PUBLICATION

DOL Field Assistance Bulletin No. 2026-01—Practical Takeaways for ERISA Plan Sponsors and Other Fiduciaries

On April 14, 2026, the U.S. Department of Labor (DOL) issued Field Assistance Bulletin No. 2026-01 ("FAB 2026-01" or the "FAB"), setting forth guidance concerning the Employee Benefits Security Administration's (EBSA's) approach to the investigation and enforcement of the Employee Retirement Income Security Act of 1974 (ERISA). Although the FAB is directed principally to EBSA investigators and constitutes internal agency guidance, rather than a regulation or other source of law, it provides critical insight into EBSA's enforcement priorities and investigative practices. In particular, the FAB offers an important heads-up in terms of how the DOL intends to shape ERISA enforcement and the manner in which EBSA may exercise its investigative and enforcement authority in the coming years.

A Different Enforcement Philosophy

FAB 2026-01 articulates a distinct shift in the DOL's enforcement philosophy. The FAB identifies four priorities and guiding principles intended to guide EBSA's exercise of its investigative and enforcement authority:

- - prioritizing the most serious violations and significant participant harm;
  - avoiding "regulation by enforcement;"
  - providing senior-level oversight of significant enforcement initiatives; and
  - conducting investigations in a timely and efficient manner.

These priorities, which are discussed in greater detail below, do not alter the substantive fiduciary obligations imposed by ERISA. The duties of prudence and loyalty remain unchanged, and ERISA-covered plans must continue to comply with the statute, applicable regulations, and controlling judicial precedent. The principal change contemplated by FAB 2026-01 is instead one of enforcement policy: how EBSA prioritizes matters, allocates investigative resources, exercises enforcement discretion, and determines which cases warrant continued agency involvement.

Priority No. 1: Focus on the most egregious conduct or significant harm. FAB 2026-01 directs EBSA to prioritize investigations involving the most egregious conduct or significant harm. It distinguishes between criminal and civil enforcement in describing this priority.

With respect to criminal matters, FAB 2026-01 directs EBSA to prioritize cases addressing the most significant harm to the employee benefits system. In civil enforcement, the FAB places particular emphasis on investigations in which the facts directly support a breach of the duty of loyalty. It identifies as a priority conduct involving individuals or entities that, acting in bad faith, improperly administer plan benefits or misappropriate—or aid in the misappropriation of—plan assets. And it further identifies conduct undertaken to enrich plan fiduciary or advance objectives unrelated to participants' best interests as falling within this priority.

FAB 2026-01 expressly states that EBSA will continue to enforce both ERISA's duties of loyalty and prudence. Nevertheless, it directs that a significant portion of the agency's enforcement resources be focused on loyalty breaches and direct evidence of non-exempt prohibited transactions involving impermissible conflicts of interest. The FAB recognizes that breaches of the duty of prudence can threaten the security of participants' benefits, while observing that the costliest prudence violations often occur in conjunction with loyalty breaches. Where enforcement activity is based solely on an alleged breach of the duty of prudence, EBSA is directed to avoid unfairly second-guessing process-based fiduciary judgments, emphasizing that ERISA is "a law of process, not results."

FAB 2026-01 appears to signal a shift in enforcement emphasis. While plan sponsors and fiduciaries remain subject to both the duties of prudence and loyalty, EBSA's enforcement resources will place particular emphasis on bad-faith conduct, misappropriation of plan assets, impermissible conflicts of interest, and other circumstances in which participant harm is accompanied by evidence of disloyalty or other serious misconduct.

Priority No. 2: Ending "Regulation by Enforcement." FAB 2026-01 directs EBSA to avoid using enforcement actions as a means of establishing new legal standards or advancing novel interpretations of ERISA. It emphasizes the importance of fairness, clarity, and adequate notice to regulated parties and generally favors the use of notice-and-comment rulemaking or published guidance when the DOL seeks to establish or clarify generally applicable legal requirements.

The FAB does not restrict EBSA from enforcing existing statutory or regulatory requirements, nor does it prevent the DOL from pursuing novel legal issues where necessary to protect participants and beneficiaries. Rather, it establishes a general expectation that enforcement actions will be grounded in legal requirements that have been adequately communicated through ERISA, applicable regulations, published guidance, or established case law. For plan sponsors, fiduciaries, and service providers, this approach may provide greater predictability and reduce the risk of enforcement based on legal theories that have not previously been articulated.

