

## Department of Labor Audits and Investigations

Acting through the Employee Benefits Security Administration (EBSA), an agency of the Department of Labor (DOL), the Secretary of Labor exercises broad investigatory and enforcement authority under Title I of the Employee Retirement Income Security Act (ERISA). EBSA investigators seek to identify possible violations of the statute's fiduciary responsibility and prohibited transaction (PT) provisions through random audits and agency enforcement initiatives. These efforts target not only plan sponsors, but also individuals and entities that provide services to ERISA-covered plans. The majority of EBSA investigations lead to monetary results or fines levied against the targeted entity.

Groom attorneys regularly defend individuals and entities targeted by EBSA investigations. Our involvement has helped clients to achieve favorable resolution of disputed fiduciary and PT issues. Similarly, our involvement has helped to coordinate – and to minimize the overall cost – of dealing with the complex Internal Revenue Service (IRS) excise tax rules that will often overlay an EBSA investigation. In responding to such investigations, clients receive the benefit of strong substantive knowledge and thorough understanding of DOL procedures.

Recent client successes in this area include:

- Defended a large corporate sponsor in bankruptcy-related Rapid ERISA Action Team (REACT) audit by EBSA, which resulted in a "no action" letter from DOL.
- Defended a plan service provider in a multi-year investigation concerning industry fee structures and practices with a nationwide customer base.
- Negotiated a favorable settlement of multi-million dollar PT civil liability and IRS excise tax issues arising from an EBSA investigation of investment manager's fee arrangements.
- Defended plan service providers in audits and investigations relating to recordkeeping and third-party administrative services.
- Successfully defended numerous audits of plans of financial institutions in connection with PTE 77-4 and sections 408(b)(2)(5) and (8).

*Department of Labor Audits  
and Investigations Continued*

- Developed and implemented a strategy leading to DOL changes in its enforcement manual for the treatment of gifts and entertainment.