

Option A: DOL Interagency Agreement

Procedures for Cooperation Between the Federal Financial Institution Regulatory Agencies and the Department of Labor in the Enforcement of the Employee Retirement Income Security Act of 1974

The Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, National Credit Union Administration, Office of the Comptroller of the Currency and Office of Thrift Supervision (the federal financial institution regulatory agencies) as part of their supervision of the institutions regulated by them, conduct examinations and perform other functions which occasionally disclose possible violations of the Employee Retirement Income Security Act of 1974 (ERISA). The Department of Labor (DOL) is charged with the administration, interpretation and enforcement of standards of conduct and responsibility of fiduciaries of employee benefit plans under ERISA.

Section 3004(b) of ERISA provides that the Secretary of Labor may utilize the facilities or services of any department, agency, or establishment of the United States, with the lawful consent of such department, agency, or establishment, and each department, agency or establishment of the United States is authorized and directed to cooperate with the Secretary of Labor and, to the extent permitted by law, to provide such information and facilities as the Secretary may request for his assistance in the performance of his functions under ERISA. This agreement is executed pursuant to that authority.

1. To the maximum extent consistent with law and dependent upon the availability of resources, the federal financial institution regulatory agencies shall provide written notification to the DOL of possible violations of ERISA of a significant nature, which are discovered in the course of their supervision of institutions subject to their respective jurisdiction.
2. A possible violation shall be considered significant when, in the view of the appropriate federal financial institution regulatory agency, it falls within the following circumstances:
 - a. Where the financial institution does not serve as plan administrator or plan sponsor, as those terms are defined in ERISA Section 3(16), possible violations of:
 - I. Title I, Part 4, Section 404, relating to fiduciary duties (including transactions directed by named fiduciaries or qualified investment managers), except where the transaction amounts, individually or in combination with other questionable transactions, constitute less than \$100,000;
 - II. Title I, Part 4 Section 405, relating to liability for breach of co-fiduciary duties (including transactions directed by named fiduciaries or qualified investment managers), except where the transaction amounts, individually or in combination with other questionable transactions, constitute less than \$100,000;
 - III. Title I, Part 4, Sections 406 and 407(a), relating to prohibited transactions, except where the threat of loss to the plan participants is de minimis;
 - IV. Title I, Part 4, Section 411, relating to prohibition against certain persons holding certain positions;

- V. Title I, Part 4, Section 412, relating to the bonding requirements as applicable to the financial institution itself.
 - b. Where the financial institution, in respect to a plan, also serves as plan administrator or plan sponsor, the agencies shall provide written notification of possible violations of the ERISA sections enumerated in a. above and, in addition, shall provide written notification of possible violations of Title I, Part 1, of ERISA relating to reporting and disclosure.
3. The written notification to the DOL shall include the following:
 - a. The name of the financial institution.
 - b. The name of the plan.
 - c. A brief description of the nature of the possible violation, and any corrective action requested by the federal financial institution regulatory agency and/or initiated by the federal financial institution regulatory agency.
4. The DOL agrees that any information received from the federal financial institution regulatory agencies pursuant to this agreement shall, to the extent permissible by law, be held in strict confidence and may be used for investigative purposes only; and that no other use of such information shall be made without the express written authorization of the agency that supplied such information.
5. The written notification shall be sent to the Director of Enforcement, Employee Benefits Security Administration, U.S. Department of Labor, Washington, D.C. 20210.

For The Federal Financial Institution Regulatory Agencies: Jennifer J.
Johnson
Secretary
Board of Governors of the Federal Reserve System
Date signed: February 23, 2006

Christopher J. Spoth
Acting Director
Division of Supervision and Consumer Compliance
Federal Deposit Insurance Corporation
Date signed: February 8, 2006

David M. Marquis
Director
Office of Examination and Insurance
National Credit Union Administration
Date signed: March 1, 2006

Emory W. Rushton
Senior Deputy Comptroller and Chief National Bank Examiner
Office of the Comptroller of the Currency
Date signed: February 13, 2006

Scott M. Albinson
Managing Director
Examinations, Supervision and Consumer Protection
Office of Thrift Supervision
Date signed: February 8, 2006

For the Department of Labor
BY: Ann L. Combs
Assistant Secretary of Labor
Employee Benefits Security Administration
Date signed: January 26, 2006