

Preface to 2009 Cumulative Supplement

This 2009 Cumulative Supplement to **ERISA Class Exemptions** brings the material in the 2006 third edition current through November 30, 2009.

The major development in the prohibited transaction exemptions area since we finalized the third edition has been the passage of the Pension Protection Act of 2006—which, for the first time since ERISA was enacted in 1974, added a significant number of new exemptions to the statute. Some of them overlap with areas addressed in the class exemptions, in particular, foreign exchange and securities cross-trading. To make this book a more complete resource on the broadly available exemptions from the ERISA prohibited transaction rules, we created a new Part 2 in the 2007 Supplement devoted to the Pension Protection Act exemptions, covering them in the same manner as we have done in the past for the class exemptions. The 2009 Cumulative Supplement covers recent guidance issued on those exemptions, including a proposed and final regulation on the Section 408(b)(14) investment advice exemption (which was withdrawn shortly before publication of this Supplement, as noted in the 408(b)(14) chapter) and a final regulation on the Section 408(b)(19) cross-trading exemption.

The major development in class exemptions has been the finalization of the amended and expanded class exemption for securities lending, PTE 2006-16, replacing PTE 81-6 and PTE 82-63. The Department of Labor also adopted an amendment to the class exemption for abandoned plans, PTE 2006-06, to reflect a statutory change. In addition, a class exemption for plan sponsors was proposed in connection with a proposed regulation that would impose disclosure requirements on

plan service providers. There continues to be a stream of court decisions, advisory opinions, and individual exemptions that interpret or otherwise deal with the class exemptions, and we have added those developments to the relevant chapters.

The Department of Labor has several more class exemption projects in process, including an amendment to the class exemption for in-house asset managers (PTE 96-23), so we expect there to be plenty of material for additional supplements over the next few years.

As with previous supplements, this Cumulative Supplement includes a cumulative index that covers the material in both the main volume and the Supplement. Users can thus refer to this index to find material in both volumes.

Finally, we would like to thank our readers and colleagues in the employee benefits community for continuing to support the publication of this book through all three editions and their supplements, and our families for their continued patience and understanding.

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