

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.

This document sets forth certain changes to improve reporting by defined benefit plans subject to Title IV of ERISA. PBGC modified 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 modifications to the Schedules MB and R only affect multiemployer defined benefit plans covered by Title IV of ERISA while those modifications to the Schedule SB affect single employer defined benefit plans covered by Title IV of ERISA. PBGC is adding new questions to or revising existing questions on these schedules and modifying certain attachment requirements to allow a more precise projection of defined benefit pension plans' and insurance programs' liabilities.

- **Changes to Schedule MB and instructions**

Line 3 of the 2022 Schedule MB was modified to require filers to provide an attachment that breaks down the total withdrawal liability amounts reported on line 3d by date, separately specifying if the withdrawal liability amounts were periodic amounts or lump sum amounts. This additional breakdown of withdrawal liability payments enables PBGC to more precisely project multiemployer plans' and insurance programs' liabilities.

PBGC clarified the line 4f instructions and Schedule MB language for when plans in critical status or critical and declining status are projected to emerge from critical status or become insolvent as the review of responses from prior years suggested that the instructions on how to fill out this line correctly might have been unclear to filers. This will provide more consistent plan responses.

Line 6 of Schedule MB requires filers to provide information about certain actuarial assumptions used to determine plan liabilities. In new line 6f, PBGC is requiring plans to report the interest rate used to determine the present value of vested benefits for withdrawal liability determinations for employers withdrawing during the plan year. In addition, PBGC modified 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 was moved from line 6e to a new line 6i. Filers are 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 modified line 8b of Schedule MB to require additional information about demographics, benefits, and contributions. 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 with 1,000 or more total participants as of the beginning of the plan year 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 participants, terminated vested participants, and retired participants and beneficiaries receiving payments) and to extend that projection period from 10 to 50 years. It is the PBGC's understanding that almost all valuation software automatically generates this information and that it takes the same amount of effort to project 50 years as it does to project 10 years.
- Modifying the line 8b(2) "age/service" scatter attachment by removing the required information related to cash balance plans and adding a new requirement to report average accrued monthly benefits as of the valuation date for each grouping.
- Adding a new line 8b(3) to require plans with 1,000 or more total participants as of the beginning of the plan year 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) provide the required attachment format.

Changes to Schedule SB and instructions

PBGC's Schedule SB modification requires single-employer plans with 1,000 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 participants, terminated vested participants, and retired participants and beneficiaries receiving payments), in Schedule SB's line 26b. The attachment requirements are similar to the modifications made to Schedule MB, line 8b(2). This additional information will provide PBGC with more data to enable it to more accurately project plan and insurance program liabilities. Again, PBGC does not believe the benefit projection requirement will be burdensome for these plans because almost all valuation software easily generates this information.

To facilitate these changes, PBGC rearranged line 26. It changed line 26 into a two-part question (26a and 26b). Current line 26 will become line 26a. Plans are required to attach a projection of expected benefit payments in line 26b.

PBGC also modified 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 was 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 are required to report the first plan year to which the extended amortization rule applies.

- **Changes to Schedule R instructions**

PBGC modified line 13 of Schedule R's Part V to require multiemployer defined benefit plans subject to minimum funding standards to report the employers who contributed more than five percent of the plan's total contributions or was one of the top-ten highest contributors. 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 has modified 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 is 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 Payments 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)). Moreover, the annual report serves as the basis for the summary annual report, which administrators are generally required to furnish to each participant and beneficiary annually, except those covered by defined benefit plans.

Approximately 840,000 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 158 million

workers, retirees, and dependents of private sector pension and welfare plans with estimated assets of \$12.9 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 approximately 840,000 pension and welfare benefit plans because PBGC's insurance program does not apply to welfare plans or defined contribution plans. There are approximately 25,000 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. 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. 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 (NPFR) and DOL published a notice of proposed rulemaking (NPRM) at 85 FR 51284, requesting written comments on or before 45 days after publication. The notice and comment period satisfies the notice required by 5 CFR 1320.8(d).

The Agencies received 114 comments on the NPFR and NPRM. The comments generally were focused on the proposed changes for the 2022 plan year forms and on future rulemakings. After consideration of the comments, the Agencies are adopting relatively minor revisions for 2022 that include changes 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, and (3) that add a checkbox to Form 5500-EZ for certain filers excepted from electronic filing. 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. 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 items below describe 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, approximately 840,000 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 840,000 respondents, i.e., approximately 25,000 defined benefit plans covered under Title IV of ERISA.

The paperwork burden allocated to PBGC includes a portion of the Form 5500 Series instructions, and plan information. PBGC's portion of the annual aggregate hour burden generated by the Form 5500 Series is estimated at 17,743 hours for the filings during the period covered by this ICR extension request with the equivalent cost burden of approximately \$1.786 million for the filings during the period covered by this ICR extension request (assuming a compensation rate of \$100.64 per hour for services of a financial professional).

13. Cost burden on the public. As noted above in item 12, the Agencies have adopted a unified approach and methodology for estimating paperwork burden, which is conducted by DOL with input from PBGC and IRS. To reflect OMB's guidance that costs incurred by service providers be reported as an hour burden instead of incorporated into the cost burden, costs that have historically been included as cost burden are now being included in item 12 as an hour burden. Therefore, the annual cost burden is zero for filings during the period covered by this ICR extension request.

14. Costs to the Federal government. The total annual cost for all Form 5500 Series filings is estimated to average \$14.2 million (including 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 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 for the 2022 Form 5500 is approximately \$1.3 million dollars and approximately \$800,000 each for the 2023 and 2024 Forms 5500. Federal FTE costs are excluded.

15. Explanation of burden changes. PBGC estimates an increase of 16,501 hours in the hour burden from 1,242 to 17,743. PBGC estimates that the increase is due to the Agencies incorporation of OMB's guidance that the burden incurred by service providers should be reported as an hour burden in item 12 instead of as a cost burden in item 13. Therefore, PBGC is no longer including those service provider hours as cost burden in item 13.

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.