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DOL Issues Fidelity Bonding Guidance

The US Department of Labor (the "DOL") recently released interpretive guidance regarding the fidelity bond required under Section 412 of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). Field Assistance Bulletin 2008-4 (the "FAB"), issued on November 25, 2008, contains a set of 42 questions and answers regarding ERISA's fidelity bonding requirements in response to questions raised by the DOL's Regional Offices and others concerning the bonding rules. Although the FAB largely draws on existing guidance (in particular, the DOL's 1975 bonding regulations that still remain in temporary form), it may signal the DOL's increased interest in the subject. As a result, investment managers and advisers who act as ERISA fiduciaries (including by managing private investment funds or accounts that hold "plan assets"), or who otherwise handle "plan assets," may wish to consider reviewing their fidelity bonds to confirm that they meet the relevant statutory requirements.

A copy of the FAB can be accessed at http://www.dol.gov/ebsa/regs/fab2008-4.html.

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If you have any questions regarding this client memorandum, please contact your regular Fried Frank attorney or the attorneys listed below.

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