Priority No. 3: Enhanced Senior-Level Oversight of Significant Enforcement Matters. FAB 2026-01 contemplates increased involvement by senior EBSA leadership in significant enforcement matters. The FAB identifies certain matters—including those involving novel legal theories, circuit splits, departures from established EBSA positions, and other issues of particular significance—as warranting elevation for review before enforcement activity proceeds.

This heightened level of oversight may promote greater consistency in the manner in which EBSA evaluates and pursues significant enforcement matters across its regional offices. Historically, differences in investigative approaches, legal positions, and settlement expectations among regional offices have, at times, contributed to uncertainty for plan sponsors, fiduciaries, and their advisers. Greater involvement by senior agency leadership could reduce such variability, particularly in matters involving novel or significant legal issues.

The extent to which this process will result in greater uniformity in EBSA's enforcement practices remains to be seen. Nevertheless, FAB 2026-01's emphasis on senior-level review reflects an express objective of promoting consistency, accountability, and alignment between significant enforcement actions and the DOL's broader enforcement priorities.

Priority No. 4: Timely Resolution of Investigations. As a practical matter for plan fiduciaries and their service providers, one of the FAB's most significant provisions addresses the expected duration of EBSA investigations. FAB 2026-01 provides that, in general, routine investigations should be completed within 18 months, while more complex investigations ordinarily should conclude within 30 months, absent exceptional circumstances. Investigations that remain open beyond those timeframes are subject to quarterly review by agency leadership.

These provisions appear responsive to concerns that certain investigations have remained open for extended periods, creating prolonged uncertainty and imposing significant costs on plan sponsors and other regulated parties. Greater emphasis on timely resolution could reduce the administrative and financial burdens associated with protracted investigations and promote more efficient use of agency resources.

The practical implications of these timelines, however, may extend beyond the duration of the investigation itself. If investigators are expected to complete matters within defined timeframes, they may likewise expect plan sponsors, fiduciaries, and service providers to produce documents and respond to requests more promptly. Consequently, shorter investigations may require more intensive engagement and more efficient responses during the investigative process. The FAB's emphasis on timely resolution therefore may reduce the burden of prolonged investigations while simultaneously increasing the importance of prompt, organized, and substantive cooperation once an investigation begins.

Practical Considerations for Plan Sponsors, Fiduciaries, and Service Providers

Although FAB 2026-01 reflects an emphasis on fairer, more targeted, and more predictable enforcement, its practical significance lies in the DOL's stated approach to enforcing ERISA—not in any change to the substantive requirements applicable to ERISA-covered plans. The FAB does not amend ERISA, create new legal rights or obligations, or alter the statutory and regulatory framework governing employee benefit plans. The duties of prudence and loyalty remain fully applicable, and the DOL has made clear that it will continue to enforce those requirements.

At the same time, if implemented as described, FAB 2026-01 could result in investigations that are more focused, targeted, and predictable. The FAB may provide plan sponsors, fiduciaries, and service providers with greater insight into the factors likely to influence EBSA's exercise of investigative and enforcement discretion. In particular, its emphasis on fiduciary process and opposition to "regulation by enforcement" may provide greater assurance that good-faith fiduciary decisions will not be subjected to enforcement merely because EBSA, with the benefit of hindsight, would have reached a different conclusion.

These principles do not, however, lessen the importance of sound fiduciary governance. Plan sponsors and fiduciaries should continue to maintain disciplined processes and practices, including:

- - maintaining thorough and accurate committee minutes;
  - documenting the basis for significant investment and administrative decisions;
  - monitoring service providers, fees, and other relevant plan expenses;
  - identifying, evaluating, and appropriately managing conflicts of interest;

- following established fiduciary policies and procedures;
- identifying and correcting operational errors promptly; and
- emphasizing transparency and effective conflict-of-interest management.

Given the FAB's particular emphasis on loyalty breaches, self-dealing, and prohibited transactions, documentation demonstrating that potential conflicts were identified, evaluated, and appropriately addressed are especially important.

Ultimately, the most prudent response to FAB 2026-01 is neither complacency nor a wholesale change in existing compliance practices. Plan sponsors and fiduciaries should continue to comply with ERISA's substantive requirements while ensuring that significant decisions are made through sound processes, conflicts are appropriately managed, and the basis for fiduciary decisions is adequately documented.

