

electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

III. Current Actions

This notice requests comments on the extension of the ICR included in PTE-85-68. The ICR included in this exemption is intended to ensure that the conditions of ERISA section 408 have been satisfied with respect to transactions involving customer notes. The Department is not proposing or implementing changes to the existing ICR at this time.

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

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

Title: Prohibited Transaction Exemption 85-68.

OMB Number: 1210-0094.

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

Respondents: 120.

Frequency of Response: On occasion.

Responses: 960.

Estimated Total Burden Hours: 960.

Total Burden Cost (Operating and Maintenance): \$0.00.

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

Dated: February 6, 2001.

Gerald B. Lindrew,

Deputy Director, Office of Policy and Research, Pension and Welfare Benefits Administration.

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DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Proposed Extension of Information Collection Request; Comment Request; 29 CFR 2550.408b-1

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, provides the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA 95) 44

U.S.C. 3506(c)(2)(A). 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 concerning the proposed extension of the information collection provisions of the regulation relating to loans to plan participants and beneficiaries who are parties in interest with respect to the plan (29 CFR 2550.408b-1). A copy of the proposed information collection request (ICR) can be obtained by contacting the person listed below in the **ADDRESSES** section.

DATES: Written comments must be submitted on or before April 16, 2001.

ADDRESSES: Gerald B. Lindrew, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue, NW., Washington, DC 20210, (202) 219-4782 (this is not a toll-free number), FAX (202) 219-4745.

SUPPLEMENTARY INFORMATION:

I. Background

The Employee Retirement Income Security Act of 1974 (ERISA) prohibits a fiduciary with respect to a plan from causing the plan to engage in the direct or indirect lending of money or other extension of credit between the plan a party in interest. ERISA section 408(b)(1) exempts loans made by a plan to parties in interest who are participants and beneficiaries of the plan from this prohibition provided that certain requirements are satisfied. One such requirement is that loans to participants must be made in accordance with specific provisions regarding such loans set forth in the plan. In final regulations published in the **Federal Register** on July 20, 1989 (54 FR 30520), the Department of Labor provided additional guidance on section 408(b)(1)(C), which requires that loans must be made in accordance with specific provisions set forth in the plan. This ICR relates to the specific provisions which must be included in plan documents for those plans which permit loans to participants.

II. Desired Focus of Comments

The Department of Labor is particularly interested in comments which:

- 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 clarify 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 submissions of responses.

III. Current Actions

This notice requests comments on the extension of the ICR included in 29 CFR 2550.408b-1. The ICR ensures that participants and beneficiaries are provided with adequate information with respect to matters affecting their benefits. The Department is not proposing or implementing changes to the existing ICR at this time. This existing collection of information should be continued because it ensures that participants and beneficiaries are provided with adequate information with respect to matters affecting their benefits. This ICR also provides additional guidance concerning the statutory requirement that loans to participants be made in accordance with specific written plan provisions.

Type of Review: Extension.

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

Title: Regulation Relating to Loans to Plan Participants and Beneficiaries who are Parties in Interest with Respect to the Plan.

OMB Number: 1210-0076.

Affected Public: Business or other for-profit, Not-for-profit institutions, Individuals.

Total Respondents: 1,300.

Frequency: On occasion.

Total Responses: 1,300.

Average Time Per Response: 3 hours.

Estimated Total Burden Hours: 0.

Total Burden Cost (operating/maintenance): \$281,000.

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: February 6, 2001.

Gerald B. Lindrew,

Deputy Director, Office of Policy and Research, Pension and Welfare Benefits Administration.

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DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Application No. D-10584, et al.]

Proposed Exemptions; New York Life Insurance Company (NYLIC)

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or request for a hearing on the pending exemptions, unless otherwise stated in the Notice of Proposed Exemption, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state: (1) The name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, Room N-1513, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Attention: Application No. _____, stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of the Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N-5638, 200 Constitution Avenue, NW., Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

New York Life Insurance Company (NYLIC), Located In New York, NY

[Application No. D-10584]

Proposed Exemption

The Department of Labor is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 C.F.R. part 2570, subpart B (55 FR 32836, 32847, August 10, 1990).¹

I. Transactions

If the exemption is granted, the restrictions of section 406(a)(1)(A) through (D) and 406(b) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (F) of the Code shall not apply to the following transactions, if the conditions set forth in Section II and Section III, below, are satisfied:

¹ For purposes of this exemption, references to specific provisions of Title I of the Act unless otherwise specified, refer to the corresponding provisions of the Code.

(a) The receipt, directly or indirectly, by a sales agent (Sales Agent or Sales Agents), as defined in Section IV(l) below, of a sales commission from NYLIC in connection with the purchase, with plan assets, of an insurance contract (the Insurance Contract or Insurance Contracts), as defined in Section IV(h) below;

(b) The receipt of a sales commission by NYLIC, as principal underwriter for a mutual fund registered under the Investment Company Act of 1940, in connection with the purchase, with plan assets, of securities issued by such mutual fund (the NYLife Fund or NYLife Funds), as defined in Section IV(c) below;

(c) The effecting by NYLIC, as principal underwriter, of a transaction for the purchase, with plan assets, of securities issued by a NYLife Fund, and the effecting by a Sales Agent of a transaction for the purchase, with plan assets, of an Insurance Contract; and

(d) The purchase, with plan assets, of an Insurance Contract from NYLIC.

II. General Conditions

(a) The transactions are effected by NYLIC in the ordinary course of NYLIC's business as an insurance company, or as a principal underwriter to a NYLife Fund, or in the case of a Sales Agent, in the ordinary course of the Sales Agent's business as a Sales Agent.

(b) The transactions are on terms at least as favorable to the plan as an arm's length transaction with an unrelated party would be.

(c) The combined total of all fees, sales commissions, and other consideration received by NYLIC or a Sales Agent: (1) For the provision of services to the plan, and (2) in connection with a purchase of an Insurance Contract or securities issued by a NYLife Fund, is not in excess of "reasonable compensation" within the contemplation of section 408(b)(2) and (c)(2) of the Act and section 4975(d)(2) and (d)(10) of the Code. If such total is in excess of "reasonable compensation" the "amount involved" for purposes of the civil penalties of section 502(i) of the Act and excise taxes imposed by section 4975(a) and (b) of the Code is the amount of compensation in excess of "reasonable compensation."

III. Specific Conditions

(a) NYLIC or the Sales Agent is not—

(1) A trustee of the plan (other than a non-discretionary trustee who does not render investment advice with respect to any assets of the plan or a trustee to a pooled trust (the Pooled Trust), as defined in Section IV(g)