

**SUPPORTING STATEMENT FOR PAPERWORK REDUCTION ACT 1995:
REVISIONS TO THE FORM 5500 ANNUAL RETURN / REPORT OF EMPLOYEE
BENEFIT PLANS AND FORM 5500-SF SHORT FORM ANNUAL RETURN/REPORT
OF SMALL EMPLOYEE BENEFIT PLANS**

DOL is submitting this revision in connection with the publication of a final rule that implements changes to the 2022 Form 5500.

A. Justification

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.*

The Employee Retirement Income Security Act of 1974 (ERISA) –in Title I (Labor provisions and Title IV (Pension Benefit Guaranty Corporation provisions) – and the Internal Revenue Code include requirements for employee pension benefit plans and employee welfare benefit plans (collectively referred to as employee benefit plans) to file returns or reports annually with the federal government. Provisions in Title I of ERISA apply to employee benefit plans generally. Provisions in the Internal Revenue Code require an annual return to be filed on behalf of specified tax-qualified retirement plans with the Internal Revenue Service (IRS). Provisions in Title IV require certain annual reports to be filed for defined benefit pension plans with the Pension Benefit Guaranty Corporation (PBGC).

Title I of ERISA, specifically sections 101(b)(1) and 104(a)(1)(A), generally requires the administrator of an employee benefit plan to file an annual report containing the information described in section 103 of ERISA with the Department of Labor (the Department). Section 104(a)(2) of ERISA, provides that the Secretary of Labor (Secretary) may, by regulation, prescribe simplified annual reporting for pension plans that cover fewer than 100 participants. Sections 104(a)(3) and 110 of ERISA authorize the Secretary to prescribe exemptions and simplified reporting for welfare plans and alternative methods of compliance for pension plans, respectively, if certain findings with respect to such plans can be made by the Secretary. Section 505 of ERISA provides the Secretary with general authority to prescribe such regulations as are “necessary and appropriate” to carry out the provisions of Title I of ERISA. Section 109(a) of ERISA, provides that, with certain exceptions, the Secretary may prescribe forms.

Annual Return/Report of Employee Benefit Plan (Form 5500)
OMB Number 1210-0110
Expiration Date 12/31/2024

Since the enactment of ERISA, the Department has cooperated with the IRS and the PBGC to produce the Form 5500 Annual Return/Report as a consolidated way through which administrators and sponsors of employee benefit plans can satisfy the relevant annual reporting requirements for all three agencies.

November 2007 Revision

On November 16, 2007, the three agencies, including the Department, adopted revisions to the Form 5500 Annual Return/Report, including the establishment of a new Form 5500-SF (Short Form 5500) for certain small plans, in order to update and streamline the annual reporting process in conjunction with establishing a wholly electronic processing system for receipt of the Form 5500 Annual Return/Reports and to conform the forms to the Pension Protection Act of 2006, Pub. L. No. 109-280 (PPA).¹ A final rule (72 FR 64710) was published contemporaneously with the revisions, including an amendment to the Department's regulation at 29 CFR2520.104a-2 to mandate an electronic filing requirement, applicable only for plan years beginning on or after January 1, 2009.

January 2013 Revision

The Department amended the Form 5500, its instructions, and the Department's implementing regulations to require all welfare plans, including those plan MEWAs and Entities Claiming Exemption (ECEs) that are subject to the M-1 filing requirements to prove compliance with such requirements in order to satisfy the Form 5500 annual reporting requirements. The Department added a new Part III to the Form 5500, which requires plan administrators to report whether an employee welfare benefit plan is a MEWA subject to the Form M-1 requirements. Plan administrators that indicate the plan is required to file the Form M-1 also are required to enter the receipt confirmation code for the most recent Form M-1 filed with the Department. Failure to answer the questions on the Form 5500 regarding Form M-1 compliance can result in rejection of the Form 5500 as incomplete and civil penalties under ERISA section 502(c)(2) may be assessed. This enhances the Department's ability to enforce the Form M-1 requirements by subjecting plan MEWAs that fail to file Form M-1 to the ERISA section 502(2) civil penalty for failure to file a complete Form 5500.²

2014 CSEC Act Revision

¹ 72 FR 63731.

² Although ERISA sections 505 and 734 give the Secretary the authority to require MEWAs that are group health plans to comply with the Form M-1 requirements, there is, however, no corresponding ERISA civil penalty for a failure to comply with those requirements.

