

DOL Updates Voluntary Fiduciary Correction Program

The Department of Labor (DOL) has released a 2006 Update of the Voluntary Fiduciary Correction Program (VFCP), and has also adopted an amendment in conjunction with the updated regulations. The VFCP is designed to encourage employers to voluntarily comply with the Employee Retirement Income Security Act by self-correcting certain violations of the law.

The updated regs are effective as of May 19, 2006, and include:

- expansion and simplification of eligible transactions, including four new covered transactions;
- streamlined documentation and clarified eligibility requirements;
- a model application form;
- clarification of what constitutes "under investigation," allowing more entities to qualify for the program; and
- relief from civil penalties from transactions involving health and welfare plans.

The adopted amendment, which was published simultaneously with the VFCP update, expands the relief under the exemption to additional transactions included in the 2006 Update of the VFCP. Excise tax relief is being provided for prohibited transaction violations involved in the purchase of an asset by a plan when the asset has been determined to be illiquid, and/or the subsequent sale of the illiquid asset by the plan.

A second new transaction covers the use of plan assets to pay expenses to a service provider for services that are characterized as "settlor expenses," provided such payments were not expressly prohibited in the plan documents.

Additionally, the Department has eliminated a notice requirement applicable to de minimis situations involving delinquent participant contributions and/or the failure to transmit participant loan repayments.

For more information about the 2006 Update of the VFCP and the class exemption amendment, surf to:

<http://www.dol.gov/ebsa/newsroom/fs2006vfcp.html> and
http://www.dol.gov/ebsa/compliance_assistance.html#section8.