

*Welcome news for
small plans!*



Guidance on Timing of Deferral Deposits

The Department of Labor has proposed new regulations for plans with less than 100 participants regarding how long the employer has to deposit employee contributions into the 401(k) plan. This should be welcome news for small plans. Historically, plan sponsors have been required to deposit deferrals into the plan as of the earliest date on which such contributions can reasonably be segregated from the employer's assets, but in no event to exceed the 15th business day of the month following the month the participants' contributions are received by the employer.

Many plan sponsors and service providers disregarded the "earliest date" aspect of the regulation. The Department of Labor's focus has been on enforcing the opposite, the requirement that funds be deposited as soon as they can be reasonably segregated from the employer's general assets. As a result, many deferral deposits were being considered late which was resulting in employers being penalized.

The proposed regulations apply to plans with less than 100 participants at the beginning of the plan year. Plans will be in compliance as long as contributions are deposited within 7 business days of the payroll date. The proposed regulations are intended to provide small plan sponsors with a clear safe harbor to ensure compliance with the deposit standards.

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