

**SUPPORTING STATEMENT FOR PAPERWORK REDUCTION ACT 1995:
REGISTRATION REQUIREMENTS TO SERVE AS A POOLED PLAN PROVIDER TO
POOLED EMPLOYER PLANS**

This information collection request (ICR) seeks approval for an extension without change 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.**

The Setting Every Community Up for Retirement Enhancement Act of 2019¹ (the SECURE Act) included amendments to the Employee Retirement Income Security Act (ERISA) that removed possible legal barriers to the broader use of multiple employer plans. Specifically, Section 101 of the SECURE Act amended ERISA section 3(2) and added sections 3(43) and 3(44) to establish “pooled employer plans,” which is a type of ERISA-covered retirement savings plan. Among other requirements, pooled employer plans must be operated by a designated “pooled plan provider.” The SECURE Act provides that pooled plan provider” could begin offering pooled employer plans” on January 1, 2021, as long as pooled plan providers register with the Labor Department (the Department) and the Treasury Department (Treasury) before beginning operations as a pooled plan provider.

This rule establishes the requirements for entities to register with the Department as a pooled plan provider for pooled employer plans. The rule establishes the Form PR (Pooled Plan Provider Registration) as the required filing instrument for pooled plan provider registrations. Filing the Form PR with the Department also satisfies the SECURE Act requirement to register with Treasury.

- 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 collection.**

As stated in Item 1 above, pooled plan providers must register with the Department and Treasury (the Agencies) before beginning operations as a pooled plan provider. The rule provides that registering as a pool plan provider with the Department satisfies that SECURE Act’s requirement to register with Treasury. Therefore, the Department is the sponsor of the information collection, and Treasury will not submit an information collection request with OMB to receive its own OMB Control Number. The Department will share the entire contents of the Form PR, if requested by Treasury/IRS, to allow

¹ The SECURE Act was enacted as Division O of the Further Consolidated Appropriations Act, 2020 (Pub. L. 116-94) (December 20, 2019).

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Treasury/IRS to meet its joint monitoring and oversight responsibilities discussed below. To eliminate redundant or duplicative registration requirements, the Department took the lead in creating the rule, form, instructions, and filing system, but coordinated with Treasury throughout the rulemaking process.

In the Agencies' view, the primary statutory purpose of the registration requirement is to provide them with sufficient information about persons acting as pooled plan providers to engage in effective monitoring and oversight. The registration process also will help participating employers and other interested parties identify pooled plan providers when they begin operating and assist participating employers in fulfilling their fiduciary duties when selecting and monitoring pooled employer plans.

The rule requires an initial registration filing and supplemental filings to report changes in the information in the initial filing, information about each specific pooled employer plan at its inception, and information on specified reportable events, time-sensitive knowledge of which will allow the Agencies to carry out their joint oversight responsibilities and for participating employers to be able to exercise their fiduciary duties to select and monitor pooled plan providers. The rule requires a final filing once the provider's last pooled employer plan has been terminated and ceased operations. The Department believes that the initial registration, supplemental filing, and final filing requirements will provide the Agencies with timely access to information needed to help them protect plan participants and beneficiaries and conduct effective monitoring and oversight of pooled employer plans and pooled plan providers as required by the SECURE Act. Without this kind of timely information, the Agencies would typically not learn of risks to a pooled employer plan until the plan files a Form 5500, possibly many months after the event (assuming the information was even required to be reported on the Form 5500), and when opportunities for protecting plan participants from financial injury have been missed. In addition, the registration process will provide transparency regarding key aspects of the pool plan provider and its pooled employer plan practices, allowing employers to better survey the market when choosing a pooled plan provider.

As discussed in Item 12, below, the Department expects that a number of financial services providers, pension plan recordkeepers, and other entities who already are involved in the defined contribution retirement plan marketplace will register as pooled plan providers and make pooled employer plans available to prospective participating employers based on the requirements of this regulation. The registrations will be publicly available and will provide a complete list of registered pooled plan providers.

