Prohibited Transaction Exemption 84-24
(Insurance and Annuity Contracts and Mutual Fund Principal Underwriters)
OMB Control Number 1210-0158
Expiration Date: 08/31/2022

SUPPORTING STATEMENT FOR PAPERWORK REDUCTION ACT OF 1995: PROHIBITED TRANSACTION EXEMPTION 84-24- INSURANCE AND ANNUITY CONTRACTS AND MUTUAL FUND PRINCIPAL UNDERWRITERS

This ICR seeks approval for an extension of an existing control number.

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.

Section 406(a)(1)(A) through (D) of the Employee Retirement Income Security Act of 1974 ("ERISA) and Internal Revenue Code ("Code") section 4975(c)(1)(A) through (D) prohibit certain transactions between plans or IRAs and "parties in interest," as defined in ERISA section 3(14), or "disqualified persons," as defined in Code section 4975(e)(2). Fiduciaries and other service providers are parties in interest and disqualified persons under ERISA and the Code. As a result, they are prohibited from engaging in (1) the sale, exchange, or leasing of property with a plan or IRA, (2) the lending of money or other extension of credit to a plan or IRA, (3) the furnishing of goods, services, or facilities to a plan or IRA and (4) the transfer to or use by or for the benefit of a party in interest of plan assets.

In the absence of an exemption, ERISA and the Code generally prohibit fiduciaries from using their authority to affect or increase their own compensation. ERISA section 406(b) and Code section 4975(c)(1)(E)-(F) are aimed at fiduciaries only. These provisions generally prohibit a fiduciary from dealing with the income or assets of a plan or IRA in his or her own interest or his or her own account and from receiving payments from third parties in connection with transactions involving the plan or IRA. Parallel regulations issued by the Departments of Labor and the Treasury explain that these provisions impose on fiduciaries of plans and IRAs a duty not to act on conflicts of interest that may affect the fiduciary's best judgment on behalf of the plan or IRA. Under these provisions, a fiduciary may not cause a plan or IRA to pay an additional fee to such fiduciary, or to a person in which such fiduciary has an interest that may affect the exercise of the fiduciary's best judgment.

The receipt of a sales commission by insurance agents, insurance brokers, and pension consultants from an insurance company in connection with the purchase, with plan or IRA assets, of an insurance or annuity contract and the receipt of a sales commission by a principal underwriter for an investment company registered under the Investment

Company Act of 1940 in connection with the purchase, with plan or IRA assets, of securities issued by the investment company violates the prohibited transaction provisions of ERISA section 406 and Code section 4975(c).

The Secretary of Labor may grant and amend administrative exemptions from the prohibited transaction provisions of ERISA and the Code.[1] Before granting an exemption, the Department must find that the exemption is administratively feasible, in the interests of plans, their participants and beneficiaries and IRA owners, and protective of the rights of participants and beneficiaries of such plans and IRA owners.

PTE 84-24, as amended, provides an exemption for insurance agents, insurance brokers and pension consultants to receive a sales commission from an insurance company in connection with the purchase, with plan or IRA assets, of an insurance or annuity contract. Relief is also provided for a principal underwriter for an investment company registered under the Investment Company Act of 1940 to receive a sales commission in connection with the purchase, with plan or IRA assets, of securities issued by the investment company.

To ensure that the class exemption is not abused, that the rights of the participants and beneficiaries are protected, and that the exemption's conditions are being complied with, the Department often requires minimal information collection pertaining to the affected transactions.

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.

To receive commissions in conjunction with the purchase of an insurance or annuity contract or of securities issued by the investment company, the insurance agent, insurance broker, pension consultant, or principal underwriter must obtain written authorization from the authorizing fiduciary. Prior to obtaining the written authorization, the insurance agent, insurance broker, pension consultant, or principal underwriter must provide the authorizing fiduciary with sufficient materials and disclosures for the authorizing fiduciary to evaluate the appropriateness of the investment. Finally, the insurance agent, insurance broker, pension consultant, or principal underwriter must maintain sufficient records to demonstrate that the conditions of the exemption have been met.

