

## Corporate & Financial Weekly Digest

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### **DOL Expects to Focus on Health Care and Fiduciary Issues in Coming Months**

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On January 20, the United States Department of Labor (DOL) made its semiannual regulatory agenda and regulatory plan statement available on its website. The regulatory agenda is the DOL's list of regulations it expects to have under active consideration for promulgation, proposal, or review during the next six to 12 months. The Employee Benefits Security Administration (EBSA) is the DOL agency that is responsible for administering and enforcing much of the Employee Retirement Income Security Act of 1974, as amended (ERISA).

During the next six to 12 months, EBSA expects to continue to issue guidance to assist in implementing the health reform provisions of the Affordable Care Act in order to both minimize disruptions to existing plans and practices, and to make as smooth as possible the implementation of the legislation's market reforms. Much of the regulations and guidance issued by EBSA in this regard is expected to be in the form of joint rulemakings with the Departments of Health and Human Services and the Treasury.

EBSA is also expecting to re-propose regulations to clarify circumstances under which a person will be considered a "fiduciary" when such person is providing investment advice to employee benefit plans and their participants and beneficiaries. The DOL previously withdrew its proposed regulations on this topic in late 2011 in response to the number of public comments it received with respect to such proposed regulations. The re-proposed regulations are expected to take into account the current practices of investment advisers as well as the expectations of both plan officials and the participants that receive the investment advice.

EBSA is also working on a proposed rule that would require that account statements prepared for participants in defined contribution plans (such as a 401(k) plan) express the account balance as a lifetime income stream of payments, in addition to presenting the total current value of the account. This proposed rule stems from a 2010 request for information published by EBSA seeking input concerning the steps it may take to encourage the offering of lifetime annuities or benefit distribution options for participants and beneficiaries of defined contribution plans.

Finally, EBSA intends to revise the regulations regarding abandoned plans to include plans of businesses in liquidation proceedings. Such revision is needed to reflect recent changes in the U.S. Bankruptcy Code. The DOL hopes that the changes will allow for a more efficient process, allowing bankruptcy trustees to use a streamlined termination process, in order to allow the bankruptcy trustee to better discharge its obligations under the law.

The DOL's regulatory agenda can be found [here](#).

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