- 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.**

Registrations to be a pooled plan provider required under this regulation must be filed with the Department electronically in accordance with the EBSA Form PR instructions

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and electronic filing procedures published by the Department. Only one registration must be filed for each person intending to act as a pooled plan provider, regardless of the number of pooled employer plans it operates.

A pooled plan provider must file updates for each change described in paragraphs (b)(2) and (3) of the regulation and may file a single update to report multiple simultaneous changes, e.g., beginning to operate two or more pooled employer plans, or to report a change that applies to the pooled plan provider with respect to all pooled employer plans it operates.

Under the regulation the pooled plan provider would need to file Form PR before beginning operations and include the address of any public website(s) of the pooled plan provider or affiliates used to market such person as pooled plan provider to the public, and the date operations are expected to commence. The Department believes this information will be useful in the Department's oversight of pooled plan providers and will also assist employers performing due diligence in selecting and monitoring pooled employer plans. The Department also expects that most pooled plan providers will have such websites, and believes that having information on such websites provides an alternative to requiring more information to be submitted as part of the registration process.

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

The information required to be disclosed on Form PR by entities that will serve as pooled plan providers is not readily available from any other source. Other requested information could be in the public domain, but not collected in one location. The SECURE Act and rule's requirement that pooled plan providers first register with the Department before beginning operations alerts regulators to the presence and intent of new entities.

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

The regulation's registration requirement applies equally to small and large pooled plan providers; therefore, the Department did not fashion any special treatment for small pooled plan providers. The information required to be submitted as part of the registration is readily available in the normal course of business and has been designed not to impose an undue burden on pooled plan providers.

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 SECURE Act requires the Department to implement this information collection.

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Failure to do so would be in contravention of an express statutory requirement. Moreover, failure to conduct this information collection activity would undermine the important policy objective of allowing multiple unrelated employers to offer benefits to their employees of multiple unrelated employers without the need for any commonality among the participating employers or other genuine organizational relationship unrelated to participation in the plan. A pooled employer plan arrangement allows most of the administrative and fiduciary responsibilities of sponsoring a retirement plan to be transferred to a “pooled plan provider.” Therefore, this information collection would allow pooled employer plans to exist, which will offer employers, especially small employers, a workplace retirement savings option with reduced burdens and costs compared to sponsoring their own separate retirement plans.

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 result 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.**

There are no special circumstances that require the collection to be conducted in a manner inconsistent with the guidelines in 5 CFR 1320.5.

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 published a Federal Register notice on February 8, 2023, (88 FR 8317), as required by 5 CFR 1320.8(d), soliciting comments on the information collection and providing the public with 60 days to comment on the submission. 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.

There is no assurance of confidentiality provided 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 person from whom the information is requested, and any steps to be taken to obtain their consent.

There are no questions of a sensitive nature pertaining to sexual behavior and attitudes, religious beliefs, or other matters that are commonly considered private. Therefore, this is not applicable to the requirements of this information collection.

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 difference 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.**

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- **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. Instead, this cost should be included in Item 14.**

The SECURE Act requires a person to register as a pooled plan provider with the Secretary, and provide other information the Secretary may require, before beginning operations. This information collection contains the requirements to register with the Secretary under section 3(44) of the Act. The information collection will be integrated into the Department's existing EFAST 2 electronic filing system for filing the Form 5500 annual return/report generally required for ERISA-covered employee benefit plans, including pooled employer plans operated by pooled plan providers.

The Department has designed a two-part approach for this requirement. The first consists of a simple registration of mainly contact information and the address of marketing websites. Pooled plan providers must electronically register with the Department at least 30 days before beginning operations.

The information included in the registration should be readily available to the pooled plan provider during its normal course of business, so collection should not require additional effort by the administrator. The Department estimates that compiling and submitting the initial registration information will take about 30 minutes and impose no additional costs on the administrator. To limit costs, a pooled plan provider is required to file only one registration regardless of the number of pooled employer plans it operates, provided that a supplemental statement is filed identifying each pooled employer plan before the initiation of operations of the plan as a pooled employer plan.

