

Data on EBSA's Civil ESOP Investigations, FY 2007 - 2017

NCEO members' summary

Find the full report at nceo.org/r/DOLguide

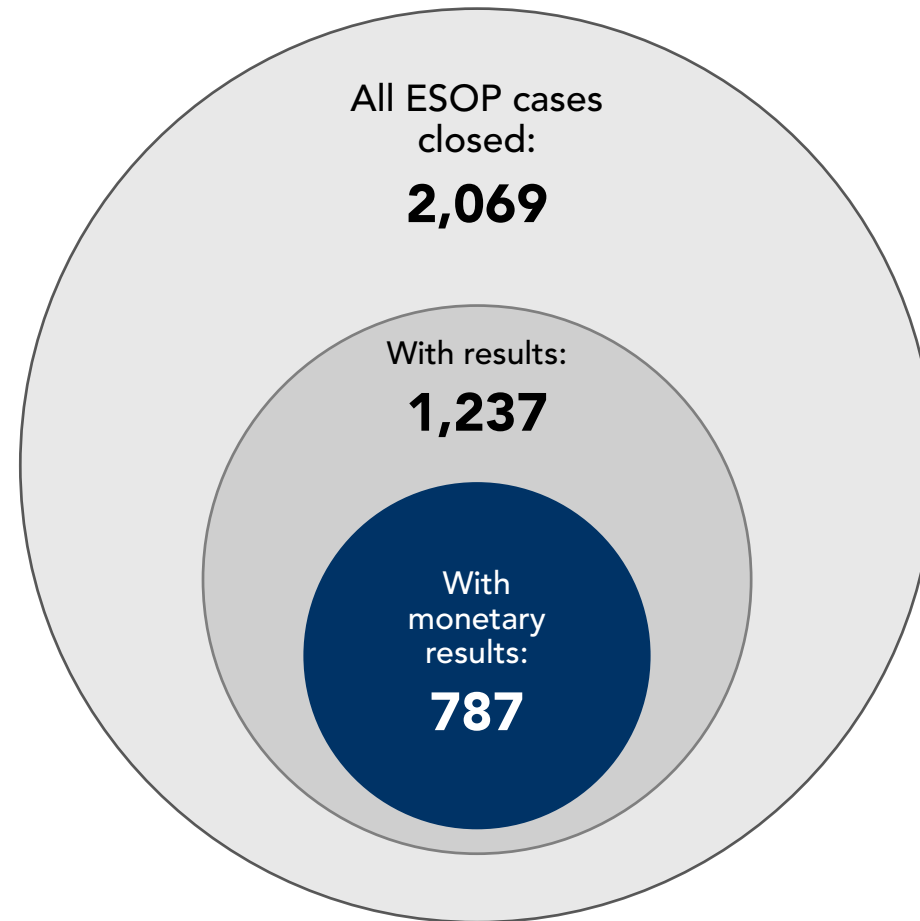
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EBSA's civil ESOP investigations

The Employee Benefits Security Administration (EBSA), the agency within the Department of Labor tasked with enforcing Title I of the Employee Retirement Income Security Act (ERISA), investigates dozens of ESOPs each year.

EBSA provided data on these investigations to the NCEO in 2018 in response to requests under the Freedom of Information Act. These slides present a summary of this data, which includes information about all of EBSA's civil ESOP investigations that closed with results between fiscal year 2007 and 2017.

Number of investigations closed in FY 2007 - 2017



“With results”: An ERISA violation was found and corrected.

“With monetary results”: money was restored to the plan, participants, and/or beneficiaries as a result of the investigation.

