

February 5, 2009

TCRS 2009-02: Department of Labor Proposed Extension of Effective Date of Final Regulations Relating to Investment Advice

The Employee Benefits Security Administration – Department of Labor (DOL) issued a notice proposing to extend the effective date of the final regulations relating to the provision of investment advice to participants and beneficiaries of individual account plans, such as 401(k) plans.

Background

On January 21, 2009, the DOL published final regulations relating to the provision of investment advice. The final regulations implement a statutory prohibited transaction exemption under ERISA sections 408(b)(14) and 408(g) and an administrative class exemption granting additional relief. As published, these regulations were to be effective on March 23, 2009. On January 20, 2009, Rahm Emanuel, assistant to the President and Chief of Staff, issued a memorandum directing Agency Heads to consider extending for 60 days the effective date of regulations that have been published but not yet taken effect, such as these final regulations on investment advice.

The directive further provided that where the effective date of any regulation is extended in this manner, a 30-day comment period be provided, so interested persons could comment on issues of law and policy raised by the regulation.

DOL Extension

In accordance with the directive, the DOL is extending the effective date of these final regulations to May 22, 2009. This additional time would allow the DOL to evaluate comments received and decide whether to allow the final regulations to take effect, issue a further extension, withdraw the final regulations, or propose amendments.

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