

Justification for No Material or Nonsubstantive Change to Currently-Approved Collection

AGENCY: Employee Benefits Security Administration (EBSA)

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

STATUS: OMB control number 1210-0110; expires November 30, 2021

The Department is submitting the current, 2020 version, of the Form 5500, Annual Return/Report of Employee Benefit Plan, and instructions as a non-material/non-substantive change request. OMB Control Number 1210-0110 is scheduled to expire on November 30, 2021. The Department is not making any program changes to the forms and instructions for 2020. The forms and instructions have been updated to reflect the new form year (2020). This request parallels non-material/non-substantive change requests submitted by the Internal Revenue Service (OMB Control Number 1545-1610) and Pension Benefit Guaranty Corporation (1212-0057).

The “Changes to Note” section on the first page of the instructions of the Form 5500 provides a list of changes. EBSA revised Line 3b of the Schedule H and the Line 3 instructions to reflect a new auditing standard to improve the Accountant’s Opinion, Statement on Auditing Standards (SAS) 136, Forming an Opinion and Reporting on Financial Statements of Employee Benefit Plans Subject to ERISA, that addresses the auditor’s responsibility to form an opinion on the financial statements of employee benefit plans subject to ERISA. The new auditing standard applies to most 2020 plan year filers. EBSA also updated the Administrative Penalties instructions to reflect the annual increase in the maximum civil penalty amount assessable under ERISA section 502(c)(2), as required by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. The Administrative Penalties instructions for the Form 5500-SF have also been updated.

PBGC changes included updates to the Schedule R to provide multiemployer plans with a choice of using three counting methods to count inactive participants, and to the Schedules H and I to improve the accuracy of reporting for a plan that was a defined benefit covered under the PBGC program during the plan year.

IRS revised the Form 5500 and Form 5500-SF instructions to reflect that, effective for plan years beginning after 2019, a one-participant plan or a foreign plan required to file an annual return can file Form 5500-EZ electronically using the EFAST2 filing system in place of filing Form 5500-EZ on paper with the IRS. Form 5500-SF is no longer used by a one-participant plan or a foreign plan in place of Form 5500-EZ. IRS changes also include updates to Line 4l of the Schedules H and I and line 10f of the Form 5500-SF to increase the required minimum distribution age from 70 ½ to 72, as amended by the “Setting Every Community Up for Retirement Enhancement Act of 2019” (SECURE Act).

The Department has updated the hour and cost burden associated with the Form

5500 information collection to reflect its most recent data on Form 5500 filings and wage rates. There were 10,000 additional filings, which led the hour burden to increase from 574,000 hours to 582,000 hours. The cost burden increased from \$254,079,000 to \$278,555,000.