

Supporting Statement for Paperwork Reduction Act Submission

AGENCY: Pension Benefit Guaranty Corporation

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

STATUS: Request for extension of a previously approved collection of information, with modifications, under the Paperwork Reduction Act (OMB Control number 1212-0057, expires February 23, 2023)

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1. Need for collection. The Pension Benefit Guaranty Corporation (PBGC) is requesting approval with modifications to a collection of information under the Paperwork Reduction Act. 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 (PBGC provisions) – requiring administrators of most employee pension and welfare benefit plans (collectively referred to as employee benefit plans) to file returns or reports annually with the federal government. PBGC, the Department of the Treasury (Treasury Department), the Internal Revenue Service (IRS), and the Department of Labor (DOL) (collectively the Agencies) have jointly promulgated the Form 5500 Series, which includes the Form 5500 Annual Return/Report of Employee Benefit Plan and the Form 5500-SF Short Form Annual Return/Report of Small Employee Benefit Plan. The regulated public uses the Form 5500 Series to satisfy the combined annual reporting/filing requirements.

The Setting Every Community Up for Retirement Enhancement Act of 2019 (SECURE Act) was enacted on December 20, 2019, as Division O of the Further Consolidated Appropriation Act of 2020 (Pub. L. 116-94). Among other things, the SECURE Act directed the DOL and Treasury Department to cooperate to develop a new aggregate annual reporting option for certain groups of retirement plans and amended section 103(g) of ERISA concerning annual

reporting requirements for multiple employer plans, the PBGC. In response, the Agencies are proposing a notice of proposed forms revisions (NPFR). In addition to changes that are primarily related to statutory amendments enacted as part of the SECURE Act, the Agencies are also proposing certain additional changes to improve reporting by defined benefit plans subject to Title IV of ERISA.

As part of the NPFR, PBGC proposes modifications to the previously approved information collection relating to the 2022 Schedule MB (Multiemployer Defined Benefit Plan and Certain Money Purchase Plan Actuarial Information), the 2022 Schedule SB (Single-Employer Defined Benefit Plan Actuarial Information), and to their related instructions, and to the 2022 Schedule R (Retirement Plan Information). The proposed modifications to the Schedules MB and R only affect multiemployer defined benefit plans covered by title IV of ERISA while those proposed modifications to the Schedule SB affect single employer defined benefit plans covered by title IV of ERISA. PBGC is proposing to add new questions to these schedules and to modify the attachment requirements to project more precisely defined benefit pension plans' and insurance programs' liabilities.

- **Changes proposed to Schedule MB and instructions**

PBGC proposes to modify the instructions to line 3 of the 2022 Schedule MB to require filers to provide an attachment that breaks down the total withdrawal liability amounts by date, separately specify the periodic withdrawal liability amounts and lump sum withdrawal liability amounts. This additional breakdown of withdrawal liability will enable PBGC to project more precisely multiemployer plans' and insurance programs' liabilities.

Line 6 of Schedule MB requires filers to provide information about the actuarial assumptions used to determine plan liabilities. As proposed, in a new line 6f, PBGC will require plans that assess withdrawal liability to an employer during the plan year, to report the interest rate used to determine the present value of vested benefits for withdrawal liability determinations. In addition, PBGC also proposes modifying the questions related to the line 6 “expense load” to better align with the various ways multiemployer plans incorporate expense loads into their calculations. As part of the modification, the expense load will be moved from line 6e to a new line 6i and filers will be required to indicate if an expense load is included in normal cost and if so, if it is determined as a percentage of normal cost, a dollar amount that varies from year to year, or something else.

PBGC also proposes modifying line 8b of Schedule MB to require additional information about demographics, benefits, and contributions. As proposed, these requirements will continue to apply only to PBGC-insured multiemployer plans with 500 or more total participants as of the beginning of the plan year. This additional information will give PBGC more data to project the plans’ and insurance programs’ liabilities more accurately. Changes include:

- Modifying the format of the line 8b(1) attachment to require plans to show a projection of the benefits expected to be paid, broken down into three categories based on the participant’s or beneficiary’s status on the valuation date (i.e., active, terminated vested, in pay status) and to extend that period to 50 years. It is the PBGC’s understanding that almost all valuation software automatically generates these numbers and that it takes the same amount of effort to project 50 years as it does to project 10 years.

- Adding a new line 8b(3) to require such plans to provide a 10-year projection of employer contributions and withdrawal liabilities liability payments as a new attachment. The respective instructions for lines 8b(1) and 8b(3) will provide the required attachment format.
- Adding a new line 8b(4) directly on Schedule MB to require such plans to report the average age and average monthly benefit separately for terminated vested participants and retired participants and beneficiaries receiving payments.
- Modifying the “age/service” scatter attachment by deleting the required information related to cash balance plans and adding a requirement to report average accrued monthly benefits as of the valuation date for each grouping.

PBGC also proposes clarifying the line 4f instructions and Schedule language for when plans in critical status or critical and declining status are projected to emerge or become insolvent as there appears to be plan confusion on how to correctly fill out line 4f. This will provide more consistent plan responses.

