

# DOL Enforcement Actions Serve as Strong Reminder to Plans to Exercise Fiduciary Prudence

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**PRACTICES** ERISA and Other Benefits Litigation, Employee Benefits and Executive Compensation

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The DOL's recent publication of a summary of the Employee Benefits Security Administration's ("**EBSA**") ERISA enforcement activities for FY 2023 is a good reminder that plan sponsors need to closely monitor plan operations to avoid potential penalties and claims. Specifically, the DOL summary notes that EBSA:

- Recovered over \$1.4 billion for employee benefit plans, plan participants, and beneficiaries. More than half of the recoveries in FY 2023 were the result of enforcement actions, including \$429 million in distributions owed to terminated vested participants in defined benefit pension plans.
- Closed 731 civil investigations in FY 2023, with 70% of investigations yielding monetary recoveries or other corrective action. Over 20% of the non-monetary corrective actions involved fiduciaries (i.e., removing plan fiduciaries or barring individuals from serving as fiduciaries). EBSA also closed 196 criminal investigations during the year, resulting in the indictment of 60 individuals.
- Handled over 197,000 informal complaints involving alleged violations of ERISA and recovered over \$444 million through informal resolution of these complaints.
- Distributed \$61 million to participants through the termination of abandoned employer-sponsored pension plans and collected \$84 million from the DOL's Voluntary Fiduciary Correction Program.

To mitigate risk, plan sponsors should annually review plan operations for potential breaches of fiduciary duties. Common areas where we see fiduciary breaches include plan sponsors failing to timely remit employee contributions to the plan, particularly for off-cycle and manually cut checks; plan committees not using best practices to monitor, choose, and remove plan investments and not properly benchmarking performance and fees; and plan fiduciaries relying heavily on third-party administrators to process claims without reviewing the claims letters and/or procedures being used by the third-party administrators.

The fact sheet concerning EBSA's ERISA enforcement activities in FY 2023 is available [here](#).