1 Regulations at 29 CFR section 2570.30 to 2570.52 describe the procedures for applying for an administrative exemption under ERISA. Code section 4975(c)(2) authorizes the Secretary of the Treasury to grant exemptions from the parallel prohibited transaction provisions of the Code. Reorganization Plan No. 4 of 1978 (5 U.S.C. app. at 214 (2000)) generally transferred the authority of the Secretary of the Treasury to issue administrative exemptions under Code section 4975 to the Secretary of Labor.

These disclosure and written authorization requirements are designed as appropriate safeguards to ensure the protection of the plan assets involved in the transactions, which, in the absence of the class exemption, would not be permitted. These safeguards rely on the prior authorization of the fiduciary's activities by an independent plan fiduciary. Moreover, the recordkeeping requirement is intended to be protective of rights of plan participants and beneficiaries and IRA owners by ensuring they and the Department can confirm that the conditions of the exemption have been satisfied. These conditions are necessary, as required under section 408(a) of ERISA, to ensure that respondents rely on the exemption only in the circumstances protective of plan participants and beneficiaries.

The Department is unable to estimate how frequently records supporting the exempt transactions are examined by either the Department or other parties. The Department has the authority to request such records and does so from time to time in connection with investigations.

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

Under 29 C.F.R. § 2520.104b-1(b) of ERISA, "where certain material, including reports, statements, and documents, is required under Part I of the Act and this part to be furnished either by direct operation of law or an individual request, the plan administrator shall use measures reasonably calculated to ensure actual receipt of the material by plan participants and beneficiaries." Section 2520.104b-1(c) establishes the manner in which disclosures under Title I of ERISA made through electronic media will be deemed to satisfy the requirement of § 2520.104b-1(b). Section 2520-107-1 establishes standards concerning the use of electronic media for maintenance and retention of records. Under these rules, all pension and welfare plans covered under Title I of ERISA may use electronic media to satisfy disclosure and recordkeeping obligations, subject to specific safeguards.

As further discussed in items 12 and 13 below, the Department has taken into account that some of the disclosures and written authorizations will be delivered electronically.

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.

It is likely that duplication of recordkeeping requirements exists with some state and federal laws. However, no duplicate recordkeeping is required because the exemption allows entities to satisfy the requirements of both the exemption and of the other applicable laws through one recordkeeping arrangement.

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.

The information collections impose the minimal burden needed to protect the assets of plans, IRAs and non-ERISA plans from commission payments that are tainted by conflicts of interest. The information collection must apply equally to large and small entities to ensure that participants and beneficiaries and IRA owners are protected when their plans and IRAs engage in transactions that otherwise would be prohibited under ERISA and the Code.

The Department has attempted to minimize burden by requiring the disclosures to contain information that is readily available to fiduciaries utilizing the exemption and the recordkeeping requirement to include records that are otherwise maintained in the normal cost of business.

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.

The requirements of this PTE are only required if entities wish to utilize the class exemption. The frequency is dependent upon the occurrence of such transactions, not on a predetermined time period.

If the disclosure and recordkeeping requirements were not included in PTE 84-24 the Department could not ensure that the exemption is protective of the rights of participants and beneficiaries as required under ERISA section 408(a) and Code section 4975(c)(2).

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;**

- **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.**

The statutory recordkeeping requirements in ERISA, the Code, and other federal laws, require that records be kept for six years. The respondents affected by this exemption (financial institutions that deal with employee benefit plans), for the most part, have adopted six-year recordkeeping as standard business practice in order to satisfy those separate recordkeeping requirements.

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.

The Department's notice soliciting public comment and providing 60 days for that purpose as required by 5 CFR 1320.8 (d) was published in the Federal Register on March 17, 2022 (87 FR 15267). No comments were received.

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.

No assurance of confidentiality was provided.

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.

There are 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 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 in Item**

13.

