

**Prohibited Transaction Exemption 84-24**  
**(Insurance and Annuity Contracts and Mutual Fund Principal Underwriters)**  
**OMB Control Number 1210-NEW**  
April 2016

SUPPORTING STATEMENT FOR PAPERWORK REDUCTION ACT OF 1995  
SUBMISSIONS

**A. Justification**

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.*

Section 406(a)(1)(A) through (D) of the Employee Retirement Income Security Act of 1974 (“ERISA”) and Internal Revenue Code (“Code”) section 4975(c)(1)(A) through (D) prohibit certain transactions between plans or IRAs and “parties in interest,” as defined in ERISA section 3(14), or “disqualified persons,” as defined in Code section 4975(e)(2). Fiduciaries and other service providers are parties in interest and disqualified persons under ERISA and the Code. As a result, they are prohibited from engaging in (1) the sale, exchange, or leasing of property with a plan or IRA, (2) the lending of money or other extension of credit to a plan or IRA, (3) the furnishing of goods, services, or facilities to a plan or IRA and (4) the transfer to or use by or for the benefit of a party in interest of plan assets.

In the absence of an exemption, ERISA and the Code generally prohibit fiduciaries from using their authority to affect or increase their own compensation. ERISA section 406(b) and Code section 4975(c)(1)(E)-(F) are aimed at fiduciaries only. These provisions generally prohibit a fiduciary from dealing with the income or assets of a plan or IRA in his or her own interest or his or her own account and from receiving payments from third parties in connection with transactions involving the plan or IRA. Parallel regulations issued by the Departments of Labor and the Treasury explain that these provisions impose on fiduciaries of plans and IRAs a duty not to act on conflicts of interest that may affect the fiduciary’s best judgment on behalf of the plan or IRA. Under these provisions, a fiduciary may not cause a plan or IRA to pay an additional fee to such fiduciary, or to a person in which such fiduciary has an interest that may affect the exercise of the fiduciary’s best judgment.

The receipt of a commission on the sale of a Covered Annuity Contract or mutual fund shares by a fiduciary that recommended the investment violates the prohibited transaction provisions of ERISA section 406(b) and Code section 4975(c)(1)(E) and (F). The effecting of the sale by a fiduciary or service provider is a service, potentially in violation of ERISA section 406(a)(1)(C) and Code section 4975(c)(1)(C). Finally, the purchase of a Covered Annuity Contract by a plan or IRA from an insurance company that is a fiduciary, service provider or other party in interest or disqualified person, and the purchase of mutual fund shares by a plan from an Investment Company principal

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underwriter that is a fiduciary, service provider or other part in interest or disqualified person, violates ERISA section 406(a)(1)(A) and (D) and Code section 4975(c)(1)(A) and (D).

The Secretary of Labor may grant and amend administrative exemptions from the prohibited transaction provisions of ERISA and the Code.<sup>1</sup> Before granting an exemption, the Department must find that the exemption is administratively feasible, in the interests of plans, their participants and beneficiaries and IRA owners, and protective of the rights of participants and beneficiaries of such plans and IRA owners.

The Department is amending PTE 84-24 in connection with its final regulation defining who is a “fiduciary” of an employee benefit plan under ERISA as a result of giving investment advice to a plan or its participants or beneficiaries (Final Regulation). The Final Regulation also applies to the definition of a “fiduciary” of a plan (including an IRA under the Code). The Final Regulation amends a prior regulation specifying when a person is a fiduciary under ERISA and the Code by reason of the provision of investment advice for a fee or other compensation regarding assets of a plan or IRA. The Final Regulation replaces an existing regulation dating to 1975 and takes into account the advent of 401(k) plans and IRAs, the dramatic increase in rollovers, and other developments that have transformed the retirement plan landscape and the associated investment market over the four decades since the existing regulation was issued. In light of the extensive changes in retirement investment practices and relationships, the Final Regulation updates existing rules to distinguish more appropriately between the sorts of advice relationships that should be treated as fiduciary in nature and those that should not.

