.

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 lessened the paperwork burden imposed by the reporting requirements that are the basis for this information collection.

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, 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.

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Sections 2715A and 2717(a) of the Public Health Service Act (PHS Act), as added by the Affordable Care Act, significantly expand reporting requirements for health plans. EBSA is coordinating with the Department of Health and Human Services (HHS) on using Form 5500 reporting as an alternative mechanism to satisfy some of these reporting requirements.

17. *If the collection of information impacts small businesses or other small entities, 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 that 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).

Proposed Form Modernization

The Department has maintained the simplified reporting for small pension plans under the revised provisions of the Form 5500. However, the Department is rescinding filing

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relief for small welfare plans that offer group health benefits. The Department has concluded that some level of reporting is necessary by all group health plans in order for the Department to fulfill its statutory obligations as an enforcement agency. In order to minimize filer burden, while requiring some level of reporting from all group health plans, the Department is offering simplified reporting for small, fully insured group health plans, by requiring those plans to complete only lines 1-5 of Form 5500 and lines 1-8 of Schedule J. Small fully insured group health plans comprise 1.87 million of the 2.15 million small group health plans that were previously exempt from filing and would be required to file.

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 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.*

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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 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.

In accordance with 5 CFR 1320.11, the Notice of Proposed Forms Revision provides the public with 75 days to comment on the information collection and burden estimates.

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*

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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 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.*
 - *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 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 has adopted several assumptions in performing this burden estimation. First, 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

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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.⁸

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 plans (100 participants or more), defined

⁸ 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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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).

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Table 1 summarizes the Department’s estimates of the aggregate time needed to complete each of the forms for plan years 2015, 2016, and 2017, as listed below, reflecting the combined information collection requirements of the IRS, the Department, and the PBGC. The estimates 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 2015, 2016, and 2017

Plan Year 2015, 2016, and 2017 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 ⁹		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 920,000 hours in 2015, of which the Department allocated share is 579,000 hours with an equivalent cost of \$41.3 million¹⁰ (579,000 hours times \$71.38 per hour for service of a financial professional¹¹). 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

⁹ 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.

¹⁰ Numbers are rounded. The Department's estimated 2015 hourly labor rates include wages, other benefits, and overhead are calculated as follows: mean wage from the 2013 National Occupational Employment Survey (April 2014, Bureau of Labor Statistics <http://www.bls.gov/news.release/pdf/ocwage.pdf>); wages as a percent of total compensation from the Employer Cost for Employee Compensation (June 2014, Bureau of Labor Statistics <http://www.bls.gov/news.release/ecec.t02.htm>); overhead as a multiple of compensation is assumed to be 25 percent of total compensation for paraprofessionals, 20 percent of compensation for clerical, and 35 percent of compensation for professional; annual inflation assumed to be 2.3 percent annual growth of total labor cost since 2013 (Employment Costs Index data for private industry, September 2014 <http://www.bls.gov/news.release/eci.nr0.htm>).

¹¹ Accountants and Auditors (13-2011): \$34.86(2013 BLS Wage rate) /0.69(ECEC ratio) *1.35(Overhead Load Factor) *1.023(Inflation rate) ^2(Inflated 2 years from base year) = \$71.38

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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 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 for each of 48 entities 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

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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 cost of approximately \$197,000 (2,764 hours times \$71.38 per hour for the services of an in-house financial professional).

Table 2 Time Burden Summary

Activity	Respondents	Annual Responses per Respondent	Total Number of Responses	Total Burden Hours	Time Value (Hourly Rate)	Monetized Burden Hours (Rounded)
Form 5500 including 5500-SF and Schedules	822,000	1	822,000	579,000	\$71.38	\$41.3 million
January 2013 Revision	48	1	48	1	\$71.38	\$71
2014 CSEC Revision	5,527	1	5,527	2,764	\$71.38	\$197,000
<i>Unduplicated Totals</i>	827,575	NA	827,575	581,765	\$71.38	\$41.5 million

Proposed Form Modernization

As discussed above, 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 modernization 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

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forms revisions as a whole, but requests approval only of the Department's portion of that burden.