- **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.**

As discussed in Item 1, above, PTE 84-24 offers relief for insurance agents, insurance brokers, and pension consultants to receive a commission in connection with the purchase of annuities and for mutual fund principal underwriters to receive a commission in connection with the purchase of mutual fund shares. The Department's estimate of the hour burden associated with the ICRs is discussed below.[2]

For purposes of this analysis, the Department uses the following wage rates estimated for 2021:[3] an in-house rate of $147.32 for a legal professional, $146.94 for an independent producer, and $58.66 for clerical personnel.

The Department does not have information on how many retirement investors, including plan beneficiaries and participants and IRA owners, receive disclosures electronically from investment advice fiduciaries. For the purposes of this analysis, the Department assumes that the percent of retirement investors receiving disclosures electronically would be similar to the percent of plan participants receiving disclosures electronically under the Department's 2020 and 2002 electronic disclosure safe harbors.[4] Accordingly, the Department estimates that 94.2 percent of the disclosures sent to retirement investors would be sent electronically, and the remaining 5.8 percent would be sent by mail.[5] The Department requests comment on these assumptions.

Additionally, the Department assumes any documents sent by mail would be sent by First Class Mail, incurring a postage cost of $0.58 for each piece of mail.[6]

According to 2019 Annual Return/Report of Employee Benefit (Form 5500) data and the 2019 Internal Revenue Service Statistics of Income data, the Department estimates that

2 The burden estimates contained in the responses to questions 12 and 13 are calculated off of unrounded figures, while in many cases the numbers presented in the text are rounded. Any discrepancies in the burden estimates are attributable to rounding.

3 For a description of the Department's methodology for calculating wage rates, see https://www.dol.gov/sites/dolgov/files/EBSA/laws-and-regulations/rules-and-regulations/technical-appendices/labor-cost-inputs-used-in-ebsa-opr-ria-and-pra-burden-calculations-june-2019.pdf.

4 67 FR 17263 and 85 FR 31884.

5 The Department estimates approximately 94.2% of retirement investors receive disclosures electronically, which is the sum of the estimated share of retirement investors receiving electronic disclosures under the 2002 electronic disclosure safe harbor (58.2%) and the estimated share of retirement investors receiving electronic disclosures under the 2020 electronic disclosure safe harbor (36.0%).

6 U.S. Post Office. "First-Class Mail." https://www.usps.com/ship/first-class-mail.htm.

there are approximately 733,700 ERISA covered pension plans[7] and approximately 62.8 million individual retirement accounts (IRAs).[8] The Department assumes that 6.6 percent of plans and IRAs are new, so that there are 48,424 new plans and 4.1 million new IRAs. The Department assumes that about 3 percent of these new plans (1,453 plans) and 3 percent of these new IRAs (124,290 IRAs) use a financial institution fiduciary that will take advantage of the exemption.[9]

The Department estimates that approximately 1,519 insurance agents and brokers,[10] 3,600 independent producers,[11] 1,010 pension consultants,[12] and 386 insurance companies will be affected.[13] Combining these estimates the Department assumes that approximately 6,515 insurance agents and brokers, independent producers, pension consultants, and insurance companies will continue to take advantage of the exemption. Additionally, the Department assumes that ten investment company principal underwriters will continue to take advantage of this exemption.[14]

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7 Employee Benefits Security Administration. "Private Pension Plan Bulletin: Abstract of 2019 Form 5500 Annual Reports." (June 2021). https://www.dol.gov/sites/dolgov/files/EBSA/researchers/statistics/retirement-bulletins/private-pension-plan-bulletins-abstract-2019.pdf.

8 Internal Revenue Service. "SOI Tax Stats – Accumulation and Distribution of Individual Retirement Arrangements (IRA). (2019). https://www.irs.gov/statistics/soi-tax-stats-accumulation-and-distribution-of-individual-retirement-arrangements.

9 Figure 19 of the ICI Research Perspective, vol. 27, no. 1 from January 20215 states that 7 percent of traditional IRAs with rollovers are held by insurance companies. This number has been adjusted downward to 3 percent to reflect the removal of transactions not covered by this exemption.

