

DOL Announces New Self-Correction Component of Voluntary Fiduciary Correction Program: What Plans and Sponsors Should Know

MARCH 4, 2025

Earlier this year, the Department of Labor (DOL) announced updates to the [Voluntary Fiduciary Correction Program](#) (VFCP), which are set to take effect March 17, 2025. As an alternative to the more onerous VFCP Application Process, certain common plan errors will soon be eligible for a streamlined self-correction process, known as the Self-Correction Component (SCC). In addition, the DOL [amended](#) the associated Prohibited Transaction Exemption, PTE 2002-51, to extend relief to certain corrections under the new SCC.

1. DELINQUENT PARTICIPANT CONTRIBUTIONS AND LOAN REPAYMENTS

Most commonly, employers use the VFCP to correct delinquent participant contributions. Participant contributions generally become “delinquent” when an employer transfers participant contributions or loan repayments to the plan trust outside its usual window for such remittance (or, for small plans, outside the seven-business-day safe harbor period for remittance). The new VFCP includes an SCC for insignificant failures to timely transmit participant contributions and participant loan repayments to plans subject to the fiduciary responsibility requirements of the Employee Retirement Income Security Act of 1974 in specific circumstances as outlined below.

To self-correct, delinquent participant contributions must have been remitted to the plan within 180 calendar days of the date of withholding from participants’ paychecks or receipt by the employer. The amount of lost earnings (determined from the date of withholding using the VFCP calculator tool) on the delinquent participant contributions must be \$1,000 or less, excluding any excise tax amounts paid to the plan under the related prohibited transaction exemption.

2. PARTICIPANT LOAN TRANSACTIONS CORRECTED PURSUANT TO IRS’S EMPLOYEE PLANS COMPLIANCE RESOLUTION SYSTEM (EPCRS)

The SECURE 2.0 Act of 2022 (SECURE 2.0) requires the DOL to accept self-correction of certain plan loan failures under [EPCRS](#), the IRS’s correction procedures, as meeting the requirements of the VFCP. The latest updates reflect the DOL’s effort to comply with this statutory mandate.

To qualify for self-correction under the DOL’s SCC for participant loan failures, the loan failure must also qualify for self-correction under the IRS’s EPCRS, and the plan must in fact self-correct under EPCRS. Provided these requirements are met, the following loan failures are eligible for self-correction under VFCP:

- providing a loan for which the terms did not comply with the requirements of 72(p) of the Internal Revenue Code concerning the amount, duration, or level amortization of the loan;
- a loan that defaulted because of the failure to withhold loan repayments from the participant's wages;
- failure to obtain spousal consent for a loan; or
- allowing a loan that exceeds the number permitted under the terms of the plan.

The above loan failures may be corrected under the SCC even if the plan or self-corrector is under investigation, so long as the failure is eligible for correction under EPCRS.

3. REQUIREMENTS TO TAKE ADVANTAGE OF THE SCC

In general, to obtain relief under the SCC of the VFPC, the following requirements must be met:

- SCC Notice. For each failure corrected under the SCC, plan officials must file a short electronic notice with the DOL containing basic information regarding the plan and the correction.
- Document Retention Requirements. Self-correctors must prepare or collect certain information and/or documentation necessary to demonstrate completion of the correction. The document retention requirements differ with respect to each correction type. The guidance details the information that the plan should maintain, including providing a checklist that must be used to complete the correction of a delinquent participant contribution.
- Penalty of Perjury. A plan fiduciary with knowledge of the transaction and each plan official seeking relief under the program must sign a penalty of perjury statement in the form specified in the DOL's guidance.

4. RELIEF AVAILABLE UNDER THE SCC

If the program's eligibility and self-correction requirements are met, the DOL will not pursue a civil investigation regarding the self-corrector's responsibility for the fiduciary breach identified in the SCC. In addition, the DOL will not assess civil penalties with respect to the corrected transactions.

For delinquent participant contributions and loan repayments, the DOL has also expanded the relief available under PTE 2002-51 to self-correctors that meet the above requirements without requiring the additional step of providing notice to interested parties.

Takeaway: The new self-correction program is good news for plan sponsors, as it is intended to reduce the burden of correcting these common plan errors. For additional information as to how to take advantage of this program, please contact a member of the Winston & Strawn Employee Benefits and Executive Compensation Practice or your Winston relationship attorney for further information.

Law Clerk Deeraiya Islam also contributed to this blog post.

3 Min Read

Authors

Anne Becker

Abby Brothers

Grant E. Shillington

Deeraiya Islam

Related Topics

401(k)

DOL

Department of Labor

Employee Benefits and Executive Compensation

Internal Revenue Service (IRS)

Qualified Retirement Plans

Related Capabilities

Employee Benefits & Executive Compensation

Labor & Employment

Health Care

Related Professionals



Anne Becker



Abby Brothers



Grant E. Shillington

This entry has been created for information and planning purposes. It is not intended to be, nor should it be substituted for, legal advice, which turns on specific facts.