Annual Return/Report of Employee Benefit Plan (Form 5500)
OMB Number 1210-0110
Expiration Date 12/31/2024

The Department revised this ICR to reflect changes made to the Form 5500 reporting requirements by the Cooperative and Small Employer Charity Pension Flexibility Act (the “CSEC Act”).³ The CSEC Act requires that annual reports of multiple employer plans include “a list of participating employers” and, with respect to each participating employer “a good faith estimate of the percentage of total contributions made by such participating employers during the plan year.”

SECURE Act Revisions

On September 15, 2021, the three agencies published a Notice of Proposed Rulemaking, that primarily related to statutory amendments to ERISA and the Code enacted as part of the Setting Every Community Up for Retirement Enhancement Act of 2019 (SECURE Act)⁴ (86 FR 51488).

In December 2021, The Department published a related final rule that included that set forth a narrow set of changes to the instructions for the Form 5500 and Form 5500–SF, effective for plan years beginning on or after January 1, 2021. 86 FR 73976 (Dec. 29, 2021). The limited instruction changes implement annual reporting changes for multiple-employer plans (including pooled employer plans).

In December 2021, the Department published a final forms revisions rulemaking.

The 2021 Form 5500 modifications, added text that: (1) notes that a pooled employer plan operated by a pooled plan provider that meets the definition under ERISA section 3(43) is a multiple employer plan that files a single Form 5500 Annual Return/Report; (2) requires multiple employer defined contribution pension plans to report aggregate account balance information by employer as part of an existing non-standard attachment that such plans use to report ERISA section 103(g) participating employer information; and (3) requires “pooled employer plans” to indicate whether the pooled plan provider sponsoring the plan is in compliance with the Form PR registration requirements and provide the AckID number for the pooled plan provider’s latest Form PR filing, also as part of a non-standard attachment. The instructions retain an existing requirement that welfare plans that file a Form 5500 must include participating employer information under our general Form 5500 and regulatory authorities notwithstanding that the SECURE Act amended ERISA section 103(g) to limit that section to retirement plans. No changes to the text of DOL’s implementing regulations are required for these instruction changes.

³ P.L. 113-97, 128 Stat. 1101, enacted on April 7, 2014

⁴ The SECURE Act was enacted on December 20, 2019, as Division O of the Further Consolidated Appropriations Act, 2020 (Pub. L. 116-94).

Annual Return/Report of Employee Benefit Plan (Form 5500)
OMB Number 1210-0110
Expiration Date 12/31/2024

This revision includes additional changes for the 2022 Form 5500 instructions, including new plan characteristic codes to identify pooled employer plans, association retirement plans, and PEO plans, along with a residual category code for all other defined contribution MEPs. Changes are also made to the Schedules MB, SB, and R, and to the respective instructions, that are designed to improve reporting by defined benefit plans subject to Title IV of ERISA.

- 2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.*

The Form 5500 return/reports are the principal source of information and data available to the Department, the IRS, and the PBGC (the Agencies) concerning the operation of employee benefit plans. For this reason, the Form 5500 constitutes an integral part of the Agencies' enforcement, research, and policy formulation programs. The annual report 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 annual report 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 annual reports 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 represents the primary source of data available to federal agencies, Congress, and the private sector for the development and implementation of national pension policy.

In addition to providing the Agencies with important enforcement, research, and policy information, the Form 5500 represents the principal source of detailed financial information about the plan 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)). Moreover, the annual report serves as the basis for the Summary Annual Report, (OMB Control Number 1210-0040) which administrators are generally required to furnish to each participant and beneficiary annually, except those covered by defined benefit plans.

- 3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the*

Annual Return/Report of Employee Benefit Plan (Form 5500)
OMB Number 1210-0110
Expiration Date 12/31/2024

basis for the decision for adopting this means of collection. Also describe any consideration for using information technology to reduce burden.

The Agencies currently use a fully automated processing system, the ERISA Filing Acceptance System 2 or EFAST2, to process the Form 5500 filings. The combined effect of the transition to electronic filing, the implementation of the EFAST2 processing system, and the revised Form 5500 return/reports has reduced the paperwork burden imposed by the reporting requirements that are the basis for this information collection.

