



THE ERISA  
INDUSTRY COMMITTEE  
*Shaping benefit policies  
before they shape you.*

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**Submitted Electronically**

October 15, 2024

Hon. Richard Revesz  
Administrator  
Office of Information and Regulatory Affairs  
U.S. Office of Management and Budget  
Washington, D.C. 20503

**Re: “Retirement Savings Lost and Found,” ICR Reference Number: 202403-1210-001**

Dear Mr. Revesz:

On behalf of The ERISA Industry Committee (ERIC), thank you for the opportunity to submit comments on the proposed voluntary information request relating to the Retirement Savings Lost and Found to be established by the Department of Labor under the SECURE 2.0 Act. The initial proposed request was released by the Employee Benefits Security Administration at the Department of Labor (DOL), and published in the Federal Register on April 16, 2024.<sup>1</sup> In response to critical comments, DOL has significantly revised the proposal in this submission to the Office of Information and Regulatory Affairs, pursuant to the Paperwork Reduction Act. The proposed information collection request is significantly improved from the proposal in April.

By way of background, ERIC is a national advocacy organization exclusively representing the largest employers in the United States in their capacity as sponsors of employee benefit plans for their nationwide workforces. With member companies that are leaders in every economic sector, ERIC is the voice of large employer plan sponsors on federal, state, and local public policies impacting their ability to sponsor benefit plans. ERIC member companies offer benefits to millions of employees and their families, located in every state, city, and Congressional district.

ERIC member companies sponsor retirement plans, including both defined benefit and defined contribution plans, that are governed by the *Employee Retirement Income Security Act of 1974*, as amended (ERISA). Millions of workers and retirees participate in these plans. ERIC’s member companies spend considerable amounts of time, money, and effort to educate their workers and plan participants about retirement adequacy, holistic financial wellbeing, and their retirement benefits. Part of these efforts includes working hard to provide former employees with the benefits they’ve earned.

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<sup>1</sup> 89 Fed. Reg. 26934.

We have appreciated DOL and the other ERISA agencies working to expeditiously and efficiently implement the provisions of SECURE 2.0. We supported including the Retirement Savings Lost and Found Database in the SECURE 2.0 Act as another potentially valuable way to ultimately reunite participants with their retirement benefits, which is a key priority for ERIC and our member companies. The statute is clear that the database should provide individuals “*only with the ability to search for information that enables the individual to locate the administrator and contact information for the administrator of any plan with respect to which the individual is or was a participant or beneficiary, sufficient to allow the individual to locate the individual’s plan in order to make a claim for benefits owing to the individual under the plan.*”<sup>2</sup> This latest submission more closely fits the statutory mandate.

### **Section 303 of SECURE 2.0 Authorizes DOL to Collect Limited Information on a Prospective Basis**

Section 303 of the SECURE 2.0 Act added a new Section 523(e) of ERISA. Under this provision, for plan years beginning after December 31, 2023, plan administrators are asked to provide the following information to the Department of Labor (DOL):

- the name of the plan,
- the name and address of the plan administrator,
- any change in the name of the plan,
- any change in the name or address of the plan administrator,
- information about the termination of the plan (if applicable),
- information about the merger or consolidation of the plan with any other plan or its division into two or more plans (if applicable),
- the name and taxpayer identifying number of each separated deferred vested participant whose benefit was fully paid out during the plan year,
- the name and taxpayer identifying number of a participant or former participant with respect to whom benefits were distributed under tax code section 401(a)(31)(B) during the plan year, as well as the name and address of the designated trustee or issuer and the account number of the individual retirement plan to which the amount was distributed, and
- the name and taxpayer identifying number of a participant or former participant to whom a deferred annuity contract was distributed during the plan year, the name and address of the issuer of such annuity contract and the contract or certificate number.

The Revised ICR requests that plans voluntarily submit the following:

#### *Plans With Separated Vested Participants*

*For any plan with a participant or former participant described in 26 U.S.C. 6057(a)(2)(C)(i) and (ii) (“separated vested participant”), provide the following information with respect to the plan in accordance with filing instructions created by the Department:*

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<sup>2</sup> Section 523(b) of ERISA, as added by Section 303 of SECURE 2.0.

