



Deposit Rules - DOL Requires 401k Money Be Deposited into the 401k Plan within 7 Days

In order to protect employee 401k deferrals from employer delay and possible loss, as of January 14, 2010, The Department of Labor (DOL) now requires that employers with less than 100 participants deposit employee 401k deferrals within 7 business days of withholding the funds from an employee's paycheck. This rule can e found in DOL Regulation section 2510.3-102(b)(1).

These regulations are very important and were created due to the abuse by many employers. Some employers use these funds for their own benefit, by paying bills when there is little or no cash flow or to defer impending bankruptcy. If an employer declares bankruptcy, the employees' money (401k deferrals) is lost and recovering these funds is a complex process.

There are serious consequences for violation of the deposit rule. Failure to deposit 401(k) contributions on a timely basis is both a prohibited transaction and a fiduciary breach. As a result, the company should ensure that procedures are in place for the timely deposit of 401(k) deferrals. If you have any problems which may delay your deposit, please contact LAR Pensions so that we can document the reason for the delay. This action can keep you from having future issues with the DOL. This is particularly important for those clients who go through an independent audit every year. Employers should be aware that the DOL considers locating violators of this regulation a top priority. Employers can be required to make up lost earnings for each participant affected by the delay.

As your TPA, it is our responsibility to let you know that late depositing of deferrals is a violation of ERISA and must be corrected. If you fail to make deposits on a timely manner, LAR Pensions is obligated by the law to report this to the Department of Labor (DOL) when your annual Form 5500 is filed.

If you need any assistance or have any additional questions, please feel free to contact Antonio Rupprecht at 203-327-5275 or via email at arupprecht@larpensions.com.