

filings received with IARD data indicated that these advisers had not also filed electronically with IARD. It seems likely that many advisers already prepare the forms electronically, regardless of whether they submit them electronically. To account for preparation for electronic transmission, it has been estimated that the advisers will incur the cost of two hours of a financial professional's time at \$68 per hour, for a cost of \$136 per adviser and a total of \$68,000.

The estimated one-time cost of this proposal totals \$393,000. The ongoing cost of maintaining registration information and completing and filing Form ADV is not accounted for here because the advisers prepare and file such forms to meet state registration requirements and would continue to do so without regard to this proposed regulation. The ongoing incremental cost of this proposal is therefore \$100 per adviser per year, or \$50,000.

The Department considered alternatives to this proposal, including issuing no guidance and implementing a standard that would provide the adviser an option to either file a print copy of its state registration or make use of the IARD. The value of greater efficiency through the elimination of dual sources of registration information and promotion of greater accessibility of consistent information through electronic methods was considered to outweigh the relatively modest estimated cost of about \$800 per adviser in the first year, and \$100 per adviser in each subsequent year. As a result, the Department elected to issue this proposal and seek public comment on its views.

Executive Order 12866

Under Executive Order 12866, the Department must determine whether the regulatory action is "significant" and therefore subject to the requirements of the Executive Order and subject to review by the Office of Management and Budget (OMB). Under section 3(f), the order defines a "significant regulatory action" as an action that is likely to result in a rule (1) having an annual effect on the economy of \$100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also referred to as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement grants, user fees,

or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of the Executive Order, it has been determined that this action is "significant" within the meaning of section 3(f)(4) of the Executive Order and has therefore been reviewed by OMB. The Department has also undertaken the assessment of the costs and benefits of this regulatory action presented above.

Paperwork Reduction Act

As part of its continuing effort to reduce paperwork and respondent burden, the Department of Labor 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 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, EBSA is soliciting comments concerning the proposed information collection request (ICR) included in this Notice of Proposed Rulemaking concerning Electronic Registration Requirements for Investment Advisers to be Investment Managers Under Title I of ERISA (ERISA Investment Manager Electronic Registration). A copy of the ICR may be obtained by contacting the individual identified in the PRA Addresses section below.

The Department has submitted a copy of the proposed information collection to OMB in accordance with 44 U.S.C. 3507(d) for review of its information collections. The Department and OMB are 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 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.

Comments should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503; Attention: Desk Officer for the Employee Benefits Security Administration. Although comments may be submitted through February 9, 2004, OMB requests that comments be received within 30 days of publication of the Notice of Proposed Rulemaking to ensure their consideration.

PRA Addresses: Address requests for copies of the ICR to Joseph S. Piacentini, Office of Policy and Research, U.S. Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue, NW., Room N-5718, Washington, DC 20210. Telephone (202) 693-8410; Fax: (202) 219-5333. These are not toll-free numbers.

The Department is issuing these proposed rules to establish the uniform availability of investment adviser registration information in a centralized electronic database. The proposed rule would affect investment advisers that register with the states rather than SEC by virtue of the requirements of NSMIA, who do not currently register electronically through the IARD, and who wish to fall within the definition of investment manager for purposes of ERISA section 3(38)(B). Such advisers currently file a paper copy of the applicable state registration form with the Secretary of Labor pursuant to section 3(38)(B)(ii) of the statute. The information collection is found in the proposed regulation at section 2520.3-38(b). The basis for the burden estimates is found in the discussion above.

Type of Review: New collection.

Agency: Employee Benefits Security Administration, Department of Labor.

Title: ERISA Investment Manager Electronic Registration.

OMB Number: 1210-0NEW.

Affected Public: Individuals or households; Business or other for-profit.

Respondents: 500.

Frequency of Response: Annually.

Responses: 500.

Estimated Total Burden Hours: 1,000.

Total Annualized Capital/Startup

Costs: \$275,000.

Total Burden Cost (Operating and Maintenance): \$50,000.