

June 17, 2024

James Butikofer
Employee Benefits Security Administration
Office of Research and Analysis
U.S. Department of Labor
200 Constitution Avenue NW
N-5718
Washington, DC 20210

SUBMITTED VIA EMAIL

ebbsa.opr@dol.gov

Re: Proposed Information Collection Request Submitted for Public Comment; Retirement Savings Lost and Found

Dear Madam or Sir:

The American Retirement Association (ARA) is writing in response to the request for comments on the Proposed Information Collection Request Submitted for Public Comment regarding the Retirement Savings Lost and Found.

ARA is the coordinating entity for its five underlying affiliate organizations representing the full spectrum of America's private retirement system, the American Society of Pension Professionals and Actuaries ("ASPPA"), the National Association of Plan Advisors ("NAPA"), the National Tax-Deferred Savings Association ("NTSA"), the American Society of Enrolled Actuaries ("ASEA"), and the Plan Sponsor Council of America ("PSCA"). ARA's members include organizations of all sizes and industries across the nation who sponsor and/or support retirement saving plans and are dedicated to expanding on the success of employer-sponsored plans. In addition, ARA has over 35,000 individual members who provide consulting and administrative services to sponsors of retirement plans. ARA's members are diverse but united in their common dedication to the success of America's private retirement system.

Discussion

ARA strongly supports the Department of Labor's (DOL's) objectives that are motivating the proposed information collection for the Retirement Savings Lost and Found—namely the desire to provide a useful database with robust and accurate data that American workers can use to locate their retirement savings. However, ARA is concerned about the method of information collection in the proposal.

1. Data Collected

The proposal asks for a significant amount of information that is not specifically required by the statute. As the DOL notes in the proposal, the statute authorizes the DOL to collect: (a) information specified in IRC §6057(b)(1) through (4) (certain changes in the plan, such as administration, merger, termination), (b) IRC §6057(a)(2)(A) (name of the plan), (c) names and social security numbers of participants and former participants described in IRC §6057(a)(2)(C) (terminated vested participants), (d) identity of individuals who were fully paid their deferred vested benefits, and (e) names and social security numbers of participants who were involuntarily cashed out or provided a deferred annuity. The proposal goes significantly further, however, asking the plan administrator to voluntarily provide the amount of the benefit, beneficiary information, commencement date, etc.

ARA recommends that the DOL limit its information collection to only the information designated by the statute. The additional information is not necessary for the DOL to create a database for working Americans to locate their retirement benefits. The listed information should be sufficient, and the individual may then contact the institution holding the funds to acquire information about the amount of the benefit, how to change the beneficiary, etc. Those additional details are not necessary to create the database and should not be made publicly available. In addition, employers have expressed concern that voluntarily providing such personal information (when not required by law) could expose them to liability, particularly in the event of any breach.

Thus, ARA recommends that the DOL limit its information collection, particularly information that could become publicly available through the Retirement Savings Lost and Found, to only the information designated by the statute.

2. Method of Collection

ARA is also concerned about the manner in which the proposal requires employers to report the information. The proposal suggests that the information will be collected using the efast2 system and will be due at the same time as the Form 5500 for the plan. ARA is concerned that this multi-use system will result in the inadvertent public disclosure of participants' sensitive, personal information. Specifically, ARA is concerned that sponsors with plan audits may inadvertently attach the list of participant information to their Form 5500 filing. In our experience, it currently is not uncommon for plan administrators to attach extraneous information with the audit report. If plan information is sent to the administrator at the same time, some administrators appear inclined to attach everything provided to the Form 5500. Thus, if the plan service provider is sending a listing of participant information for filing on efast2 at the same time as the Form 5500 information, there is a meaningful risk that at least some administrators will attach the participant data to the Form 5500. Given the sensitivity of the information being reported, ARA believes the DOL should do everything possible to mitigate that risk. Separating the reporting by time, system, or both may reduce the inadvertent disclosure of participant information.

* * *

ARA appreciates the opportunity to work with the Department on these issues of great importance to our diverse membership of retirement marketplace participants. We would welcome the opportunity to discuss these comments further with you. Please contact Allison Wielobob, ARA's General Counsel, at AWielobob@USARetirement.org with respect to any questions regarding the matters discussed herein. Thank you for your time and consideration.