

Total Burden Cost (capital/startup): \$0.

Total Burden Cost (operating/maintaining): \$5,020.

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 at Arlington, Virginia, this 16th day of January, 2003.

Thomas Charboneau,

Financial Manager, Office of Administration and Management.

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DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Proposed Extension of Information Collection Request Submitted for Public Comment; Prohibited Transaction Class Exemption 2002-12, Cross-Trades of Securities by Index and Model Funds

AGENCY: Pension and Welfare Benefits 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 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 on the proposed extension of the disclosure provisions of the Prohibited Transaction Class Exemption 2002-12, Cross-Trades of Securities by Index and Model Funds.

A copy of the information collection request (ICR) can be obtained by contacting the individual shown in the Addresses section of this notice.

DATES: Written comments must be submitted to the office shown in the Addresses section on or before March 24, 2003.

ADDRESSES: Joseph S. Piacentini, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Washington, DC 20210, (202) 693-8410, FAX (202) 219-5333. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

I. Background

PTE 2002-12 exempts certain transactions that would be prohibited under the Employee Retirement Income Security Act of 1974 (the Act or ERISA) and the Federal Employees' Retirement System Act (FERSA), and provides relief from certain sanctions of the Internal Revenue Code of 1986 (the Code). The exemption permits cross-trades of securities among index and model-driven funds (Funds) managed by investment managers, and among such Funds and certain large accounts (Large Accounts) that engage such managers to carry out a specific portfolio restructuring program or to otherwise act as a "trading adviser" for such a program. By removing existing barriers to these types of transactions, the exemption increases the incidences of cross-trading, thereby lowering fees to plans from what they would otherwise be if based on multiple individual trades.

In order for the Department to grant an exemption for a transaction or class of transactions that would otherwise be impermissible under ERISA, the statute requires the Department to make a finding that the exemption is administratively feasible, in the interest of the plan and its participants and beneficiaries, and protective of the rights of the participants and beneficiaries. To insure that investment managers have complied with the requirements of the exemption, the Department has included in the exemption certain recordkeeping and disclosure obligations that are designed to safeguard plan assets by periodically providing information to independent plan fiduciaries about changes in the cross-trading program. Initially, where plans are not invested in Funds, investment managers must have authorization from a plan fiduciary to invest plan assets in Funds. For plans that are currently invested in Funds, certain notices must be provided that describe the cross-trading program, update changes in Funds, and provide the plan with an opportunity to withdraw from the program. For Large Accounts, information must be provided by the investment manager about the results of transactions involved in a portfolio-restructuring program. Finally,

the exemption requires that Funds and Large Accounts maintain for a period of 6 years the records necessary to enable certain persons authorized by the exemption (e.g., Department representatives or contributing employers, to determine whether the conditions of the exemption have been met.)

The exemption affects participants and beneficiaries of employee benefit plans whose assets are invested in Index or Model-Driven Funds, large pension plans and other large accounts involved in portfolio restructuring programs, as well as the Funds and their investment managers.

II. Desired Focus of Comments

- The Department of Labor (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 of forms of information technology, e.g., permitting electronic submissions of responses.

III. Current Actions

Extension of the information collection provision of the exemption is important because, without the disclosures and recordkeeping provided for in the exemption, participants and beneficiaries' investments in a pension plan might not be protected. In addition, investment managers, that cross trade securities among Funds or engage in the restructuring of a portfolio of a Large Account would be subject to statutorily imposed sanctions under ERISA. Lastly, the exemption provides a benefit to plans and participants through savings that result from index/model cross-trading. No change to the existing ICR is proposed or made at this time.

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

Title: Prohibited Transaction Class Exemption 2002-12, Cross-Trades of