

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 2021 versions, 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 2021. The forms and instructions have been updated to reflect the new form year (2021). 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. The IRS added a new Checkbox E (Checkbox D for Form 5500-SF) was added to Part I for a plan sponsor who adopted the plan in the 2021 plan year and treated the plan as being adopted and effective in the 2020 plan year pursuant to SECURE Act section 201. For defined benefit plans in this category, the 2021 instructions provide information about how to report data regarding 2020 funding requirements (i.e., Schedule SB data). These changes were separately approved on March 10, 2021 (ICR Ref. No. - 202012-1545-013).

The only change DOL proposed is that the instructions have also been updated to reflect an increase to \$2,259 per day in the maximum civil penalty amount assessable under Employee Retirement Income Security Act section 502(c)(2), as required by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. The increased penalty under section 502(c)(2) is applicable for civil penalties assessed after Jan. 15, 2021, whose associated violation(s) occurred after Nov. 2, 2015. (86 FR 2964 (January 14, 2021)).

For Schedule MB a new line 3(d) has been added by PBGC to require a multiemployer defined benefit plan to report the amount of withdrawal liability payments that is included in line 3(b) employer contributions.

For Schedule SB line 6 has been broken down into new lines 6a, 6b, and 6c requiring that the target normal cost and expected plan-related expenses be reported separately. Line 6a reports the present value of current plan year accruals decreased by any mandatory employee contributions. Line 6b reports expected plan-related expenses, and line 6c reports the sum of lines 6a and 6b. Line 31a makes a conforming change to reflect that it is total target normal cost as reported on line 6c.

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 8,000 additional filings, which led the hour burden to increase from 582,000 hours to 584,000 hours. The cost burden increased from \$278,555,000 to \$280,637,000.