

DOL Finalizes Updates to the Voluntary Fiduciary Correction Program

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PRACTICES Employee Benefits and Executive Compensation

The DOL recently adopted an amended and restated Voluntary Fiduciary Correction Program (the “**VFCP**”) under ERISA for the first time since its last revision in 2006. As background, the VFCP is a correction program that allows plan fiduciaries to correct certain fiduciary violations under ERISA without facing civil enforcement actions and penalties.

To receive relief through the VFCP, plan fiduciaries generally must undergo a formal application process; however, under the updated VFCP, the DOL will now allow plans to voluntarily self-correct the following two prohibited transactions: (i) delinquent participant contributions and loan repayments to retirement plans, and (ii) eligible inadvertent participant loan failures, subject to the conditions described below.

The new VFCP Self-Correction Component (the “**SCC**”) relating to delinquent participant contributions and loan repayments is only available if (i) the total lost earnings amount on the delinquent participant contributions or loan repayments is \$1,000 or less, and (ii) the delinquent participant contributions or loan repayments were remitted to the plan within 180 calendar days from the date of withholding from the participants’ paychecks or receipt by the employer. With respect to eligible inadvertent participant loan failures, the SCC is available for violations involving loans from a plan to a participant if such failures are self-corrected under the IRS’s Employee Plans Compliance Resolution System.

To utilize the SCC, a plan sponsor must submit an electronic notice to the DOL through an online VFCP web tool and complete a penalty of perjury statement. In connection with the SCC, the DOL also issued a corresponding amendment to DOL Prohibited Transaction Exemption 2002-51 (available [here](#)) to expand excise tax relief under this exemption to include corrections made through the SCC.

In addition, the updated VFCP provides (i) additional correction options for prohibited plan loan, purchase, and sale transactions; (ii) expansion of relief for prohibited sale and leaseback of real property to affiliates of the plan sponsor; (iii) permission to correct delinquent participant contributions and loan repayments even if there is evidence of criminal activity provided the applicant certifies it did not participate and appropriate law enforcement authorities are notified; and (iv) submission of a “bulk” application by plan service providers to address violations involving multiple plans.

The amended and restated VFCP is effective March 17, 2025, and is available [here](#).