- 4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.*

The Agencies have developed and use a consolidated annual report that allows filers to satisfy related 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. 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, or to employee benefit plan investors as a group distinct from other types of investors. 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. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.*

For purposes of the Paperwork Reduction Act (PRA) and for other purposes, the Employee Benefit Security Administration (EBSA) generally defines “small entity” as an employee benefit plan that has fewer than 100 participants. Support for this definition can be found in section 104(a)(2) of ERISA that permits the Secretary of Labor to prescribe simplified annual reports for pension plans which cover fewer than 100 participants. Under section 104(a)(3), the Secretary may also provide for simplified annual reporting and disclosure if the statutory requirements of part 1 of Title I of ERISA would otherwise be inappropriate for welfare plans. Some large employers may have small plans, but in general, most small plans are maintained by small employers.

Annual Return/Report of Employee Benefit Plan (Form 5500)
OMB Number 1210-0110
Expiration Date 12/31/2024

Pursuant to the authorities identified above, the Department has created simplified reporting provisions and limited exemptions from reporting and disclosure requirements for small plans, including unfunded or insured welfare plans that cover fewer than 100 participants and satisfy certain other requirements. For example, under these exemptions, and subject to certain other requirements, many small pension and welfare plans are either relieved of the requirement to file an annual return/report or allowed to file a simplified report subject to conditions that make them eligible for a waiver of the generally applicable requirement to engage an independent qualified public accountant (IQPA) to audit the plan's assets as part of their annual return/report.

In the past, the Agencies have taken a number of other steps intended to ease small plans' burdens and costs attributable to the annual return/report. For example, the Agencies currently allow plans with between 80 and 120 participants to continue filing the same category of annual report that was filed the previous year in order to provide administrative flexibility at the small/large plan threshold. In 2009, a simplified reporting option for small plans—the Form 5500-SF—was added to update and improve the simplified reporting option for certain small plans (e.g., plans with fewer than 100 participants with easy to value investment portfolios).

6. *Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.*

ERISA and the Code specifically require the annual filing of reports or returns by administrators and sponsors of employee benefit plans. 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. *Explain any special circumstances that would cause an information collection to be conducted in a manner:*

- *requiring respondents to report information to the agency more often than quarterly;*
- *requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;*
- *requiring respondents to submit more than an original and two copies of any document;*
- *requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;*
- *in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;*

Annual Return/Report of Employee Benefit Plan (Form 5500)
OMB Number 1210-0110
Expiration Date 12/31/2024

- *requiring the use of a statistical data classification that has not been reviewed and approved by OMB;*
- *that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or*
- *requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.*

This information collection implicates none of the special circumstances.

8. *If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.*

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years -- even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

DOL published a Notice of Proposed Rulemaking that proposes amendments to regulations relating to annual reporting requirements under Title I of ERISA. DOL, Treasury/IRS, and PBGC also published in the Federal Register a separate Notice of Proposed Forms Revision containing proposed form changes and these proposed regulatory amendments. Both notices were published in the Federal Register on September 15, 2021. The Federal Register citations are 86 FR 51284 and 86 FR 51488 respectively.

The Agencies received 114 comments on the NPFR and NPRM. The comments generally were focused on the proposed changes for the 2022 and later plan year forms, with only 11 comments relating to the proposed changes for the 2021 plan year forms. However, the NPFR proposed 2022 form changes, are not being included in these amendments to the 2022 forms and

Annual Return/Report of Employee Benefit Plan (Form 5500)
OMB Number 1210-0110
Expiration Date 12/31/2024

instructions; instead the 2021 revisions are being continued and improved along with a few other changes. After consideration of the comments, EBSA as it did with the 2021 Form revisions, is adopting relatively minor revisions for 2022 that include changes: (1) to Schedules MB, SB, and R, and to the respective instructions, that are designed to improve reporting by defined benefit plans subject to Title IV of ERISA, (2) to the Form 5500 and Form 5500-SF instructions that further implement section 101 of the SECURE Act in ways that expand and improve transparency of MEP reporting, including for pooled employer plans. The changes to the 2022 Form 5500 Series impose only a small increase in reporting burden as the changes impact a limited number of plans and require reporting of information the plans already possess.

9. *Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.*

No payments or gifts are provided to respondents.

10. *Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.*

The Form 5500 filings made under Title I of ERISA are required by law to be made available for public inspection at the Department and at the offices of the plan administrators. Accordingly, the Department of Labor provides no assurance of confidentiality to respondents.

