

Publications

View from Groom: DOL's Revised VFCP Should Provide an Opportunity to Submit Comments

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The Department of Labor (“DOL”) Voluntary Fiduciary Correction Program (“VFCP”) and the related Prohibited Transaction Class Exemption (“PTE”) 2002-51 provide for the rare opportunity to obtain retroactive excise tax relief on prohibited transactions. While only certain types of transactions are covered under the VFCP — and a narrower set is covered under PTE 2002-51 — for the right type of transaction, retroactive exemptive relief can be obtained for an unlimited number of prohibited transactions. Even for those transactions covered under the VFCP but not under PTE 2002-51, filing a VFCP application could result in a “no action” letter from the DOL. Thus, any revisions to the VFCP to make its use more attractive would be a welcome development.

While the DOL is undoubtedly busy with its fiduciary rule proposal, the DOL’s regulatory agenda includes publishing a revised VFCP this fall as an interim final rule. While this may be delayed, once the interim final rule is published, interested persons should have an opportunity to submit public comments on the VFCP. Please see the attached article for further information.

[1642 ViewfromGroom DOL Revised VFCP Should Provide Opportunity to Submit Comments](#)