

DEMOCRATIZING ACCESS TO ALTERNATIVE ASSETS FOR 401(K) INVESTORS

Executive Orders

August 7, 2025
The White House

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered:

Section 1. Purpose. Many wealthy Americans, and Government workers who participate in public pension plans, can invest in, or are the beneficiaries of investment in, a number of alternative assets. Yet, while more than 90 million Americans participate in employer-sponsored defined-contribution plans, the vast majority of these investors do not have the opportunity to participate, either directly or through their retirement plans, in the potential growth and diversification opportunities associated with alternative asset investments.

Fiduciaries of 401(k) and other defined-contribution retirement plans must carefully vet and consider all aspects of private offerings, including investment managers' capabilities, experiences, and effectiveness managing alternative asset investments. They do so to protect the Americans whose retirement accounts they administer and for whom they have fiduciary duties to invest safely and prudently.

During my first term, my Administration issued a 2020 information letter, recognizing that prudent Federal action could encourage the proliferation of investment strategies under which a portion of retirement plan participants' interests are allocated to alternative assets, as is the case for institutional investors.

Burdensome lawsuits that seek to challenge reasonable decisions by loyal, regulated fiduciaries, and stifling Department of Labor guidance issued since my first term, however, have denied millions of Americans opportunities to benefit from investment in alternative assets. Such assets are an increasingly large portion of the portfolios of public pension and defined-benefit retirement plans and offer competitive returns along with diversification opportunities.

A combination of regulatory overreach and encouragement of lawsuits filed by opportunistic trial lawyers has stifled investment innovation and largely relegated 401(k) and other defined-contribution retirement plan participants to asset classes whose returns lack the very same long-term net benefits allowed for and achieved by public pension plans and other institutional investors.

My Administration will relieve the regulatory burdens and litigation risk that impede American workers' retirement accounts from achieving the competitive returns and asset diversification necessary to secure a dignified, comfortable retirement.

Sec. 2. Policy. It is the policy of the United States that every American preparing for retirement should have access to funds that include investments in alternative assets when the relevant plan fiduciary determines that such access provides an appropriate opportunity for plan participants and beneficiaries to enhance the net risk-adjusted returns on their retirement assets.

Sec. 3. Democratizing Access to Alternative Assets. (a) For purposes of this order, the term "alternative assets" means:

- (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.

(b) Within 180 days of the date of this order, the Secretary of Labor (Secretary) shall reexamine the Department of Labor's past and present guidance regarding a fiduciary's duties under the Employee Retirement Income Security Act of 1974, as amended (ERISA) (29 U.S.C. 1104), in connection with making available to participants an asset allocation fund that includes investments in alternative assets. When conducting this reexamination, the Secretary shall consider whether to rescind the Department of Labor's December 21, 2021, Supplemental Private Equity Statement.

(c) Within 180 days of the date of this order, the Secretary shall further, as the Secretary deems appropriate and consistent with applicable law, seek to clarify the Department of Labor's position on alternative assets and the appropriate fiduciary process associated with offering asset allocation funds containing investments in alternative assets under ERISA. Such clarification must aim to identify the criteria that fiduciaries should use to prudently balance potentially higher expenses against the objectives of seeking greater long-term net returns and broader diversification of investments. The Secretary shall also propose rules, regulations, or guidance, as the Secretary deems appropriate, that clarify the duties that a fiduciary owes to plan participants under ERISA when deciding whether to make available to plan participants an asset allocation fund that includes investments in alternative assets, which rules, regulations, and guidance may include appropriately calibrated safe harbors. In carrying out the directives in this section to further the policy set forth in this order, the Secretary shall prioritize actions that may curb ERISA litigation that constrains fiduciaries' ability to apply their best judgment in offering investment opportunities to relevant plan participants.

(d) In carrying out the directives in this section, the Secretary shall, as appropriate, consult with the Secretary of the Treasury, the Securities and Exchange Commission (SEC), and other Federal regulators as necessary to carry out the policy objectives of this order, including as to parallel regulatory changes that may be incorporated by such other Federal regulators.

(e) The SEC shall, in consultation with the Secretary, consider ways to facilitate access to investments in alternative assets by participants in participant-directed defined-contribution retirement savings plans. Such facilitation may include, but not be limited to, consideration of revisions to existing SEC regulations and guidance relating to accredited investor and qualified purchaser status, to accomplish the policy objectives of this order.

Sec. 4. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) The costs for publication of this order shall be borne by the Department of Labor.

DONALD J. TRUMP

THE WHITE HOUSE,

August 7, 2025.

<https://www.whitehouse.gov/presidential-actions/2025/08/democratizing-access-to-alternative-assets-for-401k-investors/>