

Publications

Employer Securities Issues After ENRON

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In the wake of the Enron collapse and in light of the ongoing Congressional hearings, government investigations and proposed legislation, plan sponsors will need to address employee benefit plan holdings in employer stock. We already know what some of the major questions are. The fundamental question is: When is a plan sponsor required to pull the plug on a plan's holdings in employer securities? Plan sponsors also should consider these important, related questions:

Are there any special rules under ERISA regarding employer securities?

Does it make a difference that my plan is designed for the purpose of holding employer securities?

Does 404(c) protect plan sponsors from liability for losses relating to employer securities?

How do the SEC's insider trading rules impact a plan sponsor's fiduciary obligations to participants?

How will Enron change the legal landscape?

How will Congress react to the Enron debacle?

Given the level of litigation and legislative activity, it is not possible to give assurances about how these issues ultimately be resolved. Yet, even though the legal landscape is quite fluid, we think it is important to try to give plan sponsors as much information as possible so that when plan sponsors discuss their benefit programs with counsel, they will have some understanding about the risks and rewards, added fiduciary obligations and potential liability that could arise from plan holdings in employer securities.

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Groom Law Group's Steve Saxon speaks on Employer Securities Issues After ENRON”