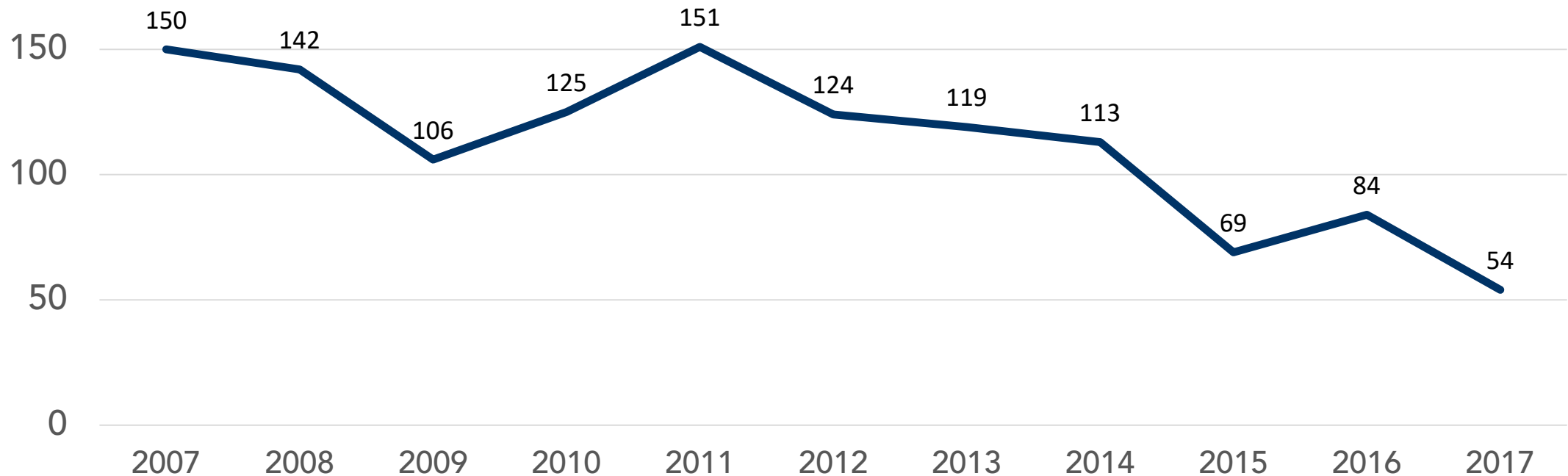
Investigation length

- Mean: 2 years from open date to close date
- Median: 20 months
- 80% of cases last less than 3 years

Investigations over time

The number of ESOP cases closed each year is declining. This decline tracks with an overall decline in EBSA's caseload (not unique to ESOPs).

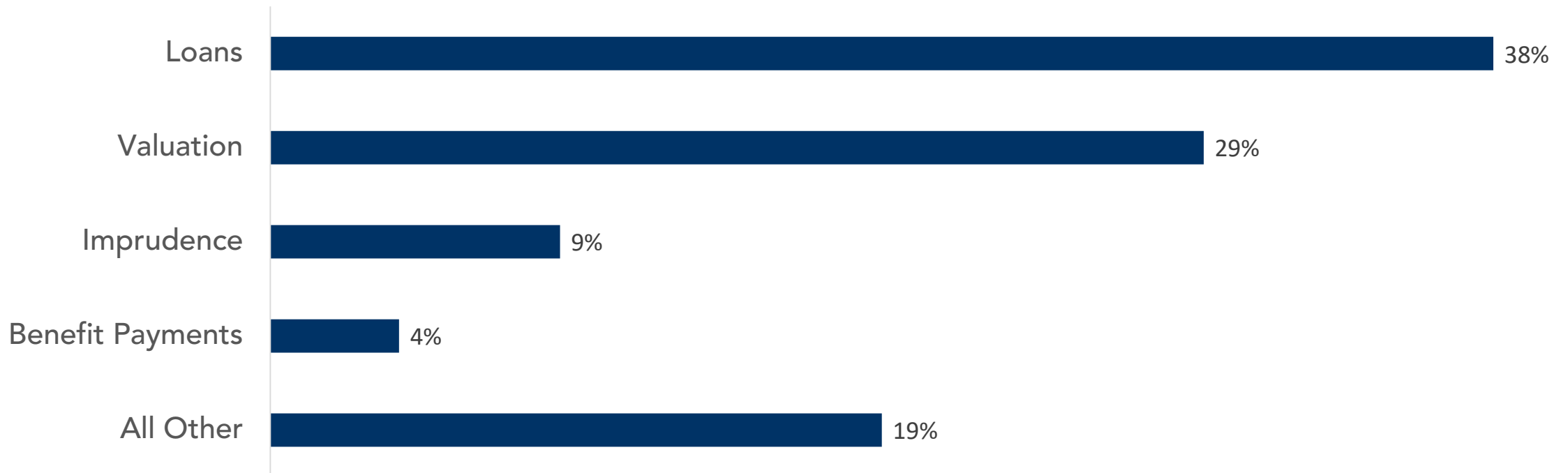
Number of ESOP investigations closed with results, by FY



