



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

TO: Alex Goodenough, Office of Information and Regulatory Affairs

FROM: Ryan Law
Deputy Assistant Secretary
for Privacy, Transparency, and Records

SUBJECT: Justification for Emergency Processing: New Technologies in Retirement Plans,
OMB Control No. 1545-1632

The Department of the Treasury and its Internal Revenue Service (IRS) are requesting reinstatement of OMB Control No. 1545-1632 under emergency procedures in connection with provisions of the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. 116-136, 134 Stat. 281 (2020) (CARES Act). On March 13, 2020, the President of the United States issued an emergency declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act in response to the ongoing Coronavirus Disease 2019 (COVID-19) pandemic, beginning March 1, 2020 (COVID-19 Emergency).

In response to this unprecedented public health emergency, and the related social distancing that has been implemented, the Internal Revenue Service (IRS) plans to issue a Notice, "Temporary Relief from the Physical Presence Requirement for Spousal Consents Under Qualified Retirement Plans." This notice provides temporary relief from the physical presence requirement in § 1.401(a)-21(d)(6) of the Income Tax Regulations for participant elections required to be witnessed by a plan representative or a notary public, such as a spousal consent required under § 417 of the Internal Revenue Code (the Code). While this temporary relief, which covers the period from January 1, 2020, through December 31, 2020, is intended to facilitate the use of coronavirus-related distributions and plan loans to qualified individuals, as permitted by section 2202 of the CARES Act, the temporary relief applies to any participant election that requires the signature of the individual making the election to be witnessed in the physical presence of a plan representative or notary.

One of the conditions for receiving the temporary relief from the physical presence requirement in § 1.401(a)-21(d) is for the plan representative to acknowledge that he or she has witnessed the signature and transmit the signed document, including the acknowledgement, back to the person under a system that satisfies the applicable notice requirements under § 1.401(a)-21. This is similar to the confirmation requirement for participant elections in § 1.401(a)-21(d), requiring that the individual making a participant election, within a reasonable time period, receive a confirmation of the election through either a written paper document or an electronic medium under a system that satisfies the applicable notice requirements under § 1.401(a)-21(c). The IRS has determined that the plan representative's acknowledgment that he or she witnessed the signature of the participant election is a minor modification to the control number 1545-1632

and should not result in any additional paperwork burden from that which was previously approved. The agency is requesting reinstatement in order to ensure compliance with the CARES Act, as well as to ensure that compliance with the underlying regulations is maintained.

In light of the short timelines to implement the new legislation, the IRS plans to issue the Temporary Relief notice on May 22, 2020, and thus requests approval of the control number's reinstatement by May 21, 2020. Given the inability to seek public comment during such a short timeframe, IRS requests a waiver from the requirement to publish notice in the Federal Register seeking public comment during the period of Office of Management and Budget review. However, public comment will be solicited in conjunction with a subsequent extension of the approval to collect this information.