

Dated: June 18, 2001.

**Margaret J. Sherrill,**

*Chief, Branch of Management Review and Internal Control, Division of Financial Management, Office of Management, Administration and Planning, Employment Standards Administration.*

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## DEPARTMENT OF LABOR

### Pension and Welfare Benefits Administration

#### Proposed Extension of Information Collection Request Submitted for Public Comment and Recommendations, Prohibited Transaction Class Exemption 81-8

**ACTION:** Notice.

**SUMMARY:** The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and other 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 program 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 Pension and Welfare Benefits Administration is soliciting comments concerning the proposed extension of a currently approved collection of information, Prohibited Transaction Class Exemption 81-8 on investment of plan assets in certain types of short-term investments. A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the **ADDRESSES** section of this notice.

**DATES:** Written comments must be submitted on or before August 27, 2001.

**ADDRESSES:** Mr. Gerald B. Lindrew, Office of Policy and Research, U.S. Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue, NW., Room N-5647, Washington, DC 20210. Telephone (202) 219-4782; Fax (202) 219-4745. These are not toll-free numbers.

**SUPPLEMENTARY INFORMATION:**

### I. Background

Prohibited Transaction Class Exemption 81-8 permits the investment of plan assets that involve the purchase or other acquisition, holding, sale, exchange or redemption by or on behalf of an employee benefit plan in certain types of short-term investments. These include investments in banker's acceptances, commercial paper, repurchase agreements, certificates of deposit, and bank securities. Absent the exemption, certain aspects of these transactions might be prohibited by section 406 of the Employee Retirement Income Security Act (ERISA).

### II. Desired Focus of Comments

The Department of Labor is particularly interested in comments that:

- Evaluate whether the proposed collection of information is 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 proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected;
- 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., permitting electronic submission of responses.

### III. Current Actions

Provided that the requirements of the exemption are met, the exemption allows plans to invest in certain short term investments in debt obligations issued by certain persons who provide services to the plan or who are affiliated with such service providers that otherwise might be prohibited under sections 406 and 407(a) ERISA. Without this exemption, these types of short term transactions might not be permitted.

In order to ensure that the exemptions is not abused, that the rights of participants and beneficiaries are protected, and that the conditions of the exemption have been satisfied, the Department has included in the exemption two basic disclosure requirements. Both affect only the portion of the exemption dealing with repurchase agreements. The first

requirements calls for the repurchase agreements between the seller and the plan to be in writing. The second requirement obliges the seller of such repurchase agreements to agree to provide financial statements to the plan at the time of the sale and as future statements are issued. The seller must also represent, either in the repurchase agreement or prior to the negotiation of each repurchase agreement transaction, that there has been no material adverse change in the seller's financial condition since the date that the most recent financial statement was furnished which has not been disclosed to the plan fiduciary with whom the written agreement is made.

Without the recording and disclosure requirement included in the JCR, participants and beneficiaries of a plan would not be protected in their investments, the Department would be unable to monitor a plan's activities for compliance, and plans would be at a disadvantage in assessing the value of certain short-term investment activities.

*Agency:* Department of Labor, Pension and Welfare Benefits Administration.

*Title:* Prohibited Transaction Class Exemption 81-8 for Investment of Plan Assets in Certain Types of Short-Term Investments.

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

*OMB Number:* 1210-0061.

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

*Total Respondents:* 38,237.

*Total Responses:* 191,185.

*Frequency of Response:* On occasion.

*Estimated Burden Hours:* 31,900.

*Estimated Burden Costs:* \$6,500.

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

Dated: June 21, 2001.

**Gerald B. Lindrew,**

*Deputy Director, Pension and Welfare Benefits Administration, Office of Policy and Research.*

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