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

The burden calculation approach for the Form 5500 modernization is built upon the approaches used in previous revisions of the Form 5500. Therefore, the methods used to estimate economic impacts of current revisions parallel those used in previous revisions in many cases. However, there are some occasions where the approaches used in the current revisions differ from previous approaches to better reflect the nature of the revisions. For example, in the past, burden hours were adjusted based on a formula that looked at the number of data elements in the forms, but did not take into account varying levels of complexity in the data elements. For this revision, the Department used its professional expertise to factor in varying levels of complexity. By taking the complexity of the changes into account, rather than merely counting the number of items added or deleted, the burden model can more accurately reflect the economic impacts of proposed rules. With the exception of this change, however, the burden calculation methodology

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for this proposed form modernization remains similar to previous calculation methodologies.

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 five basic types: defined benefit pension plans, defined contribution pension plans, group health plans, welfare plans that do not provide health benefits, direct filing entities. Each of the four 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 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). Defined contribution pension plans were divided into Employee Stock Option Plans (ESOPs) and non-ESOPs. Group health plans were divided into fully insured and not fully insured. For each of these sets of respondents, burden hours per respondent were estimated for the Form 5500 Annual Return/Report itself and for the eleven 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 group health plan would consist of only the Form 5500, the Schedule A (Insurance Information), the Schedule J (Group Health Plan 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

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(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 3 summarizes the Department's estimates of the time needed to complete each of the forms annually, as listed below, reflecting the combined information collection requirements of the IRS, the Department, and the PBGC. The estimates 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 3: Burden Boxes for Proposed Revised Forms and Schedules

	Pension Plans		
	Large	Small, Ineligible for 5500-SF	Small, Eligible for 5500-SF
Form 5500	1 hr, 52 min.	1 hr, 20 min.	
Schedule A	2 hr, 55 min.	2 hr, 55 min.	
Schedule MB	8 hr, 27 min.	7 hr, 28 min.	3 hr, 20 min.
Schedule SB	6 hr, 38 min.	6 hr, 49 min.	6 hr, 49 min.
Schedule C	3 hr, 28 min.	3 hr, 20 min.	
Schedule E	3 hr, 18 min.	3 hr, 18 min.	
Schedule G	13 hr, 51 min.		
Schedule H	11 hr, 50 min.	8 hr, 12 min.	
Schedule R	1 hr, 54 min.	1 hr, 6 min.	
Form 5500-SF			2 hr, 54 min.

	Welfare Plans that Include Health Benefits		
	Large	Small, Unfunded, Combination Unfunded/Fully Insured, or Funded with a Trust	Small, Fully-Insured

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Form 5500	1 hr, 46 min.	1 hr, 15 min.	
Schedule A	3 hr, 42 min.	2 hr, 45 min.	
Schedule C	4 hr, 25 min.	4 hr, 25 min.	
Schedule G	11 hr, 4 min.		
Schedule H	12 hr, 46 min.	8 hr, 41 min.	
Schedule J	3 hr, 30 min.	3 hr, 30 min.	
Subset of Form 5500 and Schedule J			20 min.

	Welfare Plans that Do Not Include Health Benefits		
	Large	Small, Ineligible for 5500-SF	Small, Eligible for 5500-SF
Form 5500	1 hr, 46 min.	1 hr, 15 min.	
Schedule A	3 hr, 42 min.	2 hr, 45 min.	
Schedule C	4 hr, 25 min.	4 hr, 25 min.	
Schedule G	11 hr, 4 min.		
Schedule H	12 hr, 46 min.	8 hr, 41 min.	
Form 5500-SF			2 hr, 54 min.

	Direct Filing Entities				
	Master Trusts	CCTs	PSAs	103-12 IEs	GIAs
Form 5500	1 hr, 51 min.	1 hr, 31 min.	1 hr, 25 min.	1 hr, 42 min.	1 hr, 29 min.
Schedule A	2 hr, 56 min.	2 hr, 50 min.	2 hr, 49 min.	2 hr, 53 min.	3 hr, 6 min.
Schedule C	3 hr, 43 min.	1 hr, 18 min.	41 min.	2 hr, 41 min.	1 hr, 52 min.
Schedule D	45 min.	24 min.	17 min.	33 min.	29 min.
Schedule G	12 hr, 46 min.			9 hr, 20 min.	
Schedule H	12 hr, 19 min.	11 hr, 47 min.	11 hr, 43 min.	12 hr, 16 min.	12 hr, 1 min.

