

Client Advocate Alert

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DOL Investigates Plan Sponsors & Fiduciaries, Restoring Billions to Plans in 2021

“The Employee Benefits Security Administration (EBSA) works diligently to ensure American workers, retirees, and beneficiaries receive the benefits they have earned,” Acting Assistant Secretary for Employee Benefits Security Ali Khawar said in a statement. “The results for fiscal year 2021 underscore our commitment.”

The numbers speak for themselves. The EBSA, a division of the Department of Labor (DOL), restored more than \$2.4 billion to qualified retirement plan participants and beneficiaries in 2021. \$1.9 billion was recovered through plan audits and investigations. Grievance resolutions accounted for another \$499.5 million in recoveries. The EBSA’s Abandoned Plan Program and Voluntary Fiduciary Correction Program (VFCP) collected another \$50.8 million and \$34 million respectively.

In addition to recovering plan assets, the EBSA made other plan corrections – including the removal of six fiduciaries, denying 34 people from acting as fiduciaries and appointing 16 independent fiduciaries, as well as rectifying plan operations and procedures in 124 cases.

In all, EBSA covers more than 734,000 private retirement plans, impacting over 150 million workers, retirees and their families. It also is authorized to probe for possible criminal conduct, such as a breach of the Employee Retirement Income Security Act (ERISA) and other qualified retirement plan violations. In 2021, EBSA investigations resulted in 72 criminal indictments.

Plan sponsors and fiduciaries can avoid EBSA enforcement action by self-correcting ERISA offenses through the VFCP and Delinquent Filer Voluntary Compliance Program (DFVCP). 1,201 VFCP applications were submitted in 2021, resulting in \$34 million of recoveries. More than 22,500 DFVCP applications were accepted in 2021 to restore plans into compliance.

Kidder encourages plan sponsors and fiduciaries to consult with qualified plan professionals to assist them with the fiduciary processes, documentation, administrative and compliance procedures necessary to satisfy their legal and fiduciary obligations. Kidder has provided fiduciary governance, administrative and education support for plan sponsors, fiduciary committees, and other plan fiduciaries since 1996.

We believe it is critical to identify and address potential issues early to see if self-correction is possible before the DOL becomes involved.