Issues

Loan- and valuation-related cases are most common.

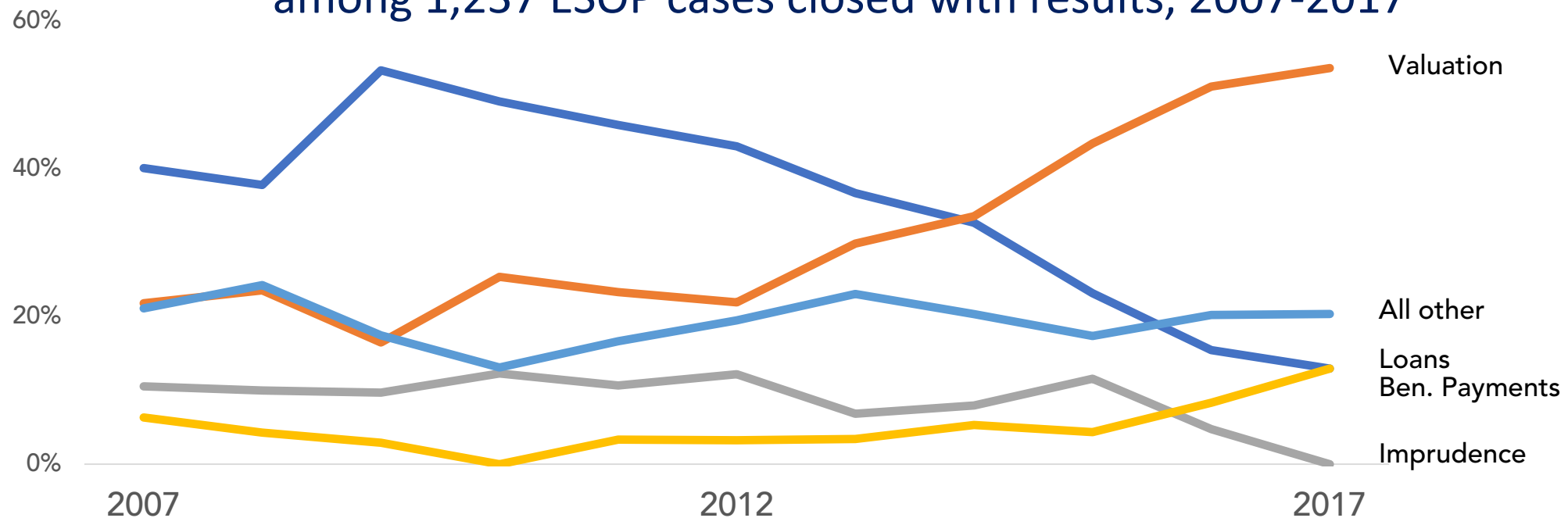
Investigations by lead issue
among 1,237 ESOP cases closed with results, 2007-2017