The aggregate hour burden for the entire Form 5500 Annual Return/Report (including schedules and Short Form 5500) is estimated to be 1.52 million hours annually, of which the Department's allocated share is 1.03 million hours with an equivalent cost of \$101.6 million¹² (1.52 million hours x \$98.25 per hour for service of an accountant or auditor). 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.

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).*

¹² Numbers are rounded and represent the cost of accountant and auditor professional time. For a description of the Department's methodology for calculating wage rates, see <http://www.dol.gov/ebsa/pdf/labor-cost-inputs-used-in-ebsa-opr-ria-and-pra-burden-calculations-march-2016.pdf>

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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.

As seen in table 4, 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 for what is not included in burden hours, above, are estimated at \$229.4 million annually. More specifically, the cost burdens each reflect an allocation of the overall burden by plans purchasing services from third party providers that are expected to complete the return/report, rather than plans that use in-house resources for this work.

Table 4 Other costs

	Affected Plans	Average Service Provider Hours Per Plan	Provider Hours	Service Provider Cost Per Hour¹³	Provider Costs
Large Pension Plans	80,000	7.99	639,000	\$100	\$63,899,000
Small Pension Plans	658,000	1.17	768,000	\$100	\$76,830,000
Large Welfare Plans	74,000	11.49	850,000	\$100	\$84,994,000
Small Welfare Plans	10,000	3.64	36,000	\$100	\$3,645,000
Large Plans	154,000	9.67	1,489,000	\$100	\$148,893,000
Small Plans	668,000	1.21	804,000	\$100	\$80,475,000
All Plans	822,000	2.79	2,293,000	\$100	\$229,368,000

Including burden attributed to the Internal Revenue Service and the Pension Benefit Guaranty Corporation, the aggregate tri-agency cost burden for the entire Form 5500 Annual Return/Report is estimated at \$351.3 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

¹³ The \$100 service provider cost per hour is derived by adding a 40 percent profit and additional overhead margin to the Department's estimate of \$71.38 per hour for a financial professional.

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estimates that small plan 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.

Table 4 Cost Burden Summary

Activity	Respondents	Annual Responses per Respondent	Cost Burden (Rounded)
Form 5500 including 5500-SF and Schedules	822,000	1	\$229.4 million
January 2013 Revision	48	1	\$21,600
2014 CSEC Revision	5,527	1	\$0
<i>Unduplicated Totals</i>	827,575	<i>NA</i>	<i>\$229.4 million</i>

Proposed Form Modernization

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.

As seen in table 5, 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 for what is not included in burden hours, above, are estimated at \$490.0 million annually. More specifically, the cost burdens each reflect an allocation of the overall burden by plans purchasing services from third party providers that are expected to complete the return/report, rather than plans that use in-house resources for this work.

Table 3 Other costs

	Affected Filers	Average Service Provider Hours Per Filer	Provider Hours	Service Provider Cost Per Hour ¹⁴	Provider Costs

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Large Pension Plans	75,100	9.31	699,000	\$114.95	\$80,384,000
Small Pension Plans	648,100	1.39	901,000	\$114.95	\$103,627,000
Large Welfare Plans	73,500	13.99	1,029,000	\$114.95	\$118,248,000
Small Welfare Plans	2,162,000	0.73	1,578,000	\$114.95	\$181,375,000
Large Plans	148,500	11.64	1,728,000	\$114.95	\$198,632,000
Small Plans	2,810,100	0.88	2,479,000	\$114.95	\$285,002,000
DFEs	8,900	6.24	56,000		\$6,388,000
All Filers	2,967,500	1.44	4,263,000	\$114.95	\$490,022,000

Including burden attributed to the Internal Revenue Service and the Pension Benefit Guaranty Corporation, the aggregate tri-agency cost burden for the entire Form 5500 Annual Return/Report is estimated at \$667.7 million annually.

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.*

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 \$985,000, which represents the agencies' best estimate of the EBSA employee time dedicated to EFAST2. The FTE costs are based on the 2015 General Schedule for the Washington-

14 The \$100 service provider cost per hour is derived by adding a 40 percent profit and additional overhead margin to the Department's estimate of \$71.38 per hour for a financial professional.