10 According to the Insurance Information Institute, there were 3,107 captive Insurance Agents in 2020. (*See* Insurance Information Institute. "A Firm Foundation: How Insurance Supports the Economy." (March 2021). https://www.iii.org/table-archive/21308.) Further, the Insurance Information Institute estimates that in 2020 48.9 percent of premiums were linked to life annuity insurance. (*See* Insurance Information Institute. "Facts + Statistics: Industry Overview." (2021). https://www.iii.org/fact-statistic/facts-statistics-industry-overview.) The Department assumes that the proportion of captive Insurance Agents selling annuities is equal to the proportion of premiums attributed to life and annuity insurance. Further, the Departments assumes that all insurance agents selling annuities will service the retirement market. As such, the Department estimates the number of insurance agents and brokers affected by the proposed amendment as: 3,107 x 48.9% = 1,519.

11 The Independent Insurance Agents and Brokers of America estimated that there were 36,000 independent producers in 2020. (*See* "Number of Independent Agencies Dips a Bit: future One Study." *Insurance Journal*. (March 2021). https://www.insurancejournal.com/news/national/2021/03/30/607575.html.) The Department does not have data on what percent of independent producers service the retirement market. For the purposes of this analysis, the Department assumes that 10 percent or 3,600 of these independent producers service the retirement market.

12 Department of Labor internal calculations based on data from the 2019 Form 5500.

13 NAIC estimates that the number of insurers directly writing annuities as of 2018 is 386. (VERIFY 2018 IS CORRECT)

14 In the Department's experience, investment company principal underwriters almost never use PTE 84-24. Therefore, the Department assumes that 10 investment company principal underwriters will engage in one transaction annually under PTE 84-24.

1) Written authorization from the independent plan fiduciary

The Department estimates that approximately 1,453 authorizing fiduciaries from plans and 124,290 IRA holders are expected to send an advance written authorization to the 6,515 insurance agents and brokers, independent producers, pension consultants, and insurance companies and the 10 investment company principal underwriters for IRAs.

In the plan universe, it is assumed that a legal professional will spend five hours per plan reviewing the disclosures and preparing an authorization form. In the IRA universe, it is assumed that a legal professional working on behalf of the insurance agent or broker, independent producer, pension consultant, or insurance company will spend three hours drafting an authorization form for IRA holders to sign. This results in an hour burden of 26,840 hours[15] with an equivalent cost of $4.0 million.[16]

The Department expects that authorizing fiduciaries will send the written authorization through already established electronic means, and thus, the Department does not expect plans to incur any cost to send the authorization. The Department expects that 94.2 percent of written authorization for IRAs will be sent electronically at no additional burden. The remaining 5.8 percent of authorizations will be mailed. For paper authorizations, the Department assumes that clerical staff will spend two minutes preparing and sending the authorization resulting in an hour burden of approximately 243 hours[17] with an equivalent cost of approximately $14,260.[18]

In total, as presented in the table below, the written authorization requirement, under the new conditions of relief, is expected to result in a total hour burden of 27,083 hours with an equivalent cost of $4.0 million.

Activity	Burden Hours	Equivalent Burden Cost
Legal	26,840	$3,954,069
Clerical	243	$14,260
Total	**27,083**	**$3,968,329**

15 (1,453 plans x 5 hours per plan) + (6,515 insurance agents and brokers, independent producers, pension consultants, and insurance companies x 3 hours) + (10 investment company principal underwriters x 3 hours) = 26,840 hours.

16 (1,453 plans x 5 hours per plan) + (6,515 insurance agents and brokers, independent producers, pension consultants, and insurance companies x 3 hours) + (10 investment company principal underwriters x 3 hours)x $147.32 per hour = $3,954,069.

17 [(1,453 plans x 5.8 percent paper) + (124,290 IRAs x 5.8 percent paper)] x 2 minutes per plan or IRA = 243 hours.

18 [(1,453 plans x 5.8 percent paper) + (124,290 IRAs x 5.8 percent paper)] x 2 minutes per plan or IRA x $58.66 per hour = $14,260.

