

Comments may also be submitted electronically to ebssa.opr@dol.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Prohibited Transaction Class Exemption 94–71, entitled Class Exemption to Permit Certain Transactions Authorized Pursuant to Settlement Agreements Between the U.S. Department of Labor and Plans, which was published in final form on October 7, 1994 (59 FR 60837), exempts from the prohibitions of sections 406 and 407(a) of the Employee Retirement Income Security Act of 1974 (ERISA) transactions that are specifically authorized by a settlement agreement resulting from an investigation of an employee benefit plan by the Department pursuant to the authority of section 504(a) of ERISA. The availability of the exemption is conditioned on providing certain notices and disclosures. Specifically, the person seeking to rely on the exemption must provide notice to the affected participants and beneficiaries, at least 30 days prior to entering into the settlement agreement with the Department, in a manner approved by the Department that is reasonably calculated to result in actual receipt. The notice must include an objective description of the transaction, the approximate date on which it will occur, the address of the office of the Department that negotiated the settlement, and a statement apprising participants and beneficiaries of their right to provide comments to that office.

Prohibited Transaction Class Exemption 03–39, entitled Class Exemption For Release of Claims and Extensions of Credit in Connection With Litigation, which was published in final form on December 31, 2003 (68 FR 75632), exempts from the prohibitions of sections 406 and 407(a) of ERISA certain transactions engaged in by a plan in connection with the settlement of litigation. Exempted transactions must involve either release by the plan or by a plan fiduciary of a legal or equitable claim against a party in interest in exchange for consideration given by, or on behalf of, a party in interest to the plan in partial or complete settlement of the plan's or the fiduciary's claim, or an extension of credit by the plan or by a plan fiduciary to a party in interest in connection with a settlement whereby the party in interest agrees to repay, over time, an amount owed to the plan in settlement of a legal or equitable claim by the plan or a plan fiduciary against the party in interest. Among other conditions, the

exemption requires that the terms of the settlement be specifically described in a written agreement or consent degree and that the fiduciary entering into the settlement on behalf of the plan acknowledge in writing its fiduciary status. The exemption also requires the plan to maintain, for a period of six years, the records necessary to enable specified interested person to determine whether the exemption's conditions were met.

Because of the similarity of these two exemptions, the Department submitted a combined ICR for the information collections in both exemptions to the Office of Management and Budget (OMB) for review and clearance at the time that PTE 03–39 was published as a proposal in the **Federal Register** (February 11, 2003, 68 FR 6953). The ICR for the information collections in both class exemptions was approved under OMB control number 1210–0091. The approval for the ICRs included in the two exemptions will expire on May 31, 2009.

II. Desired Focus of Comments

The Department is particularly interested in comments that:

- Evaluate whether the collections of information are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the collections of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., by permitting electronic submission of responses.

III. Current Action

The Department is requesting an extension of the currently approved ICR for Settlement Agreements Between a Plan and Party in Interest. The Department is not proposing or implementing changes to the two exemptions or to the existing ICR. A summary of the ICR and the current burden estimates follows:

Type of Review: Extension of a currently approved collection of information.

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Settlement Agreements Between a Plan and Party in Interest.

OMB Number: 1210–0091.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Respondents: 4.

Frequency of Response: One-time.

Responses: 1,080.

Estimated Total Burden Hours: 28.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the information collection request; they will also become a matter of public record.

Dated: January 22, 2009.

Joseph S. Piacentini,

*Director, Office of Policy and Research,
Employee Benefits Security Administration.*

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DEPARTMENT OF LABOR

Employee Benefits Security Administration

Proposed Extension of Information Collection; Comment Request; Final Rule Relating to Notice of Blackout Periods to Participants and Beneficiaries

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA 95) (44 U.S.C. 3506(c)(2)(A)), the Department of Labor (the Department) conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information. This program helps to ensure that the data the Department gathers can be provided in the desired format, that the reporting burden on the public (time and financial resources) is minimized, that the public understands the Department's collection instruments, and that the Department can accurately assess the impact of collection requirements on respondents.

