Deutsche Bank also seeks changes to the notice requirement described in Section I(g) of the proposed exemption. Deutsche Bank seeks to add the following bracketed language, such that Section I(g) reads: “Within two (2) months of the date of publication of this notice of Extension in the Federal Register, each DBQPAM will provide a notice to such effect to each ERISA-covered plan or IRA for which a DBQPAM provides asset management or other discretionary fiduciary services [in reliance on PTE 84–14], unless such notice was previously provided consistent with PTE 2015–15.” The Department has revised the condition accordingly.

Deutsche Bank requests an adjustment to certain restrictions the proposed exemption places on DSK. In this regard, Deutsche Bank seeks to add the following bracketed language, and to delete the following italicized language, such that Section I(m) reads: “DSK has not, and will not, provide [discretionary asset management services or other discretionary] fiduciary or QPAM services to ERISA-covered Plans or IRAs, and will not otherwise exercise discretionary control over plan assets.” The Department declines Deutsche Bank’s request, but has revised the condition to more clearly require that this condition is intended to be met prospectively, not retroactively.

Deutsche Bank also seeks clarification that for purposes of the Extension, the auditor, and not the QPAMs, must provide the relevant workpapers to the Department. The Department agrees with that interpretation of the condition.

In its letter to the Department, Deutsche Bank states that footnotes 38 and 42, which reference tax-related crimes, are unrelated to Deutsche Bank’s application and should be deleted. Deutsche Bank also requests that the Department note for the record that “Deutsche Bank identified Mr. Ripley both as an employee of DBSI and a subject of the Korean case on numerous prior occasions, including as far back as 2011, as well as more recently.”

After giving full consideration to the entire record, the Department has decided to grant the Extension. The complete application file for the Extension (Exemption Application No. D–11879), including all supplemental submissions received by the Department, as well as the application file for PTE 2015–15 (Exemption Application No. D–11696), are available for public inspection in the Public Disclosure Room of the Employee Benefits Security Administration, Room N–1515, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

For a more complete statement of the facts and representations supporting the Department’s decision to grant this Extension, refer to the notice of proposed extension, published on October 12, 2016, at 81 FR 70577.

FOR FURTHER INFORMATION CONTACT: Mr. Scott Ness of the Department, telephone (202) 693–8561. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in the application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 24th day of October, 2016.

Lyssa E. Hall,
Director of Exemption Determinations.
Employee Benefits Security Administration, U.S. Department of Labor.

[FR Doc. 2016–26809 Filed 10–27–16; 8:45 am]

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Proposed Extension of Information Collection Requests Submitted for Public Comment

AGENCY: Employee Benefits Security Administration, Department of Labor

ACTION: Notice

SUMMARY: The Department of Labor (the Department), in accordance with the Paperwork Reduction Act of 1995 (PRA 95) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public’s reporting burden. It also helps the public understand the Department’s information collection requirements and provide the requested data in the desired format. The Employee Benefits Security Administration (EBSA) is soliciting comments on the proposed extension of the information collection requests (ICRs) contained in the documents described below. A copy of the ICRs may be obtained by contacting the office listed in the ADDRESSES section of this notice. ICRs also are available at reginfo.gov (http://www.reginfo.gov/public/do/PRAMain).

DATES: Written comments must be submitted to the office shown in the ADDRESSES section on or before December 27, 2016.

ADDRESSES: G. Christopher Cosby, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW., Room N–5718, Washington, DC 20210, ebsa.opr@dol.gov, (202) 693–8410, FAX (202) 693–4745 (these are not toll-free numbers).

SUPPLEMENTAL INFORMATION: This notice requests public comment on the Department’s request for extension of the Office of Management and Budget’s (OMB) approval of ICRs contained in the rules and prohibited transaction exemptions described below. The Department is not proposing any changes to the existing ICRs at this time. An agency may not conduct or sponsor, and a person is not required to respond to, an information collection unless it displays a valid OMB control number. A summary of the ICRs and the current burden estimates follows:

Agency: Employee Benefits Security Administration, Department of Labor.
Title: Notice to Employees of Coverage Options Under Fair Labor Standards Act Section 18B.
Type of Review: Extension of a currently approved collection of information.
OMB Number: 1210–0149.
Affected Public: Businesses or other for-profits, Farms, Not-for-profit institutions.
Responses: 72,484,292.
Estimated Total Burden Hours: 374,502.
Estimated Total Burden Cost (Operating and Maintenance): $12,329,992.

Description: Section 1512 of the Affordable Care Act creates a new Fair Labor Standards Act (FLSA) section 18B requiring a notice to employees of coverage options available through the Health Insurance Marketplace. On May 8, 2013, the Department issued Technical Release 2013–2, which provided temporary guidance regarding the notice requirement under FLSA section 18B and announced the availability of the Model Notice to Employees of Coverage Options. This ICR refers to the Model Notice, which was approved by OMB under OMB Control Number 1210–0149 and is currently scheduled to expire on January 31, 2017.