PTE 84-24, as amended, provides an exemption for certain prohibited transactions that occur when investment advice fiduciaries and other service providers receive compensation for their recommendation that plans or IRAs purchase “Covered Annuity Contracts” and insurance contracts. A Covered Annuity Contracts are defined as annuity contracts that are not variable annuity contracts (group or individual), other annuity contracts that are non-exempt securities under federal securities law, and indexed annuity contracts. IRAs are defined in the exemption to include other plans described in Code section 4975(e)(1)(B)-(F), such as Archer MSAs, health savings accounts and Coverdell education savings accounts. Relief is also provided for certain prohibited transactions that occur when investment advice fiduciaries and other service providers receive compensation as a result of their recommendations that plans purchase securities in an investment company registered under the Investment Company Act of 1940 (e.g., a

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<sup>1</sup> Regulations at 29 CFR section 2570.30 to 2570.52 describe the procedures for applying for an administrative exemption under ERISA. Code section 4975(c)(2) authorizes the Secretary of the Treasury to grant exemptions from the parallel prohibited transaction provisions of the Code. Reorganization Plan No. 4 of 1978 (5 U.S.C. app. at 214 (2000)) generally transferred the authority of the Secretary of the Treasury to issue administrative exemptions under Code section 4975 to the Secretary of Labor.

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mutual fund). The exemption permits insurance agents, insurance brokers, pension consultants and investment company principal underwriters that are parties in interest or fiduciaries with respect to plan investors to effect these purchases and receive a commission on them. The exemption is also available for the prohibited transaction that occurs when the insurance company selling the Covered Annuity Contract or insurance contract is a party in interest or disqualified person with respect to the plan or IRA.

The amendment replaces the limited recordkeeping requirement in section V(e) of PTE 84-24, discussed above, with a more robust requirement in section V of the amended exemption that requires the fiduciary engaging in a transaction covered by the exemption to maintain or cause to be maintained for six years, and disclose upon request, the records necessary for the Department, Internal Revenue Service, any fiduciary of the plan (or their duly authorized representative), any contributing employer or employee organization whose members are covered by the plan (or any authorized employee or representative of these entities), or any participant or beneficiary of the plan (or their duly authorized representative) to determine whether the conditions of this exemption have been met. Section V(b) (2) and (3) of PTE 84-24 provides that parties relying on the exemption do not have to disclose trade secrets or other confidential information to members of the public (*i.e.*, plan fiduciaries, contributing employers or employee organizations whose members are covered by the plan, participants and beneficiaries and IRA owners), but that in the event a party refuses to disclose information on this basis, it must provide a written notice to the requester advising of the reasons for the refusal and advising that the Department may request such information. The recordkeeping requirement is consistent with other existing exemptions as well as the recordkeeping provisions of the other exemptions granted and amended in connection with the Regulation, and is intended to be protective of rights of plan participants and beneficiaries and IRA owners by ensuring they and the Department can confirm that the conditions of the exemption have been satisfied.

Additionally, the amendment to PTE 84-24 would limit the scope of the exemption by revoking relief for insurance agents, insurance brokers and pension consultants to receive a commission in connection with the purchase of annuities that are not Covered Annuity Contracts and for mutual fund principal underwriters to receive a commission in connection with the purchase of mutual fund shares in transactions involving IRAs.<sup>2</sup> The Department is granting a new “Best Interest Contract Exemption” for the receipt of compensation by investment advice fiduciaries in connection with these transactions, contemporaneously with the amendment to 84-24. In the Department’s view, investment advice transactions involving variable annuities, other annuities that are non-exempt securities under federal securities laws, and indexed annuities, and mutual fund

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<sup>2</sup> For purposes of this amendment, the terms “Individual Retirement Account” or “IRA” mean any trust, account or annuity described in Code section 4975(e)(1)(B) through (F), including, for example, an individual retirement account described in section 408(a) of the Code and a health savings account described in section 223(d) of the Code.