2) Disclosure

The Department estimates that approximately 6,515 insurance agents and brokers, independent producers, pension consultants, and insurance companies and 10 investment company principal underwriters for plans and 10 investment company principal underwriters for IRAs will utilize the exemption. The Department assumes that each of these insurance agents and brokers, independent producers, pension consultants, and insurance companies and mutual fund principal underwriters has an in-house attorney spend one hour of legal staff time drafting the disclosure for plans and, with the exception of mutual fund principal underwriters, one hour of legal staff time drafting the disclosure for IRAs. This results in an hour burden of 13,050 hours[19] with an equivalent cost of $1.9 million.[20]

The Department expects that the disclosures for plans would be sent through already established electronic means, and thus, the Department does not expect plans to incur any cost to send the disclosures. The Department expects that 94.2 percent of disclosures for IRAs will be sent electronically at no additional burden. The remaining 5.8 percent of authorizations will be mailed. For paper copies, a clerical staff member is assumed to require two minutes to prepare and mail the required information to the plan fiduciary. This information will be sent to the 1,453 plans plus the 10 investment company principal underwriters and 124,290 IRAs plus the 10 investment company principal underwriters for IRAs entering into an agreement with an insurance agent, independent producer, pension consultant, or mutual fund principal underwriter, and based on the above, the Department estimates that this requirement results in an hour burden of 243 hours[21] with an equivalent cost of approximately $14,263.[22]

In total, as presented in the table below, providing the pre-authorization materials is expected to impose an hour burden of 13,293 hours with an equivalent cost of $1.9 million.

Activity	Burden Hours	Equivalent Burden Cost
Legal	13,050	$1,922,526

19 [6,515 insurance agents and brokers, independent producers, pension consultants, and insurance companies x (1 hour for plans + 1 hour for IRAs)] + (10 investment company principal underwriters x 1 hour for plans) + (10 investment company principal underwriters x 1 hour for IRAs) = 13,050 hours.
20 {[(6,515 insurance agents and brokers, independent producers, pension consultants, and insurance companies x (1 hour for plans + 1 hour for IRAs)] + (10 investment company principal underwriters x 1 hour for plans) + (10 investment company principal underwriters x 1 hour for IRAs)} x $147.32 per hour = $1,922,526.
21 [(1,453 plans x 5.8 percent paper) + (124,290 IRAs x 5.8 percent paper)] x 2 minutes per plan or IRA = 243 hours.
22 {[(1,453 plans x 5.8 percent paper) + (124,290 IRAs x 5.8 percent paper)] x 2 minutes per plan or IRA} x $58.66per hour = $14,263.

Clerical	243	$14,263
Total	**13,293**	**$1,936,789**

3) Recordkeeping

The Department assumes that maintaining records is a regular and customary business practice. Therefore, the Department estimates that the additional time needed to maintain records consistent with the exemption will only require about one-half hour, on average, annually for a financial manager to organize and collate the documents, and an additional 15 minutes of clerical time to make the documents available for inspection during normal business hours.

The Department estimates that there are approximately 6,515 insurance agents and brokers, independent producers, and pension consultants and 10 mutual fund principal underwriters for plan and 10 mutual fund principal underwriters for IRAs will utilize the exemption. Thus, the Department estimates that a total of approximately 1,600 hours of clerical time[23] and 3,300 hours of financial manager[24] time result from this requirement. At an hourly wage rate of $58.66 for clerical staff and $176.25 for a financial manager, this results in an equivalent cost of $0.6 million.[25]

Activity	Burden Hours	Equivalent Burden Cost
Financial Manager	3,268	$575,897
Clerical	1,634	$95,836
Total	**4,901**	**$671,733**

<u>Summary</u>

In total, this exemption will result in the production of 251,505 written authorizations and disclosures. Electronic methods will be used to distribute 94.2 percent of disclosures to and authorizations from plans and 94.2 percent of disclosures to and authorizations from IRAs, at de minimis burden, while the remainder will be on paper. Production and distribution of paper disclosures will result in an overall burden of 45,278 hours with an equivalent cost of $6.6 million.

