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## **DOL Issues Final Safe Harbor Rules for Timely Deposits of Participant Contributions and Loan Repayments**

The U.S. Department of Labor (“DOL”) issued final regulations, effective January 14, 2010, that (1) clarify that the contribution timing rules apply to plan loan repayments, and (2) provide a safe harbor for depositing participant contributions (including loan repayments) to employee benefit plans with fewer than 100 participants on the first day of the plan year.

While the final regulations continue to apply the general rule that participant contributions become plan assets (and therefore must be held in the plan’s trust) on the earliest date on which they can reasonably be segregated from the employer’s general assets, these regulations clarify that plan loan repayments also are subject to this general rule.

The regulations also provide a safe harbor pursuant to which an employer with fewer than 100 participants is deemed to satisfy the general rule if the employer remits participant contributions to the plan’s trust within seven business days after it receives payment from the participant or withholds the contribution via payroll deduction. This safe harbor applies on a deposit-by-deposit basis, so that a failure to satisfy the timely deposit of participant contributions or loan repayments to a plan will not cause the safe harbor to be unavailable for any other plan deposit.

Compliance with the safe harbor is not required. The DOL will continue to evaluate situations in which a deposit is made beyond the safe harbor time period under the current facts and circumstances standard. The maximum time periods for remitting contributions previously in effect continue to apply if an employer does not comply with, or is not eligible for, the safe harbor.

For more information, please feel free to contact any [lawyer](#) in the [Employee Benefits Group](#).