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Baltimore-Northern Virginia area and assume that the following employees work on the project:

- (1) Two full-time GS-15, Step 5 FTE(\$143,079) at a loaded compensation rate of approximately \$183,000 (approximately \$366,000 total);
- (2) One GS-15, Step 5 FTE (\$143,079) working 15% at a loaded compensation rate of approximately \$183,000 (approximately \$27,000 total)
- (3) Three full-time GS-14, Step 5 FTE (\$121,635) at a loaded compensation rate of approximately \$156,000 (approximately \$468,000 total)
- (4) One GS-14, Step 5 FTE (\$121,635) working 25% at a loaded compensation rate of approximately \$156,000 (approximately \$39,000 total)
- (5) One GS-13, Step 5 FTE (\$102,932) working 25% at a loaded compensation rate of approximately \$132,000 (approximately \$33,000 total)
- (6) One SES FTE (\$152,628) working 25% at a loaded compensation rate of approximately \$195,000 (approximately \$49,000 total)
- (7) One SES FTE (\$152,628) working one percent at a loaded compensation rate of approximately \$195,000 (approximately \$2,000 total)
- (8) One GS-13, Step 5 FTE (\$102,932) working one percent at a loaded compensation rate of approximately \$132,000 (approximately \$1,300 total)

The remaining \$5.92 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).

Proposed Form Modernization

The total annual processing cost for all Form 5500 Series filings with proposed form changes during the period covered by this ICR extension request is estimated to average \$13.8 million annually (including oversight), in accordance with the terms of the EFAST2 vendor contracts. Cost increases from the operational EFAST2 system are primarily due to an anticipated increase in annual EFAST2 Contact Center costs. Additional agents and new infrastructure will be required to support calls from an increased 21st Century Changes filer base. These costs will be allocated among the agencies (DOL, PBGC, and IRS) according to an updated EFAST2 Cost Allocation Model, under which the agencies will pay for their relative share of the total filing volume. Based on the current model sharing splits, the Department's share of the total cost would approximately \$6.8 million.

The Department's share of Federal FTE costs is estimated at approximately \$995,000, which represents the agencies' best estimate of the EBSA employee time dedicated to

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EFAST2 with the proposed form changes implemented beginning in FY2018. The FTE costs are based on the 2016 General Schedule for the Washington-Baltimore-Northern Virginia area, and assume that the following employees work on the project:

- (1) One full-time GS-15, Step 5 FTE(\$143,079) at a loaded compensation rate of approximately \$183,000;
- (2) One GS-15, Step 5 FTE (\$143,079) working 50% at a loaded compensation rate of approximately \$183,000 (approximately \$91,000 total)
- (3) One GS-15, Step 5 FTE (\$143,079) working 15% at a loaded compensation rate of approximately \$183,000 (approximately \$27,000 total)
- (4) Three full-time GS-14, Step 5 FTE (\$121,635) at a loaded compensation rate of approximately \$156,000 (approximately \$468,000 total)
- (5) Two GS-14, Step 5 FTE (\$121,635) working 50-75% at a loaded compensation rate of approximately \$156,000 (approximately \$272,462 total)
- (6) One GS-14, Step 5 FTE (\$121,635) working 30% at a loaded compensation rate of approximately \$156,000 (approximately \$46,000 total)
- (7) One full-time GS-13, Step 5 FTE (\$102,932) at a loaded compensation rate of approximately \$132,000
- (8) Two GS-13, Step 5 FTE (\$102,932) working 25% at a loaded compensation rate of approximately \$132,000 (approximately \$67,000 total)
- (9) One SES FTE (\$152,628) working 25% at a loaded compensation rate of approximately \$195,000 (approximately \$49,000 total)
- (10) One SES FTE (\$152,628) working 10% percent at a loaded compensation rate of approximately \$195,000 (approximately \$2,000 total)
- (11) One GS-13, Step 5 FTE (\$102,932) working 10% percent at a loaded compensation rate of approximately \$132,000 (approximately \$19,000 total)

The remaining \$3.6 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 12 or 13.*

The Department is updating the burden to reflect the proposed form revision, updated data on filing counts, and wage rates.

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.*

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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. The Form 5500 dataset on EBSA's website is updated once a month to reflect that most recent filings that are received.

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, because the Form 5500 is a multi-agency form and it is difficult to maintain the expiration dates for three separate agencies. The Department requests continued approval to omit the expiration date.

30. *Explain each exception to the certification statement identified in the "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.