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transactions involving IRAs, should occur under the conditions of that exemption. On the other hand, the Department has determined that transactions involving insurance and annuity contracts that are Covered Annuity Contracts can continue to occur under the conditions of PTE 84-24, as amended.

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.*

In order to receive commissions in conjunction with the purchase of Covered Annuity Contracts, section IV(b) of PTE 84-24 requires the insurance agent or broker, or pension consultant to obtain advance written authorization from a plan fiduciary (including IRA holders) independent of the insurance company (the independent fiduciary) and furnish the independent fiduciary with a written disclosure. The disclosure must include: if the agent, broker, or consultant is an Affiliate of the insurance company whose contract is being recommended, or if the ability of the agent, broker, or consultant to recommend insurance or annuity contracts is limited by any agreement with the insurance company, the nature of the affiliation, limitation, or relationship; the insurance commission; and a description of any charges, fees, discounts, penalties, or adjustments which may be imposed under the recommended contract must be disclosed.

In order to receive commissions in conjunction with the purchase by a plan of securities issued by an investment company Principal Underwriter, section IV(c) of PTE 84-24 requires the investment company Principal Underwriter to obtain approval from an independent fiduciary and furnish the independent fiduciary with a written disclosure. The disclosure must include: if the person recommending securities issued by an investment company is the Principal Underwriter of the investment company whose securities are being recommended, the nature of the relationship and of any limitation it places upon the Principal Underwriter's ability to recommend investment company securities; the commission; and a description of any charges, fees, discounts, penalties, or adjustments which may be imposed under the recommended securities in connection with the purchase, holding, exchange, termination, or sale of the securities. Unless facts or circumstances would indicate the contrary, the approval required under section IV(c) may be presumed if the independent fiduciary permits the transaction to proceed after receipt of the written disclosure.

These disclosure and written authorization requirements are designed as appropriate safeguards to ensure the protection of the plan assets involved in the transactions, which, in the absence of the class exemption, would not be permitted. These safeguards rely on the prior authorization and monitoring of the fiduciary's activities by an independent plan fiduciary. Moreover, the recordkeeping requirement is intended to be protective of rights of plan participants and beneficiaries and IRA owners by ensuring they and the

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Department can confirm that the conditions of the exemption has been satisfied.

The Department is unable to estimate how frequently records supporting the exempt transactions are examined by either the Department or other parties. The Department has the authority to request such records and does so from time to time in connection with investigations.

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 Government Paperwork Elimination Act (GPEA) requires agencies to allow customers the option to submit information or transact with the government electronically, when practicable. Where feasible, and subject to resource availability and resolution of legal issues, EBSA has implemented the electronic acceptance of information submitted by customers to the federal government.

As further discussed in items 12 and 13 below, the Department has taken into account that some of the disclosures and written authorizations will be delivered 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.*

It is likely that duplication of recordkeeping requirements exist with some state and federal banking and securities laws. However, no duplicate recordkeeping is required because the exemption allows entities to satisfy the requirements of both the exemption and of the other applicable laws through one recordkeeping arrangement.

5. *If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.*

The information collections impose the minimal burden needed to protect the assets of plans, IRAs and non-ERISA plans from commission payments that are tainted by conflicts of interest. Although the ICR could impact small insurance agents, insurance brokers, pension consultants, insurance companies, and principal underwriters, the Department believes that most of the impact will be on large entities. The Department has attempted to minimize burden by requiring the disclosures to contain information that is readily available to fiduciaries utilizing the exemption and the recordkeeping requirement to include records that are otherwise maintained in the normal cost of business. The

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information collection must apply equally to large and small entities to ensure that participants and beneficiaries and IRA owners are protected when their plans and IRAs engage in transactions that otherwise would be prohibited under ERISA and the Code.

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.*

The requirements of this PTE are only mandatory if entities wish to utilize the class exemption. The frequency is dependent upon the occurrence of such transactions, not on a predetermined time period.

