

Retirement Income Security Act of 1974 (ERISA) and from certain taxes imposed by the Internal Revenue Code of 1986. The exemption permits employee benefit plans to purchase shares of one or more open-end investment companies (funds) registered under the Investment Advisers Act of 1940 by transferring in-kind, to the investment company, assets of the plan that are part of a collective investment fund (CIF) maintained by a bank or plan advisor that is both a fiduciary of the plan and an investment advisor to the investment company offering the fund.

The exemption requires that an independent fiduciary receive advance written notice of any covered transaction, as well as specific written information concerning the mutual funds to be purchased. The independent fiduciary must also provide written advance approval of conversion transactions and receive written confirmation of each transaction, as well as additional on-going disclosures as defined in PTE 97-41. These disclosures are the basis for this ICR.

EBSA previously submitted the information collection provisions of PTE 2002-12 to the Office of Management and Budget (OMB) for review in connection with promulgation of the prohibited transaction exemption. OMB approved the information collection request (ICR) under OMB Control No. 1210-0115. The ICR approval is currently scheduled to expire on June 30, 2009.

## II. Desired Focus of Comments

The Department 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; 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., permitting electronic submission of responses.

## III. Current Action

This notice requests comments on the extension of the ICR included in PTE 97-41. The Department is not proposing or implementing changes to the existing ICR at this time. The following summarizes the ICR and the current burden estimates:

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

*Agency:* Employee Benefits Security Administration, Department of Labor.

*Titles:* Prohibited Transaction Class Exemption 97-41, Collective Investment Funds Conversion Transactions.

*OMB Number:* 1210-0104.

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

*Estimated Total Burden Hours:* 1,756.

*Respondents:* 105.

*Frequency of Response:* On occasion.

*Responses:* 105.

*Total Burden Cost (Operating and Maintenance):* \$282,000.

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

Dated: April 13, 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; Prohibited Transaction Class Exemption 2004-07, Transactions With Trust REIT Shares

**AGENCY:** Employee Benefits Security Administration, Department of Labor.

**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 the Department can properly assess the impact of its information collection requirements on respondents and

minimize the reporting burden (in both time and financial resources) on the public and that the public can clearly understand the Department's collection instruments and provide the requested data in the desired format. Currently, the Employee Benefits Security Administration (EBSA) is soliciting comments on a proposed extension of the information collection provisions in Prohibited Transaction Class Exemption (PTE) 2004-07, which concerns publicly traded shares of beneficial interest in real estate investment trusts structured under State law as business trusts. A copy of the information collection request (ICR) may be obtained by contacting the office listed in the **ADDRESSES** section of this notice.

**DATES:** Written comments must be submitted on or before June 19, 2009.

**ADDRESSES:** Direct all written comments to G. Christopher Cosby, Office of Policy and Research, Employee Benefits Security Administration, U.S. Department of Labor, 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 the following Internet e-mail address: [ebbsa.opr@dol.gov](mailto:ebbsa.opr@dol.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

PTE 2004-07 exempts from certain prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (ERISA) and from certain taxes imposed by the Internal Revenue Code of 1986 (the Code), the acquisition, holding, sale, and contribution in kind of publicly traded shares of beneficial interest in a real estate investment trust that is structured under State law as a business trust (Trust REIT), on behalf of and to individual account plans sponsored by the REIT or its affiliates, provided that certain conditions are met.

The exemption allows individual account plans (Plans) established by Trust REITs to offer a beneficial interest in the Trust REIT in the form of Qualifying REIT Shares, as defined in the exemption, to participants in Plans sponsored by the REIT or its employer affiliates, to require that employer contributions be used to purchase such shares, and to permit "contributions in kind" of such shares to these Plans by employers.

The exemption conditions relief on compliance with a number of information collection requirements. These information collections are to be provided or made available to plan

participants and fiduciaries in order to inform them about investments in Qualifying REIT Shares and the conditions of the exemption permitting share transactions. Records sufficient to allow them to determine whether the exemption conditions are met must also be maintained, and made available to them upon request, for a period of six years. These records must also be made available on request to employers and employee organizations with employees and members covered by a Plan of the Trust REIT or one of its employer affiliates, and to authorized employees and representatives of the Department and the Internal Revenue Service. EBSA submitted an ICR for the information collections in PTE 2004–07 to the Office of Management and Budget (OMB) for review and clearance in connection with proposal of the class exemption, which was published in the **Federal Register** on June 3, 2003 (68 FR 33185). OMB approved the ICR under OMB control number 1210–0124. The ICR approval is currently scheduled to expire on August 31, 2009.

## II. Desired Focus of Comments

The Department 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; 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

This notice requests comments on an extension of the information collections included in PTE 2004–07. The Department is not proposing or implementing changes to the existing ICR at this time. 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:* Prohibited Transaction Exemption 2004–07, Transactions with Trust REIT Shares.

*OMB Number:* 1210–0124.

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

*Respondents:* 45.

*Frequency of Response:* On occasion; quarterly; annually.

*Responses:* 104,545.

*Estimated Annual Hours:* 4,733.

*Estimated Total Annual Cost:* \$40,000.

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

Dated: April 13, 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; Prohibited Transaction Class Exemption 91–38, Bank Collective Investment Funds

**AGENCY:** Employee Benefits Security Administration, Department of Labor.

**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 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). This program helps to ensure that the Department can properly assess the impact of its information collection requirements on respondents and minimize the reporting burden (in both time and financial resources) on the public and that the public can clearly understand the Department's information collection instruments and can provide the requested data in the desired format. Currently, the Employee Benefits Security Administration (EBSA) is soliciting comments on a proposed extension of the information collection provisions of Prohibited

Transaction Class Exemption (PTE) 91–38, Bank Collective Investment Funds. A copy of the Information Collection Request (ICR) can 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 June 19, 2009.

**ADDRESSES:** Direct all written comments to G. Christopher Cosby, Office of Policy and Research, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–5718, Washington, DC 20210, (202) 693–8410, FAX (202) 219–4745 (the foregoing are not toll-free numbers). Comments may also be submitted electronically to the following Internet e-mail address: [ebbsa.opr@dol.gov](mailto:ebbsa.opr@dol.gov).

## SUPPLEMENTARY INFORMATION:

### I. Background

PTE 91–38 provides an exemption from the prohibited transaction provisions of the Employee Retirement Income Security Act of 1974 (ERISA) for certain transactions between a bank collective investment fund and persons who are parties in interest with respect to an employee benefit plan. Without the exemption, sections 406 and 407(a) of ERISA and section 4975(c)(1) of the Internal Revenue Code may prohibit transactions between the collective investment fund (CIF) and a party in interest to one or more of the employee benefit plans participating in the collective investment fund. Under PTE 91–38, a collective investment fund generally may engage in transactions with parties in interest to a plan that invests in the fund as long as the plan's total investment in the fund does not exceed a specified percentage of the total assets of the fund. The PTE also contains more limited or differently defined relief for funds holding more than the specified percentage, for multiemployer plans, and for transactions involving employer securities and employer real property. In order to ensure that the rights of participants and beneficiaries are protected, and that bank collective investment funds can demonstrate compliance with the terms of the exemption, the Department requires a bank to maintain records regarding the exempted transactions and make them available for inspection to specified interested persons (including the Department and the Internal Revenue Service) on request for a period of six years.