

DOL Updates Guidance on Auditor Independence for Retirement Plan Engagements

In September, the U.S. Department of Labor (DOL) released an Interpretive Bulletin that updates guidance on audits of benefit plans under the Employee Retirement Income Security Act. The updated guidelines are intended to help determine when a qualified public accountant is independent for the purpose of auditing and rendering an opinion on the Form 5500. With the new guidance, DOL removes what it describes as certain “outdated and unnecessarily restrictive provisions” and reorganizes other provisions for clarity.



While offering clarification for auditors, the bulletin also aims to inform plan sponsors seeking to engage external accounting resources and ensure adequate access to knowledgeable practitioners. “Our goal in updating the Interpretive Bulletin is to make sure the Department of Labor’s interpretations in this area continue to foster proper auditor independence while also removing outdated and unnecessary barriers to plans accessing highly qualified auditors and audit firms,” said Acting Assistant Secretary of Labor for Employee Benefits Security Ali Khawar in a statement.

Among changes in the new bulletin is an update on what constitutes a “disqualifying financial interest” for new audit engagements. According to the guidelines, an accountant, or accounting firm, is not prohibited from taking on a new engagement solely due to a related party holding the plan sponsor’s publicly traded securities during the financial statement period. However, DOL specifies that “the accountant, accounting firm, partners, shareholder employees, and professional employees of the accountant’s accounting firm, and their immediate family,” must dispose of any such holdings before the period during which the engagement occurs. It defines that period as beginning when the accountant either signs an agreement to perform the engagement or commences the audit process (whichever comes first) and “ending with the formal notification, either by the member or client, of the termination of the professional relationship or the issuance of the audit report for which the accountant was engaged, whichever is later.”

The bulletin also provides clarification on what constitutes an “office” for determining who is considered a “member” of an accounting firm and when someone would be regarded as “located in



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an office” of a firm that performs a substantial portion of the engagement. The department explains that it views an office as a “reasonably distinct subgroup within a firm” that serves the same group of clients or perform work on “the same categories of matters.” It places more weight on substantive matters such as an individual’s expected interactions with personnel and their reporting channels, rather than physical location.

In addition to its revised guidance, the new bulletin also restates some of its original promulgations on auditor independence from 1975. The guidance reminds plan administrators, for example, of the requirement to retain an “independent qualified public accountant” to conduct an annual review. The accountant, it states, must render an opinion on whether the financial statements conform with generally accepted accounting principles and whether required schedules within the plan’s annual report fairly present the information contained therein.

The full updated bulletin is available on the [U.S. Federal Register website](#).

Sources:

<https://www.dol.gov/newsroom/releases/ebsa/ebsa20220902>

<https://www.plansponsor.com/ebsa-issues-new-audit-independence-guidance/>

<https://www.federalregister.gov/documents/2022/09/06/2022-18898/interpretive-bulletin-relating-to-the-independence-of-employee-benefit-plan-accountants>

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