11. *Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.*

This information collection poses no questions of a sensitive nature.

12. *Provide estimates of the hour burden of the collection of information. The statement should:*
- *Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the*

Annual Return/Report of Employee Benefit Plan (Form 5500)
OMB Number 1210-0110
Expiration Date 12/31/2024

range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.

- *If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens.*
- *Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 13.*

Because the Form 5500 Series combines the information collection requests of three federal agencies (the Department, the IRS, and the 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. This ICR requests approval of only the portion of the total paperwork burden of the Form 5500 Series that is attributed to the Department, although it includes 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 forms revisions as a whole, but requests approval only of the Department's portion of that burden.

The Department has adopted several assumptions in performing this burden estimation. First, the methodology used for this ICR excludes certain types of activities entirely from the calculation of "burden." If an activity is performed for any reason other than compliance with the applicable federal tax administration system or the Title I annual reporting requirements, it is not counted as part of the paperwork burden. For example, most businesses or financial entities maintain, in the ordinary course of business, detailed accounts of assets and liabilities and income and expenses for the purposes of operating the business or entity. The Department has not attributed any recordkeeping burden to the Form 5500 Annual Return/Report because it believes that plan administrators' practice of keeping financial records necessary to complete the Form 5500 Annual Return/Report arises from usual and customary management practices that would be used by any financial entity and is not the result of any ERISA or Code annual reporting and filing requirements.

This burden analysis includes only the time needed for gathering and processing information associated with compliance with the tax return/annual reporting requirements. In addition, an

Annual Return/Report of Employee Benefit Plan (Form 5500)
OMB Number 1210-0110
Expiration Date 12/31/2024

activity that must be performed for both IRS and Departmental purposes is counted once for burden analysis purposes.

The Agencies also have designed the instruction package for the Form 5500 Annual Return/Report so that filers generally will be able to complete the Form 5500 Annual Return/Report by reading the instructions without needing to refer to the statutes or regulations. The Agencies, therefore, have included in their PRA calculations a burden for reading the instructions and have assumed that there is no additional burden for research.

A burden estimating model, initially based on the Form 5500 Burden Model that a contractor, Mathematica Policy Research, Inc. (MPR) had used for estimating burdens in October 2004, has been developed, for purposes of this burden analysis, by Actuarial Research Corporation (ARC). ARC assembled a simplified model by drawing on implied burdens associated with subsets of filer groups represented in the MPR model. The new model uses a level of detail consistent with reflecting burden differences associated with the various proposed Forms revisions, as described below.⁵

The types of plans that have similar reporting requirements were grouped together to estimate aggregate burdens for this submission. Thus, calculations were prepared for different subsets of types of plans, as appropriate based on the specific reporting requirements. The universe of filers was first divided into three basic plan types: defined benefit pension plans, defined contribution pension plans, and welfare plans. Each of these major plan types was further subdivided into multiemployer and single-employer plans. Since filing requirements differ substantially for small and large plans, the plan types were also divided by plan size. For large plans (100 participants or more), defined benefit plans were further divided into very large (1,000 participants or more) and other large (at least 100 but less than 1,000 participants). For each of these sets of respondents, burden hours per respondent were estimated for the Form 5500 Annual Return/Report itself and for each of up to seven schedules.

In addition to separating plans by type and size, costs were estimated separately for the form and for each schedule. The burden for the Form 5500-SF, as well as the simplified filing requirements for certain small plans was built from the estimated current burden associated with the various line items included in it. When items on a schedule are required by more than one Agency, the estimated burden associated with that schedule was allocated among the Agencies. This allocation was based on whether only a single item on a schedule is required by more than one Agency or whether several or all of the items are required by more than one Agency. Because filers must read not only the instructions for particular items but also instructions

⁵ The new burden model developed by ARC has been used to calculate burdens for the paperwork reduction burdens of the Notice of Proposed Rulemaking, the Proposed Forms Revisions, and the Notice of Supplemental Proposed Forms Revisions. This burden model was further updated for the Final Forms Revisions and Final Rules.

Annual Return/Report of Employee Benefit Plan (Form 5500)
OMB Number 1210-0110
Expiration Date 12/31/2024

pertaining to the general filing requirements, the burden associated with reading the instructions was tallied and allocated accordingly.