Agency: Employee Benefits Security Administration, Department of Labor.
Title: Prohibited Transaction Class Exemption (PTE) 92–6: Sale of Individual Life Insurance or Annuity Contracts By a Plan.
Type of Review: Extension of a currently approved information collection.
OMB Number: 1210–0063.
Affected Public: Businesses or other for-profits.
Respondents: 10,600.
Responses: 10,600.
Estimated Total Burden Hours: 2,100.
Estimated Total Burden Cost (Operating and Maintenance): $5,500.
Description: PTE 92–6 exempts from the prohibited transaction restrictions of ERISA the sale of individual life insurance or annuity contracts by a plan to participants, relatives of participants, employers any of whose employees are covered by the plan, other employee benefit plans, owner-employees or shareholder-employees. In the absence of this exemption, certain aspects of these transactions might be prohibited by section 406 of ERISA.

Among other conditions, PTE 1992–6 requires that pension plans inform the insured participant of a proposed sale of a life insurance or annuity policy to the employer, a relative, another plan, an owner-employee, or a shareholder employee. This recordkeeping requirement constitutes an information collection within the meaning of the PRA, which was approved by OMB under OMB Control Number 1210–0063 and is currently scheduled to expire on February 28, 2017.

Agency: Employee Benefits Security Administration, Department of Labor.
Title: Loans to Plan Participants and Beneficiaries Who Are Parties in Interest With Respect to The Plan Regulation.
Type of Review: Extension of a currently approved collection of information.
OMB Number: 1210–0076.
Affected Public: Businesses or other for-profits, Not-for-profit institutions.
Respondents: 2,500.
Responses: 2,500.
Estimated Total Burden Hours: 0.
Estimated Total Burden Cost (Operating and Maintenance): $946,000.
Description: ERISA prohibits a plan fiduciary from causing the plan to engage in a transaction if he knows or should know that such transaction constitutes direct or indirect loan or extension of credit between the plan and a party in interest. ERISA section 408(b)(1) exempts from this prohibition loans from a plan to parties in interest who are participants and beneficiaries of the plan, provided that certain requirements are satisfied. In final regulations published in the Federal Register on July 20, 1989, (54 FR 30520), the Department provided additional guidance on section 408(b)(1)(C), which requires that loans be made in accordance with specific provisions in the plan. The ICR contained within this rule was approved by OMB under OMB Control Number 1210–0076, which is scheduled to expire on February 28, 2017.

Agency: Employee Benefits Security Administration, Department of Labor.
Title: Default Investment Alternatives under Participant Directed Individual Account Plans.
Type of Review: Extension of a currently approved collection of information.
OMB Number: 1210–0132.
Affected Public: Not-for-profit institutions, Businesses or other for-profits.
Respondents: 239,000.
Responses: 31,100,000.
Estimated Total Burden Hours: 201,000.
Estimated Total Burden Cost (Operating and Maintenance): $10,800,000.
Description: Section 404(c) of ERISA states that participants or beneficiaries who can hold individual accounts under their pension plans, and who can exercise control over the assets in their accounts “as determined in regulations of the Secretary [of Labor]” will not be treated as fiduciaries of the plan. Moreover, no other plan fiduciary will be liable for any loss, or by reason of any breach, resulting from the participants’ or beneficiaries exercise of control over their individual account assets.
The Pension Protection Act (PPA), Public Law 109–280, amended ERISA section 404(c) by adding subparagraph (c)(5)(A). The new subparagraph says that a participant in an individual account plan who fails to make investment elections regarding his or her account assets will nevertheless be treated as having exercised control over those assets so long as the plan provides appropriate notice (as specified) and invests the assets “in accordance with regulations prescribed by the Secretary of Labor.” Section 404(c)(5)(A) further requires the Department of Labor (Department) to issue corresponding final regulations within six months after enactment of the PPA. The PPA was signed into law on August 17, 2006.

The Department of Labor issued a final regulation under ERISA section 404(c)(5)(A) offering guidance on the types of investment vehicles that plans may choose as their “qualified default investment alternative” (QDIA). The regulation also outlines two information collections. First, it implements the statutory requirement that plans provide annual notices to participants and beneficiaries whose account assets could be invested in a QDIA. Second, the regulation requires plans to pass on certain pertinent materials they receive relating to a QDIA to those participants and beneficiaries with assets invested in the QDIA as well to provide certain information on request. The ICRs are approved under OMB Control Number 1210–0132, which is scheduled to expire on July 31, 2017.

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 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 submissions of responses.

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

Phyllis C. Borzi,
Assistant Secretary, Employee Benefits Security Administration, U.S. Department of Labor.

[FR Doc. 2016–25046 Filed 10–27–16; 8:45 am]