If the disclosure and recordkeeping requirements were not included in PTE 84-24 the Department could not ensure that the exemption is protective of the rights of participants and beneficiaries as required under ERISA section 408(a) and Code section 4975(c)(2).

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*

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- *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.*

Because this exemption is granted under section 408(a) of ERISA and section 4975(c)(2) of the Code, the exclusion from the three year guideline for record retention set forth in 5 CFR 1320.5 is applicable. Furthermore, as a result of statutory recordkeeping requirements in ERISA, the Code, and other federal laws, the respondents affected by this exemption (financial institutions that deal with employee benefit plans), for the most part, have adopted six-year recordkeeping as standard business practice in order to satisfy those separate recordkeeping requirements.

Under the recordkeeping provisions of the amended exemption, fiduciaries are not required to disclose records that are privileged trade secrets or privileged commercial or financial information to plan fiduciaries, participants or beneficiaries, IRA owners, or their representatives. However, if the fiduciary refuses to disclose information on the basis that the information is exempt from disclosure, the fiduciary must, by the close of the thirtieth (30th) day following the request, provide a written notice advising the requestor of the reasons for the refusal and that the Department may request such information.

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 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 proposed exemption provided the public with 60 days to comment on the information collection and burden estimates. The Department received over 3,000 public comments in response to the proposed rule and accompanying

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proposed PTEs and proposed amendments to PTEs. The public comments were posted on the Department's website at the following two addresses:  
<http://www.dol.gov/ebsa/regs/cmt-1210-AB32-2.html> and  
<http://www.dol.gov/ebsa/regs/cmt-1210-ZA25.html>.

Additionally, the Department held four days of public hearings during August 2015 on the proposed rule and accompanying proposed PTEs and proposed amendments to PTEs. Transcripts, archived video, and other hearing materials were posted on the Department's website here: <http://www.dol.gov/ebsa/regs/1210-AB32-2-Hearing.html>.

In the public comments and the public hearing, the Department received considerable feedback regarding the workability of the proposed rule and accompanying proposed PTEs and proposed amendments to PTEs. With respect to the amendments to PTE 84-24, the Department received multiple comments from one commenter questioning the basis for the wage rate inputs used to calculate burden. In response to these comments, the Department adjusted its methodology for calculating wage rates. This methodological change is discussed in Questions 12 and 13, where applicable.

9. *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.

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

No assurance of confidentiality was provided.

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.

12. *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,*



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*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.*
- *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.*

As discussed in Item 1, above, Section V of the class exemption imposes written authorization, disclosure, and recordkeeping ICRs. The amendments replace the limited recordkeeping requirement in section V(e) of PTE 84-24 with a more robust requirement in section V of the amended exemption. Additionally, the amendment to PTE 84-24 would limit the scope of the exemption by revoking relief for insurance agents, insurance brokers and pension consultants to receive a commission in connection with the purchase of annuities that are not Covered Annuity Contracts and for mutual fund principal underwriters to receive a commission in connection with the purchase of mutual fund shares in transactions involving IRAs. PTE 84-24 will also no longer provide relief for transactions involving annuities that are securities and mutual fund purchases with IRAs and other plans defined in Code section 4975(e)(1)(B) through (F). The Department's estimate of the hour burden associated with the ICRs is discussed below.

According to 2013 Annual Return/Report of Employee Benefit (Form 5500) data and Internal Revenue Service Statistics of Income data, the Department estimates that there are approximately 681,000 ERISA covered pension plans and approximately 54.4 million individual retirement accounts (IRAs). The Department assumes that about 3% of these plans (20,000 plans) and 3% of these IRAs (1.6 million IRAs) use a financial institution fiduciary that will take advantage of the exemption.<sup>3</sup>

The Department estimates that approximately 1,500 Insurance Agents and Brokers, Pension Consultants, and Insurance Companies will take advantage of this exemption<sup>4</sup>

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<sup>3</sup> Figure A15 of ICI's February 2016 Appendix: Additional Data on IRA Ownership in 2015 states that 8 percent of traditional IRAs with rollovers are held by insurance companies. This number has been adjusted downward to 3 percent to reflect the removal of transactions not covered by this exemption.