By this notice, the Department is soliciting comments concerning the information collection provisions of the regulation under section 101(i) of the Sarbanes-Oxley Act of 2002 (the SOA), which requires written notice to be provided to affected participants and beneficiaries of individual account plans of any "blackout period" during which their right to direct or diversify investments, obtain a loan, or obtain a distribution under the plan may be temporarily suspended. A copy of the

ICR may be obtained by contacting the office listed in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office shown in the **ADDRESSES** section below on or before March 30, 2009.

ADDRESSES: Interested parties are invited to submit written comments regarding the information collection request and burden estimates to: G. Christopher Cosby, Office of Policy and Research, U.S. Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue, NW., Room N-5647, Washington, DC 20210. Telephone: (202) 693-8410; Fax: (202) 219-4745. These are not toll-free numbers. Comments may also be submitted electronically to ebbsa.opr@dol.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Section 306(b)(1) of the SOA amended section 101 of ERISA to add a new subsection (i), requiring that administrators of individual account plans provide notice to affected participants and beneficiaries in advance of the commencement of any blackout period. For purposes of this notice requirement, a blackout period generally includes any period during which the ability of participants or beneficiaries to direct or diversify assets credited to their accounts, to obtain loans from the plan or to obtain distributions from the plan will be temporarily suspended, limited or restricted. As required by section 306(b)(2) of SOA, the Department of Labor (Department) issued rules necessary to implement the SOA amendments. The Department's regulation at 29 CFR 2520.101-3 specifies when, how, and to whom a blackout notice must be provided and provides model notices to meet the requirements of the regulation.

The Department submitted the information collection provisions of § 2520.101-3 in an ICR to the Office of Management and Budget (OMB) for review and clearance at the time of publication of the interim final rule, which was published in the **Federal Register** on October 21, 2002 (67 FR 64766). OMB approved the ICR under OMB control number 1210-0122. This approval is scheduled to expire on May 31, 2009.

II. Desired Focus of Comments

The Department is particularly interested in comments that:

- Evaluate whether the collections of information are necessary for the proper

performance of the functions of the agency, including whether the information will have practical utility;

- Evaluate the accuracy of the agency's estimate of the burden of the collections of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., by permitting electronic submission of responses.

III. Current Action

The Department is requesting an extension of the currently approved ICR for the Final Rule Relating to Notice of Blackout Periods to Participants and Beneficiaries. The Department is not proposing or implementing changes to the regulation or to the existing ICR. A summary of the ICR and the current burden estimates follows:

Type of Review: Extension of a currently approved collection of information.

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Final Rule Relating to Blackout Notices to Participants and Beneficiaries.

OMB Number: 1210-0122.

Affected Public: Individuals or households; business or other for-profit; not-for-profit institutions.

Respondents: 85,150.

Frequency of Response: On occasion.

Responses: 5,400,000.

Estimated Total Burden Hours: 187,686.

Total Annual Cost (Operating and Maintenance): \$1,407,000.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the information collection request; they will also become a matter of public record.

Dated: January 22, 2009.

Joseph S. Piacentini,

*Director, Office of Policy and Research,
Employee Benefits Security Administration.*
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DEPARTMENT OF LABOR

Employee Benefits Security Administration

Proposed Extension of Information Collection; Comment Request; Voluntary Fiduciary Compliance Program

ACTION: Notice.

SUMMARY: The Department of Labor (the Department), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA 95) (44 U.S.C. 3506(c)(2)(A)). This helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, the Employee Benefits Security Administration is soliciting comments concerning the information collection request (ICR) incorporated in the Voluntary Fiduciary Correction Program (the VFC Program) and the Prohibited Transaction Class Exemption (the Exemption) that is used in connection with the VFC Program. The ICR is currently approved under OMB Number 1210-0118 and is scheduled to expire on May 31, 2009. A copy of the ICR may be obtained by contacting the office listed in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office shown in the **ADDRESSES** section below on or before March 30, 2009.

ADDRESSES: G. Christopher Cosby, Office of Policy and Research, U.S. Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue, NW., Room N-5647, Washington, DC 20210. Telephone: (202) 693-8410; Fax: (202) 219-5333. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

I. Background

The VFC Program is an enforcement program intended to encourage the full correction of certain breaches of fiduciary responsibility and the restoration of losses resulting from those breaches to participants and beneficiaries in employee benefit plans. For certain eligible breaches that have