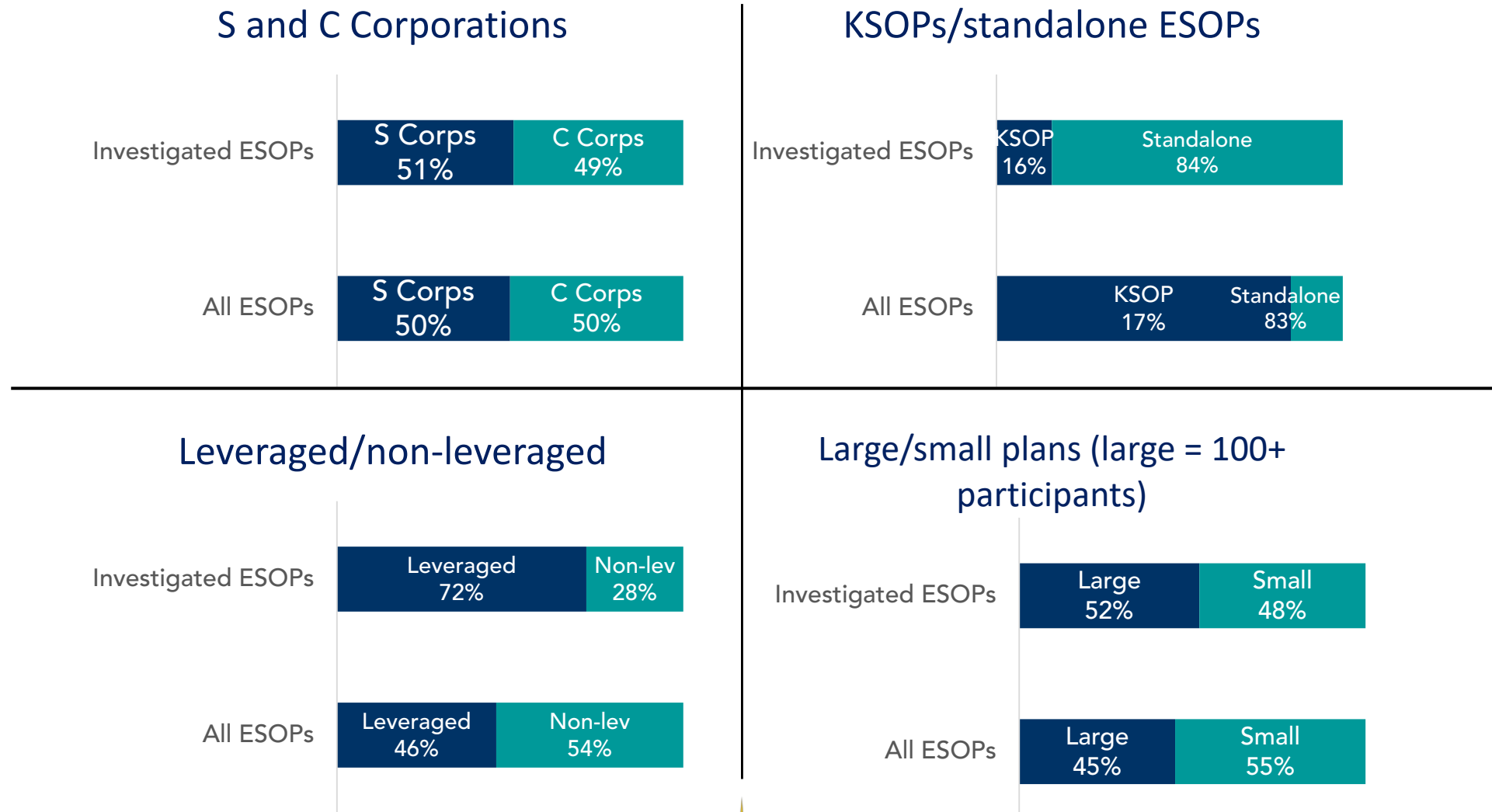
Investigations by issue over time

Valuation cases are on the rise, consistent with EBSA's stated focus on the ESOP valuation.

Lead issues as percentage of cases over time
among 1,237 ESOP cases closed with results, 2007-2017