<sup>4</sup> According to 2013 Form 5500 data, 1,007 pension consultants service the retirement market. Additionally, SNL Financial data show that 398 life insurance companies reported receiving either individual or group annuity

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with all of their client plans and IRAs and 10 Investment Company Principal Underwriters will take advantage of this exemption once with one client plan.

For purposes of this analysis, the Department uses the following wage rates:<sup>5</sup> an in-house rate of \$133.61 for legal professionals, \$55.21 for clerical staff, and \$167.32 for a financial manager. All dollar amounts are measured in 2016 dollars.

- 1) Written authorization from the independent plan fiduciary

With the amendments to PTE 84-24, the Department estimates that approximately 20,000 authorizing fiduciaries from plans and 1.6 million IRA holders are expected to send an advance written authorization to the 1,500 Insurance Agents and Brokers, Pension Consultants, and Insurance Companies. In the plan universe, it is assumed that a legal professional will spend five hours per plan reviewing the disclosures and preparing an authorization form. In the IRA universe, it is assumed that a legal professional working on behalf of the insurance agent or broker, pension consultant, or insurance company will spend three hours drafting an authorization form for IRA holders to sign. This results in an hour burden of 107,000 hours<sup>6</sup> with an equivalent cost of \$14.2 million.<sup>7</sup>

To produce and distribute the authorization, the Department assumes that 51.8 percent of plan authorizations<sup>8</sup> and 44.1 percent of IRA authorizations will be distributed electronically<sup>9</sup> through traditional electronic methods at no additional burden, and the

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considerations in 2014. The Department has used these data as the count of insurance companies working in the ERISA-covered plan and IRA markets. The Department has rounded up to 1,500 to account for any other pension consultants or insurance companies that may not otherwise be accounted for.

5 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>.

The Department's methodology for calculating the overhead cost input of its wage rates was adjusted from the proposed amendment to this PTE to the final amendment to this PTE. In the proposal, the Department based its overhead cost estimates on longstanding internal EBSA calculations for the cost of overhead. In response to a public comment stating that the overhead cost estimates were too low and without any supporting evidence, the Department incorporated published US Census Bureau survey data on overhead costs into its wage rate estimates.

6  $(20,000 \text{ plans} \times 5 \text{ hours per plan}) + (1,500 \text{ insurance agents and brokers, pension consultants, and insurance companies} \times 3 \text{ hours per insurance agent, broker, pension consultant, or insurance company}) = 107,000 \text{ hours}$

7  $107,000 \text{ hours} \times \$133.61 \text{ per hour} = \$14.2 \text{ million}$

8 According to data from the National Telecommunications and Information Agency (NTIA), 33.4 percent of individuals age 25 and over have access to the internet at work. According to a Greenwald & Associates survey, 84 percent of plan participants find it acceptable to make electronic delivery the default option, which is used as the proxy for the number of participants who will not opt out that are automatically enrolled (for a total of 28.1 percent receiving electronic disclosure at work). Additionally, the NTIA reports that 38.9 percent of individuals age 25 and over have access to the internet outside of work. According to a Pew Research Center survey, 61 percent of internet users use online banking, which is used as the proxy for the number of internet users who will opt in for electronic disclosure (for a total of 23.7 percent receiving electronic disclosure outside of work). Combining the 28.1 percent who receive electronic disclosure at work with the 23.7 percent who receive electronic disclosure outside of work produces a total of 51.8 percent who will receive electronic disclosure overall

9 According to data from the NTIA, 72.4 percent of individuals age 25 and older have access to the internet.

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remaining 48.2 percent of plan authorizations and 55.9 percent of IRA authorizations will be mailed. For paper authorizations, the Department assumes that clerical staff will spend two minutes preparing and sending the authorization resulting in an hour burden of approximately 31,000 hours<sup>10</sup> with an equivalent cost of \$1.7 million.<sup>11</sup>

In total, as seen in the table below, the written authorization requirement, under the new conditions of relief, is expected to result in a total hour burden of 137,000 hours with an equivalent cost of \$15.9 million.