23 [6,515 insurance agents and brokers, independent producers, pension consultants, and insurance companies x 15 minutes)] + (10 investment company principal underwriters for plans x 15 minutes) + (10 investment company principal underwriters for IRAs x 15 minutes) = 1,634 hours.
24 [6,515 insurance agents and brokers, independent producers, pension consultants, and insurance companies x 30 minutes)] + (10 investment company principal underwriters for plans x 30 minutes) + (10 investment company principal underwriters for IRAs x 30 minutes) = 3,268 hours.
25 (6,535 entities x 15 minutes of burden for a clerical worker x $58.66 per hour) + (6,535 entities x 15 minutes of burden for a financial manager x $176.25 per hour) = $671,733.

Activity	Burden Hours	Equivalent Burden Cost
1. Written authorization from the authorizing plan fiduciary	27,083	$3,968,329
2. Provision of materials for evaluation of authorization of transaction	13,293	$1,936,789
3. Recordkeeping	4,901	$671,733
Total	**45,277**	**$6,576,851**

Estimated Annualized Respondent Cost and Hour Burden

Activity	No. of Respondents	No. of Responses per Respondent	Total Responses	Average Burden (Hours)	Total Burden (Hours)	Hourly Wage Rate	Total Burden Cost
Written authorization from the authorizing plan fiduciary to the investment advisor for plans (Clerical)	84	1	84	2/60	3	$58.66	$165
Written authorization from the authorizing plan fiduciary to the investment advisor for plans (Legal)	1,453	1	1,453	5	7,265	$147.32	$1,070,280
Written authorization from the authorizing plan fiduciary to the investment advisor for IRAs (Clerical)	378	19.07	7,209	2/60	240	$58.66	$14,096
Written	6,525	1	6,525	3	19,575	$147.32	$2,883,789

authorization from the authorizing plan fiduciary to the investment advisor for IRAs (Legal)							
Materials for evaluation of authorizations for plans (Clerical)	378	0.22	85	2/60	3	$58.66	$166
Materials for evaluation of authorizations for plans (Legal)	6,525	1	6,525	1	6,525	$147.32	$961,263
Materials for evaluation of authorizations for IRAs (Clerical)	378	19.07	7,209	2/60	240	$58.66	$14,097
Materials for evaluation of authorizations for IRAs (Legal)	6,525	1	6,525	1	6,525	$147.32	$961,263
Recordkeeping costs (Clerical)	6,535	1	6,535	15/60	1,634	$58.66	$95,836
Recordkeeping costs (Legal)	6,535	1	6,535	30/60	3,268	$176.25	$575,897
Total	7,988*		258,041**	0.18	45,277	-	$6,576,851

Notes:

*The total number of respondents is calculated as: 1,453 plans + 6,515 insurance agents and brokers, independent producers, pension consultants, and insurance companies + 10 mutual fund underwriters providing investment advice to plans + 10 mutual fund underwriters providing investment advice to IRAs = 7,988.

**The total number of responses is calculated as: 1,453 (written authorizations for plans) + 124,290 (written authorizations for IRAs) + 1,463 (evaluation authorizations for plans) + 124,300 (evaluation authorizations for IRAs) + 6,535 (recordkeeping) = 258,041.

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).

- **The cost estimate should be split into 2 components: (a) a total capital and start up cost component (annualized over its expected useful life); and (b) a total operation and maintenance and purchase of service component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.**
- **If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.**
- **Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.**

As discussed in item 12 above, the exemption imposes three information collection requests on authorizing fiduciaries and insurance agents, pension consultants, and mutual fund principal underwriters to qualify for the relief provided in the exemption. The cost burden that is associated with complying with these ICRs is discussed below. These estimates are in addition to the hour burden estimates discussed in item 12.