Characteristics of investigated plans



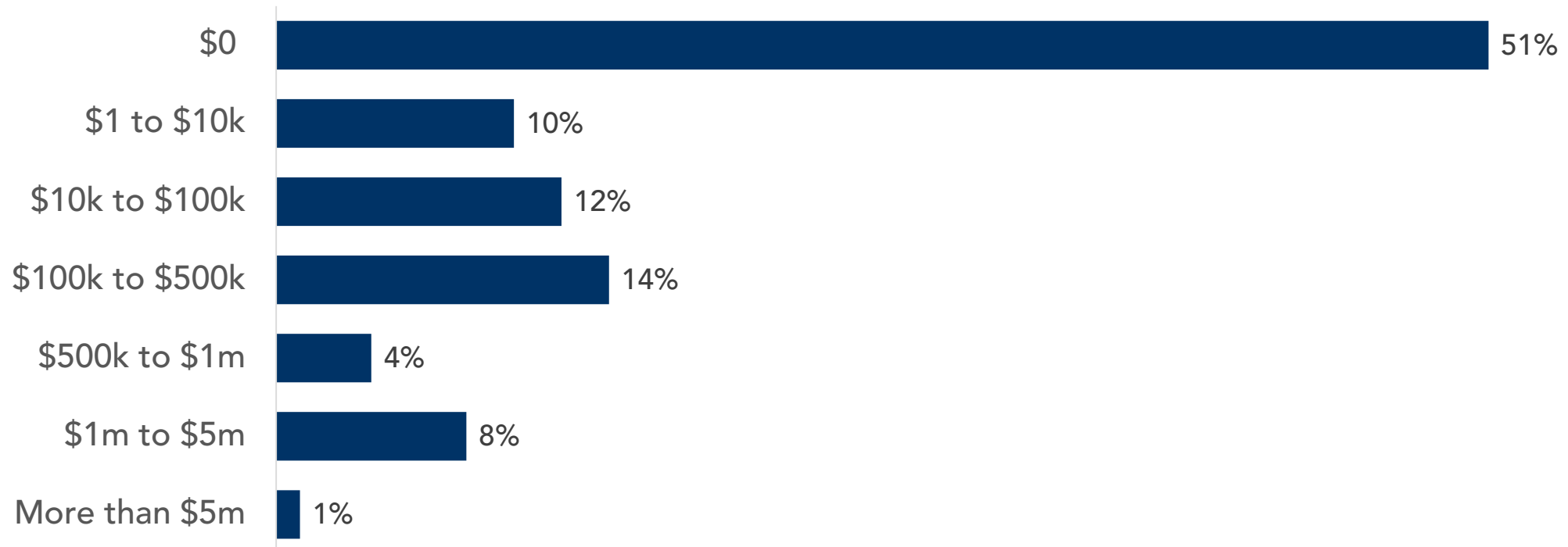
Monetary recoveries

Out of 2,069 ESOP investigations closed in FY 2007-2017, 38% closed with non-zero monetary recoveries. Monetary recoveries do not include civil penalties, excise taxes, or other costs associated with investigations. EBSA's method of tracking monetary recoveries has changed over time—when considering dollar amounts, we conservatively look only at 2015-2017.

Monetary recovery amounts

Most cases resulted in recoveries of less than \$100k.

Amounts recovered
among 207 ESOP cases closed with results in FY 2015-2017



Monetary recoveries by issue

| Lead Issue | Number of Cases Closed With Results, 2015–2017 | Total Monetary Recoveries | Median Total Monetary Recoveries | Average Total Monetary Recoveries |
|-------------------------|--|---------------------------|----------------------------------|-----------------------------------|
| Loans | 36 | \$7.0 million | \$0 | \$195,697 |
| Valuation | 102 | \$50.9 million | \$0 | \$499,616 |
| Imprudence | 12 | \$10.3 million | \$329 | \$856,456 |
| Benefit Payments | 17 | \$6.7 million | \$26,849 | \$399,650 |
| All Other | 40 | \$6.4 million | \$0 | \$159,307 |
| Total | 202 | \$81.4 million | \$105,424 | \$393,477 |

Learn more

Full report: [*A Guide to DOL ESOP Investigations*](#)

- Detailed breakdowns of investigation outcomes by plan characteristics, EBSA regional field office, issue, and more
- Includes commentary, case study, and best practices for handling the risk of an EBSA investigation

Related NCEO publications:

- [*ESOP Regulatory Rulings 1990-2019*](#)
- [*ESOP and 401\(k\) Plan Employer Stock Litigation Review 1990-2019*](#)