Activity	Burden Hours	Equivalent Burden Cost
Legal	107,000	\$14.2 million
Clerical	31,000	\$1.7 million
<b>Total</b>	<b>137,000</b>	<b>\$15.9 million</b>

2) Disclosure

With the amendments to PTE 84-24, the Department estimates that approximately 1,500 insurance agents and brokers, pension consultants, and insurance companies and 10 investment company principal underwriters utilize the exemption. The Department assumes that each of these insurance agents and brokers, pension consultants, insurance companies, and mutual fund principal underwriters has an in-house attorney spend one hour of legal staff time drafting the disclosure for plans and, with the exception of mutual fund principal underwriters, one hour of legal staff time drafting the disclosure for IRAs. This results in an hour burden of 3,000 hours<sup>12</sup> with an equivalent cost of \$402,000.<sup>13</sup>

To produce and distribute the materials, the Department assumes that 51.8 percent will be distributed electronically to plans and 44.1 percent will be distributed electronically to IRAs through traditional electronic methods at no additional burden. The remaining 48.2 percent for plans and 55.9 percent for IRAs will be mailed. For paper copies, a clerical staff member is assumed to require two minutes to prepare and mail the required information to the plan fiduciary. This information will be sent to the 20,000 plans and 1.6 million IRAs entering into an agreement with an insurance agent, pension consultant, or mutual fund principal underwriter, and based on the above, the Department estimates

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According to a Pew Research Center survey, 61 percent of internet users use online banking, which is used as the proxy for the number of internet users who will opt in for electronic disclosure. Combining these data produces an estimate of 44.1 percent of individuals who will receive electronic disclosures.

<sup>10</sup> [(20,000 plans x 48.2 percent paper) + (1.6 million IRAs x 55.9 percent paper)] x 2 minutes per plan or IRA = 31,000 hours

<sup>11</sup> 31,000 hours x \$55.21 per hour = \$1.7 million

<sup>12</sup> [1,500 insurance agents and brokers, pension consultants, and insurance companies x (1 hour for plans + 1 hour for IRAs)] + (10 Investment Company Principal Underwriters x 1 hour for plans) = 3,000 hours

<sup>13</sup> 3,000 hours x \$133.61 per hour = \$402,000

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that this requirement results in an hour burden of 31,000 hours<sup>14</sup> with an equivalent cost of \$1.7 million.<sup>15</sup>

In total, as seen in the table below, providing the pre-authorization materials is expected to impose an hour burden of 34,000 hours with an equivalent cost of \$2.1 million.

Activity	Burden Hours	Equivalent Burden Cost
Legal	3,000	\$402,000
Clerical	31,000	\$1.7 million
<b>Total</b>	<b>34,000</b>	<b>\$2.1 million</b>

3) Recordkeeping

The Department assumes that maintaining records is a regular and customary business practice. Therefore, the Department has estimated that the additional time needed to maintain records consistent with the exemption will only require about one-half hour, on average, annually for a financial manager to organize and collate the documents, and an additional 15 minutes of clerical time to make the documents available for inspection during normal business hours.

With the amendments to PTE 84-24, the Department estimates that there are approximately 1,500 insurance agents and pension consultants and 10 mutual fund Principal Underwriters utilizing the exemption. Thus, the Department estimates that a total of approximately 400 hours of clerical time and 800 hours of financial manager time result from this requirement. At an hourly wage rate of \$55.21 for clerical staff and \$167.32 for a financial manager, this results in an equivalent cost of \$147,000.

