

News

PLANADVISER Features Kreps on ESOP Regulation

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PUBLISHED

10/04/2023

SOURCE

PLANADVISER

SERVICES

Employers & Sponsors

- Fiduciary & Plan Governance
- Retirement Programs

[Michael Kreps](#), Groom principal and chair of the firm's [Retirement Services](#) group, was featured in the *PLANADVISER* article, "Will ESOPs Finally Get Regulatory Clarity?," where he explored the difficulties of the uncertainties surrounding the Department of Labor's ("DOL") regulation of employee stock ownership plans ("ESOPs") for plan sponsors and what the DOL's future rules should include.

According to *PLANADVISER*, Kreps explained that "public stock can easily be valued because it has a market price. Private equity does not have that benefit, but the appraisal industry has its own standardized methods for determining prices."

PLANADVISER wrote, "The lack of effective rules from the DOL leaves industry actors asking, 'Will the regulators accept their methodologies' of appraisal?' The challenge for ESOPs," Kreps continued, "is that they need to figure out 'what the DOL can live with.'"

The outlet continued, "According to Kreps, the DOL proposed a valuation rule in 1998, but that process was abandoned. In the meantime, DOL has 'preferred not to tell us' what methods should be used and instead has relied on an approach of 'we know when we see it, and when we don't like it, we will deal with it through litigation.' This approach has a 'destabilizing' influence on ESOP sponsors."

Kreps said a new rule from the DOL "needs to focus on substance. We need to move past procedure." *PLANADVISER* reported that Kreps "wants the DOL to describe how to value different interests, some of which can be difficult to appraise, such as 'control and appreciation rights,' as well regulatory risks."

PLANADVISER noted that Kreps added that "employee ownership has been a high priority for the administration of President Joe Biden, but he is unsure of when to expect a proposal."

To read the article, [click here](#).