- **Changes proposed to Schedule SB and instructions**

PBGC proposes requiring single-employer plans with 500 or more total participants to attach a projection of benefits expected to be paid in each of the next 50 years, broken down into three categories based on the participant’s or beneficiary’s status on the valuation date (i.e., active, terminated vested, and in pay status), in Schedule SB’s line 26. These attachment requirements are similar to those being proposed for Schedule MB, line 8. This additional information will provide PBGC with more data to enable it to more accurately project liabilities. As proposed, these plans will also report the average age and average monthly benefit separately

for terminated vested participants and retired participants and beneficiaries receiving payments. Again, PBGC does not believe the benefit projection requirement will be burdensome for these plans because almost all valuation software automatically generates these numbers.

To facilitate these changes, PBGC proposes rearranging line 26. It proposes changing line 26 into a three-part question (26a, 26b, and 26c). Current line 26 will become line 26a. Plans will be required to attach a projection of expected benefit payments in line 26b, and report average age and average monthly benefit information in line 26c.

PBGC also proposes modifying Part IX of the Schedule SB, and its instructions, so that it relates to elective funding relief provided under the American Rescue Plan Act of 2021 (ARP 2021) instead of elective funding relief provided under the Pension Relief Act of 2010 (PRA 2010). The PRA 2010 information is no longer needed because ARP 2021 reduces to zero all shortfall amortization bases, including amortization bases established pursuant to the PRA 2010 elective funding relief. As modified, single-employer plans that elect to have the ARP 2021 extended amortization rule apply before the 2022 plan year would be required to report the first plan year to which the extended amortization rule applies.

- **Changes proposed to Schedule R**

PBGC proposes modifying line 13 of Schedule R's Part V to require multiemployer defined benefit plans subject to minimum funding standards to report the ten employers who contributed the largest amounts of the plan's total contributions, instead of only requiring them to report those participating employer that contributed more than five percent of the total contributions for the year. Identifying a larger number of contributing employers will ensure that the reported data represents a reasonable sampling of those employers that are contributors to the

plan.

- **Change in format for certain Schedule MB and SB Attachments**

PBGC proposes to modify the instructions to suggest (but not require) that certain Form 5500 attachments be provided in a tabular format (spreadsheet). Currently, EFAST filers file Form 5500 attachments as PDF and plain text (TXT) files. A PDF file is required only if the attachment is supposed to be signed and TXT attachments are rarely filed. It would be more efficient for PBGC if filers provide this information in a tabular format (spreadsheet) file so that PBGC can use this information for various projects, studies, etc. Because much of this information is automatically generated by valuation software, PBGC expects this option may simplify the process for preparing attachments as well. Attachments affected by this change include the Schedule of Projection of Expected Benefit Payments and the Schedule of Active Participant Data (i.e., age/service scatter) for Schedules MB and SB and the attachments for Withdrawal Liability Amounts and the Schedule of Projections of Employer Contributions and Withdrawal Liability for Schedule MB.

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 is an integral part of the Agencies' enforcement, research, and policy formulation. Regarding enforcement, the Form 5500 Series 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. 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.

Regarding research and policy formulation, the Form 5500 Series represents the primary source of data available to the Agencies, Congress, and the private sector for assessing employee benefits, taxes, 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, 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 804,000 pension and welfare benefit plans must file the Form 5500 Series under titles I and IV of ERISA and the Code. These plans cover an estimated 154 million workers, retirees, and dependents of private sector pension and welfare plans with estimated assets of \$12.2 trillion. 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 804,000 pension and welfare benefit plans because PBGC's insurance program does not apply to welfare plans or defined contribution plans. There are approximately 24,600 defined benefit plans that are required to file and covered by PBGC's insurance program.)

3. Information technology. 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 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 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. On September 15, 2021, at 86 FR 51488, the Agencies published a notice of proposed form revisions and a notice of proposed rulemaking, with each requesting written comments on or before 45 days after publication. This notice and comment period will satisfy the notice required by 5 CFR 1320.8(d).

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

10. Confidentiality. Confidentiality of information is that afforded by the Freedom of Information Act and the Privacy Act. PBGC's rules that provide and restrict access to its records are set forth in 29 CFR Part 4901.

11. Personal questions. This collection of information does not call for submission of information of a sensitive or private 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 IRS. This request is for 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 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.

Based on the most recent available data, a total of about 804,000 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 804,000 respondents, i.e., approximately 24,600 defined benefit plans covered under title IV of ERISA.

The paperwork burden allocated to PBGC includes a portion of the general instructions, and basic plan identification information. PBGC's portion of the annual aggregate hour burden generated by the Form 5500 Series is estimated at 1,242 hours for the filings during the period covered by this ICR extension request with the equivalent cost burden of approximately \$125,084 for each of these years (assuming a compensation rate of \$100.74 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 \$1.647 million for the filings during the period covered by this ICR extension request.

14. Costs to the Federal government. The total annual processing cost for all Form 5500 Series filings is estimated as \$14.2 million annually (including oversight) based on FY2021

costs. 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. Therefore, PBGC's share of the total cost is approximately \$800,000. Federal FTE costs are excluded.

15. Explanation of burden changes. PBGC estimates an increase of 9 hours in the hour burden from 1,233 to 1,242. PBGC estimates that the increase is due to proposed changes on the Form 5500 and related Schedules. There is no change in the estimated cost burden.

16. Publication plans. PBGC does not intend to publish the results of this collection of information.

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.