



DOL reveals updated enforcement projects for retirement plans

By Matthew Calloway and Margaret Berger
March 5, 2026

The Department of Labor (DOL) recently [announced](#) updates to its national enforcement projects for ERISA plans. These projects reflect priorities that guide DOL's enforcement activities, which are conducted by investigators in the agency's regional and district offices. This article provides an overview of areas of focus for retirement plans, which include cybersecurity, retirement asset management, and protection of benefit distributions.

Cybersecurity. Recognizing the risks cyberattacks pose to retirement and health plans and their participants, this enforcement project "promotes best cybersecurity practices for plans and service providers to protect sensitive information and reduce the risk of fraud and financial loss." DOL investigators will leverage the agency's [2021 cybersecurity guidance](#) to review how plans and their service providers protect systems and data from cyber threats. While DOL investigators have routinely been considering cybersecurity practices for several years, cybersecurity previously wasn't one of the agency's national enforcement projects.

Retirement asset management. This enforcement project focuses on protecting retirement income by ensuring that plan fiduciaries act prudently and avoid conflicts of interest when selecting investment options, monitoring their performance, and evaluating fees. A reformulation of DOL's previous Plan Investment Conflicts project, the project covers three areas:

- **404(c) plans.** DOL investigators will review whether defined contribution (DC) plan fiduciaries follow a reasonable process when selecting and monitoring investment options. Investigators will evaluate those processes under the agency's [404\(c\) regulation](#) and recent court rulings. ERISA [Section 404\(c\)](#) provides a safe harbor that relieves DC fiduciaries of liability for investment losses when participants decide how to invest their accounts, such as in most

401(k) plans. To qualify for this safe harbor, fiduciaries must offer participants the opportunity to choose from a “broad range of investment alternatives” and meet other conditions specified in the regulation. However, the safe harbor doesn’t relieve fiduciaries of responsibility for prudently selecting and monitoring plan investments. The project’s description suggests that midsize plans may be a particular focus of investigation, because they “may lack the resources of larger plans.”

- **Underfunded DB plans.** DOL believes participants in underfunded DB plans face a high risk of reduced or lost benefits. In this new component of the project, investigators will review fiduciaries’ procedures for overseeing the DB plan’s investment strategy to ensure they don’t pursue “risky or unsuitable investment strategies.”
- **3(21) and 3(38) fiduciaries.** This component focuses on reviewing the activities of certain fiduciary service providers to look for conflicts of interest, including service providers’ efforts to increase their compensation or direct plan investments to affiliated products. Service providers covered by this project include those who provide investment advice to plan fiduciaries but don’t have authority to make investment decisions (often referred to as 3(21) fiduciaries), as well as 3(38) fiduciaries to whom plan fiduciaries have delegated investment discretion. Investigators will also pursue criminal investigations of service providers in certain circumstances.

Protecting benefit distributions. DOL continues to prioritize efforts to ensure that participants receive their benefits in situations where sponsors fail to act, are struggling financially, or have abandoned their plans. One aspect of this ongoing enforcement project — the Terminated Vested Participant Project (TVPP) — focuses on whether DB plans maintain sufficient records and take appropriate actions to contact terminated vested participants who are owed a benefit. Although in the past, DOL has focused considerable attention on the TVPP, the agency expects that the launch of the [Retirement Savings Lost and Found](#) database — in conjunction with previously issued [best practices](#) guidance — will enable investigators to reduce enforcement activities involving missing participants.

Other projects. DOL’s updated national enforcement projects also cover health and welfare benefit plans. One project addresses plans’ and service providers’ most serious violations that block participants and beneficiaries from accessing mental health and substance use disorder benefits, while another focuses on enforcing protections under the No Surprises Act, which prevents participants and beneficiaries from receiving unexpected medical bills in certain situations. DOL also operates the Contributory Plans Criminal Project, which focuses on protecting participants who contribute to employer-sponsored retirement or health plans from criminal

abuse. Finally, while not a national project, DOL will continue to identify and shut down abusive or fraudulent Multiple Employer Welfare Arrangements.

Related resources

Non-Mercer resource

- [News release](#) (DOL, January 15, 2026)

Mercer Law & Policy resources

- [DOL goes live with SECURE 2.0 lost-and-found data collection](#) (December 12, 2024)
- [7th Circuit affirms DOL's authority to investigate ERISA plan cybersecurity](#) (September 13, 2022)
- [DOL issues cybersecurity guidance for retirement plans](#) (April 26, 2021)
- [DOL issues guidance on missing participants](#) (January 19, 2021)

Other Mercer resource

- [Cybersecurity checklist for DC plan sponsors](#)

Note: Mercer is not engaged in the practice of law, accounting, or medicine. Any commentary in this article does not constitute and is not a substitute for legal, tax, or medical advice. Readers of this article should consult a legal, tax, or medical expert for advice on those matters.