

# DOL Provides 3.1 Billion Reasons to Make Compliance a Priority

By: John Kirk on November 13, 2020 on [graydon.law](https://graydon.law)

Many times, when faced with a possible compliance issue, plan sponsors will debate whether they should call their benefits attorney or not. While attorneys wish this wasn't the case, it is understood. Fixing compliance issues costs money. No one likes to spend money. An attorney will tell you the risk depends on the circumstances and ask your risk tolerance (like always). Besides, maybe you can ignore the issue since it doesn't seem to impact many participants. Maybe you can fix it easily after you do a bit of googling.

Any and all of these likely run through a plan sponsor's head when confronted with a hiccup, mistake, omission, oops, or any other compliance headache. However, the increase in enforcement should always be in the back of any plan sponsor's mind when weighing their options.

When weighing options, a plan sponsor should consider the recent release of the U.S. Department of Labor's Employee Benefits Security Administration ("**EBSA**") 2020 enforcement fact sheet. The fact sheet reported that EBSA recovered over \$3.1 billion in direct payments to plans, participants and beneficiaries from plan sponsors for compliance violations.

EBSA further reported that it conducted 1,122 civil investigations, handled over 171,000 inquiries, and indicted 70 individuals for criminal violations. In addition, monetary recoveries were shown to have increased 175% since 2017 and 310% since 2016. All of this is EBSA's long way of telling us that they are investigating compliance issues, finding violations, and collecting fines, penalties, and interest from plan sponsors.

Many of these investigations began through random targeting methods or examination of Forms 5500. But a large portion of the investigations began from participant inquiries. Participants may call the EBSA toll-free number to ask questions or report suspected compliance issues. While many of these complaints are unfounded or a misunderstanding by the participant of the facts, when EBSA becomes aware of repeated complaints with respect to a particular plan or when there is information indicating a violation of ERISA, the matter will be referred for investigation.

While you can't do much if you have been selected for a DOL investigation, you can plan and prepare to set your plan up for success in the event you do have an investigator knock on your door. Not every investigation finds violations and not every violation is a plan killer. Knowing how to prepare and navigate the investigation, its multiple requests for documents, and seemingly interminable time line is what benefit attorneys do.

Knowing you are under investigation by the government is never fun and can be very stressful. If you have questions about DOL/EBSA enforcement actions or if you are currently undergoing an investigation and would like our assistance, please contact a member of Graydon's Employee Benefits team.