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News

Mayland Covers Prohibited Transaction Bans with Ignites

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Groom of counsel Scott Mayland was featured by *Ignites* in the article, "DOL Finalizes Rule to Limit Carveouts on Transaction Bans," where he examined the Department of Labor's ("DOL") proposed rule to change the procedures around transactions prohibited under the Employee Retirement Income Security Act ("ERISA").

Regarding the amended exemption procedure, *Ignites* reported that Mayland said that "it may also lead to fewer exemptions' being granted."

"Any time you increase the burdens of complying with a regulation, you could certainly have a narrower circumstance in which the DOL will grant the exemption," he said. "They are saying to the extent there is any narrowing, they are doing whatever is appropriate and they are looking out for the plan participants."

Ignites wrote that, according to Mayland, "requests for exemption can take years."

The platform reported that "because applicants will be required to provide more information upfront, the agency won't have to go back to them several times to ask for more information," said Mayland.

Ignites noted that Mayland said that "the new definitions will impose more requirements and restrictions on both parties," and that "other parts of the 2022 proposal were walked back in response to industry feedback."

The platform further reported that, according to Mayland, "The DOL has become more skeptical of individual applications for permission to engage in prohibited transactions."

"Their presumption is that they shouldn't allow them, because…they are considered prohibited under ERISA," Mayland added.

Mayland, *Ignites* reported, noted that "the DOL views transactions that benefit the plan sponsor and the plan's financial institution 'very skeptically,'"

"They will think that the real reason you are seeking this individual exemption is that you are not benefiting plan participants, but you are trying to benefit the plan sponsor or the financial institution," he added. "You really have to prove that the financial benefit of the sponsor or financial institution is really minimal or is significantly outweighed by the benefit to the plan participant."

However, according to *Ignites*, Mayland remarked that "that isn't what ERISA requires."

“It just requires that the transaction will benefit the plan,” he said. “It doesn’t say that it can’t benefit other parties.”

To read the article, click here.