



DOL Publishes Initial Regulatory Flexibility Analysis on Proposed Amendment to QPAM Exemption

September 27, 2022

On September 16, 2022, the DOL published an Initial Regulatory Flexibility Analysis (IRFA) on a proposed amendment to the qualified professional asset manager (QPAM) class prohibited transaction exemption, PTE 84-14. This exemption permits an investment fund managed by a QPAM to engage in certain party-in-interest transactions that would otherwise be prohibited by ERISA and the Code. As reported in our August 2, 2022, [article](#), the DOL recently proposed to amend several aspects of the QPAM exemption qualifications to ensure the protection of retirement plan assets and participants.

Among other items, the proposed amendment increases the current asset management and equity thresholds for QPAM eligibility and provides for subsequent annual inflation adjustments to these thresholds. The thresholds are intended to ensure that eligible fiduciaries managing retirement funds are established institutions that are large enough to discourage the exercise of undue influence upon their decision-making processes by parties in interest.

The Regulatory Flexibility Act requires an agency to present an IRFA on a proposed amendment unless the DOL certifies the proposed amendment would not have a significant economic impact on a substantial number of small entities. The DOL acknowledges that the proposed increases to asset management and equity thresholds for QPAM eligibility could potentially result in some small entities no longer being able to rely upon the exemption. Additionally, to the extent retirement plans that are small entities are more likely to hire a QPAM that is a small entity, the proposed amendment could also impact such plans. For purposes of this IRFA, the DOL considers a plan with less than 100 participants to be a small entity. However, the DOL estimates the percentage of such plans to be small. The IRFA analyzes and seeks public comment on potential economic impacts of the proposed QPAM Amendment on small entities.

The IRFA also considers the possible cost impact of the proposed amendment's various provisions on all QPAMs, including those who have engaged in certain types of misconduct. The tables summarize the estimated annual costs associated with the amendment for QPAMs in compliance with the exemption, QPAMs with prohibited misconduct and QPAMs with convictions.

The DOL requests comments on the IRFA by October 11, 2022, which is the same deadline as the extended comment period for the proposed QPAM amendment. However, the DOL will provide additional time for public input on all aspects of the proposed QPAM amendment (including the IRFA) following a public hearing scheduled for November 17, 2022.

[Federal Register: Initial Regulatory Flexibility Analysis for Proposed Amendment to Prohibited Transaction Class Exemption 84-14 \(the QPAM Exemption\) »](#)

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