Activity	Burden Hours	Equivalent Burden Cost
Financial Manager	800	\$126,000
Clerical	400	\$21,000
<b>Total</b>	<b>1,100</b>	<b>\$147,000</b>

Summary

In total, the amended conditions of this exemption will result in the production of 3.3 million written authorizations and disclosures. Electronic methods will be used to distribute 51.8 percent of disclosures to and authorizations from plans and 44.1 percent of disclosures to and authorizations from IRAs, at de minimis burden, while the remainder will be on paper. Production and distribution of paper disclosures will result in an overall

<sup>14</sup> [(20,000 plans x 48.2 percent paper) + (1.6 million IRAs x 55.9 percent paper)] x 2 minutes per plan or IRA = 31,000 hours

<sup>15</sup> 31,000 hours x \$55.21 = \$1.7 million

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burden of 172,000 hours with an equivalent cost of \$18.2 million.

Activity	Burden Hours	Equivalent Burden Cost
1. Written authorization from the authorizing plan fiduciary	137,000	\$15.9 million
2. Provision of materials for evaluation of authorization of transaction	34,000	\$2.1 million
3. Recordkeeping	1,100	\$147,000
<b>Total</b>	<b>172,000</b>	<b>\$18.2 million</b>

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

As discussed in item 12 above, the exemption imposes three information requests on authorizing fiduciaries and insurance agents, pension consultants, and mutual fund principal underwriters to qualify for the relief provided in the exemption. The cost burden that is associated with complying with these ICRs is discussed below. These estimates are in addition to the hour burden estimates discussed in item 12.

The Department used the same assumptions that were used in determining the hour burden in estimating the cost burden. In addition, the Department assumes that electronic means will be used to deliver 51.8 percent of the required information to plans and 44.1 percent of the required information to IRAs with no associated cost burden. For the required information not sent electronically, the Department estimates that a cost of 5 cents per page for paper and printing costs and 49 cents of postage cost per mailing will be incurred.

The annual cost burden is calculated as follows:

- 1) Written authorization from the independent plan fiduciary

The Department assumes that the authorization will include two pages. Plans and IRAs will have to send the authorization; therefore about 20,000 plans and 1.6 million IRAs will have to send the authorization each year with 51.8 percent of plan authorizations and 44.1 percent IRA authorizations being sent electronically. Paper authorizations will cost \$0.59 each, which results in a cost burden of approximately \$544,000.<sup>16</sup>

<sup>16</sup> [(20,000 plan authorizations x 51.8 percent paper) + (1.6 million IRA authorizations x 55.9 percent paper)] x \$0.59 = \$544,000

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2) Provision of disclosure materials

The Department assumes that this information will include seven pages. Once again, approximately 20,000 authorizing plan fiduciaries and 1.6 million IRA holders will receive this information with 51.8 percent of plans and 44.1 percent of IRAs receiving the information electronically at no cost. The Department estimates that paper distribution will cost \$0.84 each, which results in a cost burden of about approximately \$775,000.<sup>17</sup>

Summary

In total, the Department estimates that the conditions of PTE 84-24 will result in the production of 3.3 million authorizations and disclosures. Electronic methods will be used to distribute 51.8 percent of disclosures to and authorizations from plans and 44.1 percent of disclosures to and authorizations from IRAs, at de minimis cost. As seen in the table below, production of paper disclosures will total approximately \$1.3 million.

<b>Activity</b>	<b>Cost</b>
1. Written authorization from the authorizing plan fiduciary to the broker-dealer	\$544,000
2. Provision of materials for evaluation of authorization of transaction	\$775,000
<b>Total</b>	<b>\$1.3 million</b>

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 are no ongoing costs to the Federal government.

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

This analysis adjusts assumptions on PTE usage to reflect the impact of the Regulation.

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*

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<sup>17</sup> [(20,000 plan materials packages x 48.2 percent paper) + (1.6 million IRA materials packages x 55.9 percent paper)] x \$0.84 = \$775,000

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*dates of the collection of information, completion of report, publication dates, and other actions.*

This is not a collection of information for statistical use.

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.*

The collection of information will display a currently valid OMB control number.

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

Not applicable; no exceptions to the certification statement.

**B. Collections of Information Employing Statistical Methods**

Not applicable. The use of statistical methods is not relevant to this collection of information.