

Executive Compensation Legislation

Following Enron and other recent corporate scandals, executive compensation practices have come under increasing scrutiny from the media, politicians and regulators. Congress addressed perceived problems in this area in 2004 with the enactment of section 409A of the Internal Revenue Code, and 400 pages of final Treasury regulations under section 409A became final on January 1, 2009. We were on the front lines lobbying against even more far-reaching changes that were considered as part of earlier versions of the section 409A legislation and regulation. Groom also helped clients work against recently-enacted legislation to impose significant restrictions on certain foreign nonqualified deferred compensation arrangements (Code section 457A) and proposed legislation to provide an annual cap on nonqualified deferred compensation. In addition, we have been helping clients navigate the executive compensation restrictions imposed as part of the financial bailout legislation and related guidance. Examples of our relevant experiences include:

- Drafting legislative amendments to improve and clarify problematic 409A deferral cap and section 457A legislation.
- Drafting talking points in opposition to far-reaching legislative proposals.
- Working with Congressional staff to improve the understanding of the impact of legislative proposals on equity and performance-based compensation arrangements.
- Keeping clients informed of the outlook for, and implications of, changes being contemplated by Congress in this area.