The burden for a specific type of plan has been estimated in light of the specific items and schedules that type of plan must complete, as well as its size, funding method, and investment structures. For example, the annual report for a large fully insured welfare plan would consist of only the Form 5500 and the Schedule A (Insurance Information), and Schedules C and G, where applicable. By contrast, a large defined benefit pension plan that is intended to be tax-qualified and that uses a trust fund and invests in insurance contracts and direct filing entities would be required to submit an annual report completing the Form 5500, plus Schedule A (Insurance Information), Schedule SB, or MB (Actuarial Information), whichever one is applicable, Schedule C (Service Provider Information), Schedule D (DFE/Participating Plan Information), possibly the Schedule G (Financial Transaction Schedules), Schedule H (Financial Information), and Schedule R (Retirement Plan Information), and would be required to submit an IQPA's report and opinion. The methodology used to develop the aggregate burden estimates attempts to capture, through its categorization, these different reporting burdens, thereby providing meaningful estimates of significant differences in the burdens placed on different categories of filers.

The aggregate baseline burden for the Form 5500 is the sum of the burden estimates per form and schedule filed multiplied by the estimated aggregate number of forms and schedules. The simplified model developed by ARC draws on Form 5500 Annual Return/Report data representing each plan's filing for plan year 2019 (the most recent year for which complete data is available).

Table 1 summarizes the Department's estimates of the aggregate time needed to complete each of the forms for plan years 2022, 2023, and 2024, as listed below, reflecting the combined information collection requirements of the IRS, the Department, and the PBGC. The estimates are averages, since the actual time needed for any particular respondent plan to complete any of these forms will vary depending on individual circumstances. The estimated average times for each form for all of the information elements of the three Agencies are:

Table 1: Burden Boxes for Plan Years 2022, 2023, and 2024

	Pension Plans		
	Large	Small, Filing Form 5500	Small, Filing 5500-SF

Annual Return/Report of Employee Benefit Plan (Form 5500)
OMB Number 1210-0110
Expiration Date 12/31/2024

Form 5500	1 hr, 50 min.	1 hr, 19 min.	-
Sch A	2 hr, 52 min.	2 hr, 52 min.	-
Sch MB	8 hr, 53 min.	8 hr, 14 min.	8 hr, 14 min.
Sch SB	6 hr, 38 min.	6 hr, 49 min.	6 hr, 49 min.
Sch C	2 hr, 49 min.	-	-
Sch D	1 hr, 39 min.	20 min.	-
Sch G	14 hr, 14 min.	-	-
Sch H	7 hr, 38 min.	-	-
Sch I	-	2 hr, 6 min.	-
Sch R	1 hr, 41 min.	1 hr, 7 min.	-
Form 5500-SF	-	-	2 hr, 35 min.
	Welfare plans that include health benefits		
	Large	Small, unfunded, combination unfunded/fully insured, or funded with a trust 5500-SF	
Form 5500	1 hr, 45 min.	1 hr, 14 min.	
Sch A	3 hr, 40 min.	2 hr, 43 min.	
Sch C	3 hr, 38 min.	-	
Sch D	1 hr, 52 min.	20 min.	
Sch G	11 hr, 0 min.	-	
Sch H	8 hr, 36 min.	-	
Sch I	-	1 hr, 56 min.	
Form 5500-SF	-	2 hr, 35 min.	
	Welfare plans that do not include health benefits		
	Large	Small, Filing Form 5500	Small, Filing Form 5500-SF
Form 5500	1 hr, 45 min.	1 hr, 14 min.	-
Sch A	3 hr, 40 min.	2 hr, 43 min.	-
Sch C	3 hr, 38 min.	-	-
Sch D	1 hr, 52 min.	20 min.	-
Sch G	11 hr, 0 min.	-	-
Sch H	8 hr, 36 min.	-	-

Annual Return/Report of Employee Benefit Plan (Form 5500)
OMB Number 1210-0110
Expiration Date 12/31/2024

Sch I	-	1 hr, 56 min	-
Form 5500-SF	-	-	2 hr, 35 min.