1. Name and plan number of plan as reflected on the most recent Form 5500 Annual Return/Report of Employee Benefit Plan or Form 5500-SF Short Form Annual Return/Report of Employee Benefit Plan (individually and collectively “Form 5500”).
2. Name, employer identification number (EIN), mailing address, and telephone number of the plan administrator as reflected on the most recent Form 5500.
3. Name, EIN, and telephone number of the plan sponsor as reflected on the most recent Form 5500.
4. Name and SSN of any separated vested participant aged 65 (or older) who is owed a vested benefit.<sup>3</sup>

We appreciate that this list of requested information is drastically pared down from what the Department initially requested.<sup>4</sup> We do note, however, that some of these elements continue to technically exceed the information specified in section 523. Most instructively, the Department asks for the name and SSN of separated vested participants aged 65 or older who are owed a vested benefit. Plans are required to provide this information to the Internal Revenue Service on Form 8955-SSA. We acknowledge that DOL “continues its discussions” with the IRS and the Social Security Administration to attempt to reach a data sharing agreement.<sup>5</sup> Given the redundant nature of this request (though voluntary), ERIC continues to urge the agencies to reach an agreement that permits DOL to use the data and also protects taxpayers’ confidential information. Further, DOL should do more to explain to plan sponsors and administrators the cybersecurity measures it will take to defend this data. Such clarity will be important in order to encourage participation in this voluntary exercise.

Additionally, while we appreciate the narrow scope of this voluntary information collection request, we are compelled to reiterate our concerns with DOL’s earlier suggestion that it can request an enormous amount of data pursuant to section 505 of ERISA (relating to regulatory authority), without regard to section 523. This earlier assertion is not addressed or disavowed in the Supporting Statement accompanying DOL’s submission to OMB. ERIC would have serious concerns about a proposal requiring production of the information contained in the initial proposal.

Finally, Column R of the proposed instructions accompanying the ICR do raise a few technical questions:

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<sup>3</sup>“Gallery Mockup Data Elements Compare Proposed ICR with Final ICR,” <https://www.reginfo.gov/public/do/DownloadDocument?objectID=145702900> (struck through items deleted herein).

<sup>4</sup> ERIC elucidated the overreach in its comment letter to DOL. Letter from The ERISA Industry Committee to Mr. James Butikofer on June 17, 2024, available at <https://www.eric.org/wp-content/uploads/2024/06/6-17-24-Lost-and-Found-ICR-Response.pdf>.

<sup>5</sup> ‘Supporting Statement for Paperwork Reduction Act 1995: Retirement Savings Lost and Found,’ <https://www.reginfo.gov/public/do/DownloadDocument?objectID=146037800>, at 1.

***Column R – Separated Vested Participant Social Security Number***

- *Enter the Social Security number or IRS Individual Taxpayer Identification Number (ITIN) of each participant who:*
  - *is a separated vested participant,*
  - *is owed a benefit from the plan, and*
  - *has reached age 65 or older.*
- *You should include:*
  - *deceased participants who would have been age 65 or older if they had survived and whose beneficiary is entitled to a benefit,*
  - *separated vested participants aged 65 or older whose benefits were conditionally forfeited under Treasury Regulation section 1.411(a)-4(b)(6), and*
  - *separated vested participants aged 65 or older who are in pay status.*<sup>6</sup>

First, it is unclear why DOL is requesting beneficiary information for deceased participants. The account of the deceased participant would already be in that beneficiary's name, so information about the deceased seems unhelpful. Second, the instructions should clarify what is meant by "in pay status" with respect to separated vested participants. If the purpose of the Lost and Found is to help participants find plan administrators to receive benefits, the purpose of including those participants who **are** receiving benefits is unclear.

Again, thank you for the opportunity to submit these comments. We look forward to working with OMB and the regulatory agencies to continue the successful implementation of SECURE 2.0 and promote retirement security for American workers.

Sincerely,

*Andrew Banducci*

Cc: Mr. Michael Howell, Senior Paperwork Reduction Act Analyst, U.S. Department of Labor, [DOL\\_PRA\\_PUBLIC@dol.gov](mailto:DOL_PRA_PUBLIC@dol.gov).

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<sup>6</sup> "FILING INSTRUCTIONS For Retirement Savings Lost and Found Database (RSLF) Upload Template, <https://www.reginfo.gov/public/do/DownloadDocument?objectID=145705900> (footnote omitted).