

## **Supporting Statement for Paperwork Reduction Act Submission**

**AGENCY:** Pension Benefit Guaranty Corporation

**TITLE:** Annual Return/Report for Employee Benefit Plan (Form 5500)

**OMB CONTROL NUMBER:** 1212-0057

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### **A. Justification**

1. Need for collection. 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 (Code) provisions), and Title IV (Pension Benefit Guaranty Corporation provisions) – requiring administrators of employee pension and welfare benefit plans (collectively referred to as employee benefit plans) to file returns or reports annually with the federal government.

The Pension Benefit Guaranty Corporation (PBGC), the Internal Revenue Service (IRS), and the Department of Labor (DOL) (collectively the Agencies) work together to produce the Form 5500 Annual Return/Report for Employee Benefit Plan and Form 5500-SF Short Form Annual Return/Report for Small Employee Benefit Plan (Form 5500 Series), through which the regulated public can satisfy the combined reporting/filing requirements applicable to employee benefit plans.

The collection of information has been approved by OMB under control number 1212-0057 through July 31, 2017. PBGC requests that OMB extend its approval for another three years, without change.

2. Use of information. The Form 5500 Series is the principal source of information and data available to the Agencies concerning the operations of employee benefit plans. For this reason, the Form 5500 Series constitutes an integral part of the Agencies' enforcement, research, and policy formulation programs. The Form 5500 Series 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 Form 5500 Series also provides a fundamental tool for investigators in reviewing the operations and activities of employee benefit plans and identifying potential violations of the statute and regulations. Furthermore, public disclosure of the Form 5500 Series 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 Series represents the primary source of data available to federal agencies, Congress, and the private sector for assessing employee benefit, tax, and economic trends and for development and implementation of national pension policies.

In addition to providing the Agencies with important enforcement, research, and policy information data, the Form 5500 Series 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)).

Approximately 828,000 pension and welfare benefit plans must file the Form 5500 Series under Title I and IV of ERISA and the Internal Revenue Code (Code). These plans cover an

estimated 149 million participants and hold an estimated \$9.3 trillion in assets. The Form 5500 Series is therefore an important tool for protecting the benefits of American workers. (Note PBGC's portion of the information collection applies to only a small subset of the 828,000 pension and welfare benefit plans because PBGC's insurance program does not apply to welfare plans or defined contribution plans. There are approximately 23,700 defined benefit plans required to file pursuant to Title IV of ERISA.)

3. Reducing the burden. The Agencies currently use an automated processing system, the ERISA Filing Acceptance System 2, or EFAST2, to process the Form 5500 Series filings.

4. Duplicate or similar information. 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. 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.

5. Reducing the burden on small entities. Not applicable. PBGC's portion of the information collection will not have a significant impact on a substantial number of small entities.

6. Consequences of reduced collection. ERISA and the Code specifically require the filing of reports or returns by employee benefit plans on an annual basis. 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.

7. Consistency with guidelines. This collection of information is conducted in a manner consistent with 5 CFR § 1320.5(d)(2)

8. Outside input. PBGC published the notice required by 5 CFR § 1320.8(d) soliciting comments on the information collection in the Federal Register on May 1, 2017 (82 FR 20396). The public was provided with 60 days to comment on the submission in response to the solicitation. Only one comment was received and it supported the information collection.

9. Payments to respondents. PBGC provides no payments or gifts to respondents in connection with this information collection.

10. Confidentiality. The Form 5500 Series filings are available for public inspection. PBGC provides no assurance of confidentiality to respondents.

11. Personal questions. The information collection does not include any questions of a personal or sensitive nature.

12. Hour burden on the public. Because the Form 5500 Series combines the information collection requests of three federal agencies (DOL, IRS, and 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, which is conducted by DOL with input from

PBGC and the IRS. This ICR requests approval of only the portion of the total paperwork burden of the Form 5500 Series that is attributed to PBGC, although it includes some 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 Form 5500 Series as a whole, but requests approval only of PBGC's portion of that burden.

PBGC estimates, based on data derived from the 2014 Form 5500 filings (the most recent accurate information available), that a total of about 828,000 respondents will file annual reports using the Form 5500 Series. As noted above, PBGC's portion of the information collection applies only to a small subset of these 828,000 respondents, i.e., approximately 23,700 defined benefit plans required to file pursuant to Title IV of ERISA.

The paperwork burden allocated to PBGC includes a portion of the general instructions, basic plan identification information, a portion of Schedule MB and Schedule SB (Actuarial Information), and a portion of Schedule R (Retirement Plan Information). PBGC's portion of the annual aggregate hour burden generated by the Form 5500 Series is estimated at 1,200 hours for 2017, 2018, and 2019 with the equivalent cost burden of approximately \$120,000 for each of these years (assuming a compensation rate of about \$100 per hour for services of a financial professional).

13. Cost burden on the public. As noted in the answer to item 12 above, the Agencies have adopted a unified approach and methodology for estimating paperwork burden, which is conducted by DOL with input from PBGC and IRS. Based on that unified methodology, the annual cost burden attributable to PBGC is estimated at \$1.655 million for 2017, 2018, and 2019.

14. Costs to the Federal government. The total annual processing cost for all Form 5500 Series filings during the period covered by this ICR extension request is estimated to average \$14.9 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 2015 as the methodology that would be used for identifying agencies' shares of EFAST2 costs. Under the model, the agencies pay for their relative share of the total filing volume. Based on the model, PBGC's share of the total cost is approximately \$797,000. Federal FTE costs are excluded.

15. Adjustments. Changes to the hour and cost burdens reflect inflation and updated data on the hour burden attributable to PBGC and number of filings estimated to be received by PBGC as estimated by DOL.

16. Publication plans. PBGC has no plans for publication of the results of this information collection.

17. Display of expiration date. OMB previously granted approval to omit the expiration date from the Form 5500. PBGC requests continued approval to omit the expiration date.

18. Exceptions to certification statement. The information collection is consistent with 5 CFR § 1320.9.

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

Not applicable.