	Direct Filing Entities				
	Master Trusts	CCTs	PSAs	103-12 IEs	GIAs
Form 5500	1 hr, 50 min.	1 hr, 29 min.	1 hr, 24 min.	1 hr, 33 min.	1 hr, 22 min.
Sch A	2 hr, 54 min.	2 hr, 48 min.	2 hr, 46 min.	2 hr, 52 min.	2 hr, 53 min.
Sch C	3 hr, 1 min.	1 hr, 1 min.	29 min.	1 hr, 22 min.	51 min.
Sch D	1 hr, 30 min.	47 min.	34 min.	49 min.	41 min.
Sch G	12 hr, 32 min.			5 hr, 42 min.	
Sch H	8 hr, 7 min.	7 hr, 36 min.	7 hr, 33 min.	8 hr, 17 min.	7 hr, 38 min.

Before revisions, the aggregate hour burden for the entire Form 5500 Annual Return/Report (including schedules and Short Form 5500) is estimated to be 4,586,428 hours annually, of which the Department allocated share is 3,023,602 hours with an equivalent cost of \$304.3 million (3,029,299 hours times \$100.64 per hour for service of a financial professional⁶). The aggregate and attributed hour burdens each reflect an allocation of the overall burden between service providers hired by plans and plans that are expected to complete the return/report through use of in-house resources, rather than by purchase of services from third party service providers.

January 2013 Revision

⁶ DOL estimates of labor costs by occupation reflect estimates of total compensation and overhead costs. Estimates for total compensation are based on mean hourly wages by occupation from the 2020 Occupational Employment Statistics and estimates of wages and salaries as a percentage of total compensation by occupation from the 2020 National Compensation Survey's Employee Cost for Employee Compensation. Estimates for overhead costs for services are imputed from the 2017 Service Annual Survey. To estimate overhead cost on an occupational basis, OPR allocates total industry overhead cost to unique occupations using a matrix of detailed occupational employment for each NAICS industry. All values are in 2020 dollars.

Annual Return/Report of Employee Benefit Plan (Form 5500)
OMB Number 1210-0110
Expiration Date 12/31/2024

As stated in Item 1, above, the January 2013 finalized amendment requires an ERISA-covered plan that is subject to Form M-1 requirements to include proof of filing the Form M-1 as part of the Form 5500. Plan administrators that indicate the plan is subject to the Form M-1 requirements would be required to enter the receipt confirmation code for the most recent Form M-1 filed with the Department. The Department believes that the burden associated with this requirement is minimal, because plan administrators will know whether they are subject to and in compliance with the Form M-1 requirements and will have the receipt confirmation code for the most recent Form M-1 filing readily available.

The finalized amendment provides that plans subject to the Form M-1 requirements are not eligible for the exemption from filing the Form 5500 for small welfare benefit plans that are unfunded or insured and have fewer than 100 participants. Following the methodology used to calculate the burden in the Form 5500 regulations, the Department estimates that small plan MEWAs and ECEs, using service providers, filing a Form 5500 and completing Schedule A and Part III of Schedule G would incur an annual burden of 4.5 hours to prepare the form and schedules for submission. The Department does not have sufficient data to determine the number of small plan MEWAs or ECEs that would be required to file the Form 5500 under the final rule. In the 2019 calendar year, there were 715 MEWAs that filed a Form M-1. However, the 2019 Form M-1 does not contain sufficient information to determine which of these MEWAs or ECEs would be subject to the requirements of final rule. The Department has nonetheless estimated there are 140 small plan MEWAs. If these 140 small plan MEWAs were subject to the rule, the additional burden would be 630 hours (140*4.5), at an equivalent cost of approximately \$63,403.

2014 CSEC Act Amendment

As stated in Item 1 above, the CSEC Act revision only applies to multiple employer plans. In 2019, there were 4,741 multiple employer plans, of which 202 were defined benefit plans and 4,538 were defined contribution plans.⁷ Additionally, there were 715 total plan MEWAs that filed a Form M-1 in 2019.⁸ Accordingly, the Department estimates that 5,456 (4,741 +715) multiple employer plans are subject to the requirements of the CSEC Act Amendment. The Department assumes that plan administrators will comply with the new requirements; therefore, the entire burden is hour burden.

⁷ Employee Benefits Security Administration. "Private Pension Plan Bulletin, Abstract of 2019 Form 5500 Annual Reports." (September 2021).

⁸ These calculations are based on internal Department calculations based on 2018 M-1 filings. In 2018, there were 572 plans that filed an Annual Report, of which 497 filed only an Annual Report and 75 filed both an Annual Report and Registration related filings. The remaining 68 plans counted in the 640 total plans filed only Registration related filings during the year.