If the pooled plan provider does not begin operating any new pooled employer plans, does not change its contact information, or does not experience any changes as described in the rule, it may go for a period of months or years without needing to supplement its registration. The Department anticipates that this will often be the case.

Pooled plan providers are required to file a supplemental filing within the later of 30 days after the calendar quarter in which the change occurred or 45 days after a change occurred. The supplemental filing requirement is similar to, although more limited than, filers' obligations with respect to the Department's current Form M-1 filed by certain multiple employer welfare arrangements and entities.

The supplemental filing amends the original registration to include employer identification numbers (EINs) and contact information for pooled employer plans that

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begin operations, cease operations, or experience material changes relevant to the pooled plan provider’s fiduciary duties (including, for example, bankruptcy, litigation, and criminal or regulatory enforcement actions involving fraud or dishonesty). The Department does not believe, however, that the pooled plan provider will incur any additional costs beyond the labor costs necessary to collect and submit this information.

Based on the 2021 to 2023 Form PR filings, the Department estimates that on average there are 79 initial filings, 60 supplemental filings, and 3 final filings.² Accordingly, the Department estimates the financial manager, at a wage rate of \$190.63,³ will take 30 minutes to submit a filing. Thus, the Department estimates that these filings require an annual hour burden of 71 hours with an equivalent cost of \$13,535.⁴

In summary, the estimated total burden of this information collection is 71 hours, with an equivalent cost of \$31,535.

Estimated Annualized Respondent Hour Burden and Equivalent Cost of Hour Burden

Activity	No. of Respondents	No. of Responses per Respondent	Total Responses	Average Burden (Hours)	Total Burden (Hours)	Hourly Wage Rate	Equivalent Cost of Hour Burden
PPPs submit initial filings	79	1	79	0.5	39.5	\$190.63	\$7,530
PPPs submit supplemental filings	60	1	60	0.5	30	\$190.63	\$5,719
PPPs submit final filings	3	1	3	0.5	1.5	\$190.63	\$286
Total	142	1	142		71		\$13,535

13. Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting from the collection of information.

- **The cost estimate should be split into two 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**

² The reported number of Form PR filings for 2023 is as of September 19, 2023. Thus, the reported number of filings for 2023 was increased by 25 percent to account for remaining quarter of the year.

³ Internal DOL calculation based on 2023 labor cost data. For a description of DOL’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 The burden is estimated as follows: (79 initial filings x 0.50 hour) + (60 supplemental filings x 0.50 hour) + (3 final filings x 0.50 hour) = 71 hours. A labor rate of \$190.63 is used for a financial manager. The labor rate is applied as follows in the calculation: (79 initial filings x 0.50 hour x \$190.63) + (60 supplemental filings x 0.50 hour x \$190.63) + (3 final filings x 0.50 hour x \$190.63) = \$13,535.

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.

The Department does not believe that the pooled plan provider will incur any additional costs beyond the labor costs incurred by the administrator discussed in question 12 to collect and submit this information. Thus, the total annual cost burden of this information collection is \$0.

14. **Provide estimates of annualized cost to the federal government. Also, provide an description of the method used to estimate cost, which should include quantification of hours, operations 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.**

Ongoing costs to the Federal Government is included in the costs for the EFAST2 filing system and those costs are accounted for in the information collection for the Form 5500 with control number 1210-0110.

15. **Explain any reasons for any program changes or adjustments.**

In the previous information collection, the Department estimated the number of Form PR filings based on the Form M-1 data. In the current information collection, the Department has used the actual number of Form PR filings, as the data is now available. The Department has also removed the first-year costs that was associated with the previous information collection. In addition, the Department had updated the wage rates. As a result, the number of responses has decreased by 2,671 responses and the hour burden has decreased by 1,605 hours.

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- 16. For collection 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 and, other than making the registration information available to the public on the Department's website, the Department does not plan to subject the information to any complex analytical techniques.

- 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.**

There are no exceptions to the certification statement.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS.

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