The Department does not have information on how many retirement investors, including plan beneficiaries and participants and IRA owners, receive disclosures electronically from investment advice fiduciaries. For the purposes of this analysis, the Department assumes that the percent of retirement investors receiving disclosures electronically would be similar to the percent of plan participants receiving disclosures electronically under the Department's 2020 and 2002 electronic disclosure safe harbors.[26] Accordingly, the Department estimates that 94.2 percent of the disclosures sent to retirement investors

26 67 FR 17263 and 85 FR 31884..

would be sent electronically, and the remaining 5.8 percent would be sent by mail.[27] The Department requests comment on these assumptions.

For the required information not sent electronically, the Department estimates that a cost of 5 cents per page for paper and printing costs and 58 cents of postage cost per mailing will be incurred.[28]

The annual cost burden is calculated as follows:

1) Written authorization from the independent plan fiduciary

The Department assumes that the authorization will include two pages. Plans and IRAs will have to send the authorization; therefore about 1,453 plans and 124,290 IRAs will have to send the authorization each year with 94.2 percent of plan authorizations and 94.2 percent IRA authorizations being sent electronically. Paper authorizations will cost $0.68 each, which results in a cost burden of approximately $4,959.[29]

2) Provision of disclosure materials

The Department assumes that this information will include seven pages. Once again, approximately 1,453 authorizing plan fiduciaries, 124,290 IRA holders, 10 mutual fund principal underwriters for plan and 10 mutual fund principal underwriters for IRAs will receive this information with 94.2 percent of plans and 94.2 percent of IRAs receiving the information electronically at no cost. The Department estimates that paper distribution will cost $0.93 each, which results in a cost burden of about approximately $6,784.[30]

<u>Summary</u>

In total, the Department estimates that the conditions of PTE 84-24 will result in the production of 251,505 authorizations and disclosures. Electronic methods will be used to distribute 94.2 percent of disclosures to and authorizations from plans and 94.2 percent of disclosures to and authorizations from IRAs, at de minimis cost. As presented in the

27 The Department estimates approximately 94.2% of retirement investors receive disclosures electronically, which is the sum of the estimated share of retirement investors receiving electronic disclosures under the 2002 electronic disclosure safe harbor (58.2%) and the estimated share of retirement investors receiving electronic disclosures under the 2020 electronic disclosure safe harbor (36.0%).

28 U.S. Post Office. "First-Class Mail." https://www.usps.com/ship/first-class-mail.htm.

29 100 percent - 94.2 percent electronic = 5.8 percent paper; [(1,453 plan authorizations x 5.8 percent paper) + (124,290 IRA authorizations x 5.8 percent paper)] x $0.68 = $4,959.

30 100 percent - 94.2 percent electronic = 5.8 percent paper; [(1,453 plan materials packages x 5.8 percent paper) + (124,290 IRA materials packages x 5.8 percent paper)] x $0.93 + (10 principal underwriters for plans x 5.8 percent paper) + (10 principal underwriters for IRAs x 5.8 percent paper)] x $0.93 = $6,784.

table below, production of paper disclosures will total approximately $11,743.

Activity	Cost
1. Written authorization from the authorizing plan fiduciary to the broker-dealer	$4,959
2. Provision of materials for evaluation of authorization of transaction	$6,784
Total	**$11,743**

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.

There are no costs to the Federal government.

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14.

The Department is renewing the information collections contained in PTE 84-24. The following estimates have been updated to reflect recent data: labor cost estimates, postage costs, the number of plans and IRAs, the number of new plans, the number of insurance agents, and the electronic disclosure rate estimates.

The Department has revised its approach to estimating the affected entities of this exemption. This revision explicitly includes independent producers and insurance companies in the number of entities needing to prepare disclosures and authorizations. These updates have resulted in an increase in the number of disclosures produced and the hour and cost 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.

This is not a collection of information for statistical use.

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.

The collection of information will display a currently valid OMB control number.

18. Explain each exception to the certification statement identified in Item 19.

There are no exceptions to the certification statement.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

Not applicable. The use of statistical methods is not relevant to this collection of information.