Annual Return/Report of Employee Benefit Plan (Form 5500)
OMB Number 1210-0110
Expiration Date 12/31/2024

Reporting the basic information about participating employers required by the CSEC Act should not be burdensome for multiple employer plan administrators, because multiple employer plans already are required to maintain a list of participating employers and records of the contributions made by each employer. The Department's regulation on content requirements for summary plan descriptions, 29 CFR 2520.102-3, requires, in the case of a plan established or maintained by two or more employers, that the SPD contain a statement that a complete list of the employers sponsoring the plan may be obtained by participants and beneficiaries on request and a statement that the list is available for examination by participants and beneficiaries at the plan administrator's office.

In addition, the Form 5500 currently requires plans to report information on employer contributions as part of the financial information required to be filed. Section 107 of ERISA requires the plan administrator to keep records in sufficient detail to allow the information on the Form 5500 to be "verified, explained, or clarified, and checked for accuracy and completeness." In the Department's view, this would require the plan to keep records sufficient to identify the individual participating employers that made contributions and the amount of the contributions attributable to each individual employer.

Therefore, the Department assumes that on average, it will take a financial professional thirty (30) minutes to comply with the CSEC Act amendments by creating an attachment containing the list of participating employer, their EIN, and their percentage of total plan contributions. Based on the foregoing, the Department estimates that 4,741 multiple employer plan administrators will spend approximately 2,728 hours complying with the CSEC Act requirements at an equivalent cost of approximately \$274,546 (2,728 hours times \$100.64 per hour for the services of an in-house financial professional).

SECURE Act Revisions

The Setting Every Community Up for Retirement Enhancement Act of 2019 (SECURE Act) authorized the creation of "pooled employer plans" and included some additional reporting requirements. The related final rule makes the following changes by adding text to the instructions that: (1) notes that a pooled employer plan operated by a pooled plan provider that meets the definition under ERISA section 3(43) is a multiple employer plan that files a single Form 5500 Annual Return/Report; (2) requires multiple employer defined contribution pension plans to report aggregate account balance information by employer as part of an existing non-standard attachment that such plans use to report ERISA section 103(g) participating employer information; and (3) requires "pooled employer plans" to indicate whether the pooled plan provider sponsoring the plan is in compliance with the Form PR registration requirements and provide the ACK id number for the pooled plan provider's latest Form PR filing, also as part of a non-standard attachment. The instructions retain an existing requirement that welfare plans that

Annual Return/Report of Employee Benefit Plan (Form 5500)
OMB Number 1210-0110
Expiration Date 12/31/2024

file a Form 5500 must include participating employer information under our general Form 5500 and regulatory authorities notwithstanding that the SECURE Act amended ERISA section 103(g) to limit that section to retirement plans.

Burden estimates take into account the changes in plan counts due to the creation of pooled employer plans, with an increase in multiple-employer plans and a small decrease in single employer plans to reflect some single employer plans moving to pooled employer plans. The agencies estimated that there are 4,538 defined contribution multiple-employer pension plans and that 202 pooled employer plans will be formed and now need to file a Form 5500. Accordingly, the agencies estimated that 842 large defined contribution single employer pension plans and 3,369 defined contribution small single employer pension plans will join these 202 pooled employer plans and therefore stop filing the Form 5500 individually. These 202 pooled employer plans will need to indicate whether they are in compliance with the Form PR registration requirements and provide the AckID number for their latest Form PR filing. A burden of five minutes per pooled employer plan increases the overall burden by 16.83 hours ($202 * 5/60$), of which 16.49 hours are the Department allocated share.

Additionally, defined contribution multiple-employer pension plans will need to include with its list of participating employers the contributions of each of the participating employers. Reporting the basic information about participating employers required by the changes being finalized in this document should not be burdensome for multiple-employer defined contribution pension plan administrators as current requirements under ERISA already require them to maintain a list of participating employers and records of the contributions made by each employer. Although the Department believes it is an overestimate of the actual time required, to ensure that we are not underestimating the potential burden, the Department is using an estimate of on average 30 minutes for plans to comply with the changes by amending the currently required attachment containing the list of participating employers, their EINs, and their percentage of total plan contributions. This requirement results in an increase in burden of 2,370 hours ($(4,538 + 202) * 30/60$), of which 2322.66 hours are the Department allocated share.

