

August 2025

POTUS Signs Executive Order Promoting Asset Allocation Funds with Alternative Assets for Defined Contribution Plans Subject to ERISA

On August 7, 2025, President Donald J. Trump signed an [Executive Order](#) (Order) promoting access of alternative assets in defined contributions plans subject to the Employee Retirement Income Security Act of 1974 (ERISA). In general, defined contribution plans are subject to the Order other than:

- (i) a 401(a), 401(k), 403(b) or 457(b) plan of a governmental employer (including a public school);
- (ii) a top hat 457(b) plan of a nonprofit organization;
- (iii) a 401(a), 401(k), and 403(b) plans of a church or church-related entity unless the plan administrator has irrevocably elected into ERISA for that plan;
- (iv) a 403(b) plan of nongovernmental/non-church 501(c)(3) organization that meet the non-ERISA regulatory safe harbor rules; and
- (v) IRAs that do not have employer contributions or employer active involvement.

The Order does not introduce any new rules but directs the Department of Labor (DOL) and the Securities and Exchange Commission (SEC) to address issues that fiduciaries have perceived as limiting factors in the selection of alternative assets, including the risk of litigation.

By February 3, 2026 (180 days after the date of the Order), the Secretary of Labor is directed to reassess existing guidance regarding asset allocation funds containing investments in alternative assets in retirement plans subject to ERISA and clarify the DOL's position on alternative assets and the appropriate fiduciary processes associated with offering such investments. This includes issuing proposed rules, regulations, or guidance, as deemed appropriate, including potentially appropriately calibrated safe harbors, that clarify 1) the criteria fiduciaries should use to prudently balance expenses associated with alternative assets with the long-term net gain and broader investment diversification, and 2) the duties that a fiduciary owes to plan participants under ERISA when deciding whether to offer an asset allocation fund within the plan that includes investments in alternative assets. The Order also directs the DOL to coordinate with the Treasury Department, SEC, and other Federal regulators to align policy objectives.

The Order also directs the SEC to consider ways to facilitate access to investments in alternative assets by participants in participant-directed defined-contribution retirement plans, including revisions to existing SEC regulations and guidance relating to accredited investor and qualified purchaser status.

The Order defines "alternative assets" as follows:

- (i) private market investments, including direct and indirect interests in equity, debt, or other financial instruments that are not traded on public exchanges, including those where the managers of such investments, if applicable, seek to take an active role in the management of such companies;
- (ii) direct and indirect interests in real estate, including debt instruments secured by direct or indirect interests in real estate;
- (iii) holdings in actively managed investment vehicles that are investing in digital assets;
- (iv) direct and indirect investments in commodities;
- (v) direct and indirect interests in projects financing infrastructure development; and
- (vi) lifetime income investment strategies including longevity risk-sharing pools.

The White House also published a [Fact Sheet](#) summarizing the purpose of the Order, stating, “President Trump wants to give American workers more investment options in order to attain stronger and more financially secure retirement outcomes.”

Voya continues to monitor these and all legal developments impacting retirement plans.

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