

Fact Sheet



U.S. Department of Labor
Employee Benefits Security Administration
April 2024

Final Amendment to PTE 84-14 – the QPAM Exemption

Background

- The QPAM Exemption is a class prohibited transaction exemption that provides broad relief for employee benefit plan and IRA transactions that otherwise would be prohibited by ERISA and the Code, as long as the transactions involve a “qualified professional asset manager” (known commonly by its acronym, QPAM).
- An important premise of the QPAM exemption is that the potential for conflicts of interest is reduced when transactions involving plan and IRA assets are handled by an independent asset manager of sufficient size to protect against improper influence from other parties in interest or disqualified persons.
- The QPAM Exemption is available to any entity that meets its requirements and provides an efficient way for QPAM-managed investment funds to engage in a wide variety of transactions with parties in interest to the QPAM’s plan or IRA clients.
- It does not, however, give the QPAM relief for any transaction in which the QPAM itself is self-dealing or acting to promote its own financial interests at the expense of the plan.

Impact of Section I(g) of the QPAM Exemption

- When proposing the QPAM Exemption in 1982, the Department expressly indicated that any entity acting as a QPAM and those who are in a position to influence the QPAM’s policies must maintain a high standard of integrity.
 - To address the expected standard of integrity, the exemption includes Section I(g), which provides that a QPAM is ineligible to rely on the exemption for a period of 10 years if the QPAM, various affiliates, or its five percent or more owners are convicted of certain crimes.
- The Department recognizes the potential for disruption to plans and their asset management arrangements when a QPAM abruptly loses exemptive relief as of the conviction date.
 - Ineligibility under Section I(g) does not mean an entity that was a QPAM cannot act as a discretionary asset manager for plan assets. In that circumstance, a QPAM

could rely on other class exemptions, or apply for an individual exemption. However, the loss of exemptive relief has the potential to disrupt plan investments and investment strategies.

Overview of the Final Amendment

- The final amendment removes all doubt about the inclusion of convictions for foreign crimes as ineligibility events under Section I(g), by explicitly referencing the inclusion of foreign crimes that are substantially equivalent to the list of serious domestic crimes that will cause ineligibility for relief under the QPAM Exemption.
 - The amendment’s definition of foreign convictions excludes convictions and imprisonments that occur within a foreign country that is included on the Department of Commerce’s list of “foreign adversaries.”
- The amendment expands the circumstances that may lead to ineligibility under a new Prohibited Misconduct category, which triggers ineligibility if a QPAM, its Affiliates, and its five percent or more owners:
 - enters into domestic non-prosecution or deferred prosecution agreements (NPA or DPA); or
 - is found in a court’s final judgment or court approved settlement to have participated in conduct that intentionally violated the exemption’s conditions or provided misleading information in connection with the exemption’s conditions.
- The final amendment requires a QPAM to notify the Department within 30 days of becoming ineligible if the QPAM, any affiliate, or any owner, direct or indirect, of a five percent or more interest in the QPAM:
 - participates in Prohibited Misconduct; or
 - enters into an NPA or DPA with a foreign government that is substantially equivalent to a domestic NPA or DPA.
- The final amendment also provides an automatic, mandatory one-year transition period after ineligibility to help plans and IRAs avoid or minimize possible costs and disruptions when changing QPAMs or adjusting their asset management arrangements based on ineligibility.
- The final amendment requires the ineligible QPAM to agree to terms in a written notice to their client Plans and IRA clients that during the transition period the QPAM:
 - will not restrict its client Plans’ and IRA clients’ ability to terminate or withdraw from its arrangement with the QPAM; and

- will provide indemnification and restoration losses incurred by its plan and IRA clients resulting from a violation of applicable laws, a breach of contract, or any claim arising out of the failure of the QPAM to remain eligible for relief under the QPAM Exemption.
- The final amendment also includes updates that:
 - Require QPAMs to submit a one-time notice to the Department acknowledging that the QPAM is relying upon the exemption to ensure that the Department is aware of those entities that are relying on the exemption.
 - Amend Section I(c) of the exemption to clarify that a QPAM must not permit other parties in interest to make decisions regarding plan investments under the QPAM's control, which is consistent with the Department's original intent when it granted the exemption in 1984;
 - Adjust the asset management and equity thresholds that define when an entity can serve as a QPAM over a seven-year period to ensure that QPAMs remain sufficiently large to resist the influence of parties in interest or disqualified persons to their client plans and IRAs; and
 - Add a standard recordkeeping provision to the exemption that the Department has included in recently granted prohibited transaction exemptions.

Effective Date of the Final Amendment

- The final amendment is effective 75 days after the date it is published in the Federal Register.

Contact Information

For questions about the Final QPAM Amendment, contact EBSA's Office of Exemption Determinations at (202) 693-8540.

This fact sheet has been developed by the U.S. Department of Labor, Employee Benefits Security Administration, Washington, DC 20210. It will be made available in alternate format upon request by calling 202.693-8644. If you are deaf, hard of hearing, or have a speech disability, please dial 7-1-1 to access telecommunications relay services. In addition, the information in this fact sheet constitutes a small entity compliance guide for purposes of the Small Business Regulatory Enforcement Act of 1996.