Additional changes for the 2022 Form 5500 include new plan characteristic codes to identify pooled employer plans, association retirement plans, and PEO plans, along with a residual category code for all other defined contribution MEPs. Changes are also made to schedules MB, SB, and R, and to the respective instructions, that are designed to improve reporting by defined benefit plans subject to Title IV of ERISA. The addition of new questions to Schedule MB, Schedule SB, and Schedule R, as well as other are expected to increase the burden for the estimated 25,069 defined benefit plan filers. The Department does not have an allocated share for this burden increase.

In total, the Department estimates that the SECURE Act Revisions will impose a burden increase

Annual Return/Report of Employee Benefit Plan (Form 5500)
OMB Number 1210-0110
Expiration Date 12/31/2024

attributable to the DOL of 2,339 hours, at an equivalent cost of approximately \$235,397.

Table 2 Time Burden Summary

Activity	No. of Respondents	No. of Responses per Respondent	Total Responses	Average Burden (Hours)	Total Burden (Hours)	Hourly Wage Rate	Equivalent Cost
Form 5500 including 5500-SF and Schedules	839,728	1	839,728	3.6	3,023,602	\$100.64	\$304.3 million
January 2013 Revision	140	1	140	4.5	630	\$100.64	\$63,403
2014 CSEC Revision	5,456	1	5,456	0.5	2,728	\$100.64	\$274,546
2021 /2022 Revisions	4,740	1	4,740	0.493	2,339	\$100.64	\$235,397
<i>Unduplicated Totals⁹</i>	839,728		839,728		3,029,299		\$304.9 million

13. Provide an estimate of the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 or 14).

⁹The total hour burden estimate is being updated from that reported in ICR 202112-1210-003 (approved 12/29/2021). The change in burden is principally accounted for by updated estimates of the number of pooled employer plans formed, as explained in question 15 below. Current revisions have minimal impact on burden, and therefore do not affect the previous total hour burden estimate.

Annual Return/Report of Employee Benefit Plan (Form 5500)
OMB Number 1210-0110
Expiration Date 12/31/2024

Note that to reflect OMB's guidance that burden incurred by service providers be reported as hour burden instead of cost burden, burden that has historically been included as cost burden has been included here as hour burden.

14. *Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table.*

The total annual processing cost for all Form 5500 Series and Form PR filings during the period covered by this ICR extension request is estimated to average \$13.8 million annually. This corresponds to DOL contractor costs, which include EFAST2 Operations & Maintenance and Independent Oversight. These costs are allocated among the agencies (DOL, PBGC, and IRS) according to the EFAST2 Cost Allocation Model, which was approved by the agencies as the methodology that would be used for identifying agencies' share of EFAST2 costs. Based on the model, the Department's share of the contractor cost is approximately \$6.3 million.

15. *Explain the reasons for any program changes or adjustments reported in Items 12 or 13.*

The Department is updating the number of respondents and burden estimates to reflect changes to annual reporting requirements. The Department is updating the estimated number of pooled employer plans formed, and their impact on the number of single employer filers estimated to join a pooled employer plan. Based on the most recent data concerning pooled plan provider registrations, the estimated number of pooled employer plans has increased for 2022, therefore reducing the total number of single filers, as some defined contribution plans are expected to join a pooled employer plan. This reduction in filers is reflected in a reduction in the number of respondents and the total hour burden.

16. *For collections of information whose results will be published, outline plans for tabulation, and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.*

The Form 5500 is not a collection of information for statistical use. Once collected, however, the information is available to the Agencies and the public, and it is used for purposes other than

Annual Return/Report of Employee Benefit Plan (Form 5500)
OMB Number 1210-0110
Expiration Date 12/31/2024

enforcement and disclosure. The Form 5500 dataset on EBSA's website is updated once a month to reflect that most recent filings that are received.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

OMB previously granted approval for the Department to omit the expiration date from the Form 5500, because the Form 5500 is a multi-agency form and it is difficult to maintain the expiration dates for three separate agencies. The Department requests continued approval to omit the expiration date.

18. Explain each exception to the certification statement identified in the "Certification for Paperwork Reduction Act Submission."

The Department seeks no exceptions to the certification statement.

B. Collections of Information Employing Statistical Methods

Statistical methods are not used in these collections of information.