

Regulatory Alert

Regulatory Insights for Financial Services

August 2025

Executive Order: 401(k) Investor Access to Alternative Assets

KPMG Regulatory Insights:

- **Expanding Investment Options:** Opens retirement plans to alternative investments offerings (e.g., private equity, real estate, cryptocurrencies), which previously had been limited to institutional and accredited investors.
- **Opening Capital:** Expanded investments meant to help ‘open up’ capital into private equity markets.
- **Best Interest:** Plan sponsors will need to determine if added investments serve the best interest of participant(s).
- **Risk and Complexity:** More diverse investment choices may boost returns but will require appropriate due diligence and risk management.

The Administration issues an [executive order](#) entitled “Democratizing Access to Alternative Assets for 401(k) Investors,” which sets forth directives to allow 401(k) retirement savings accounts to hold alternative investment products (including real estate, digital assets, and private equity). The order directs the following agencies and mandates associated regulatory collaboration, including requiring:

1. The Department of Labor (DOL) to reassess and clarify related fiduciary duty guidance
2. The Securities and Exchange Commission (SEC) to facilitate investments in alternative assets for certain plans

Key directives for each of the agencies include:

1. DOL: Within 180 days, the Secretary of Labor must:
 - Review and reassess existing fiduciary duty guidance regarding alternative asset investments under the Employee Retirement Income Security Act (ERISA) of 1974.
 - Clarify the DOL’s position on alternative assets and the appropriate fiduciary process associated with offering asset allocation funds containing investments in alternative assets under ERISA; the clarification must

identify the criteria fiduciaries should use to balance costs and benefits of such investments.

- Propose rules and regulations or guidance to clarify the duties that a fiduciary owes to plan participants under ERISA when deciding whether to make available an asset allocation fund that includes investments in alternative assets
 - Consult with the Secretary of the Treasury, the SEC, and other federal regulators to determine whether parallel regulatory changes may be warranted
2. SEC: In consultation with the Secretary of Labor, the SEC must:
 - Consider ways to facilitate access to investments in alternative assets for participant-directed defined-contribution retirement savings plans, including by revising applicable regulations and guidance, as appropriate.

Note: Per the executive order, “alternative assets” are defined to include:

- 1) *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,*

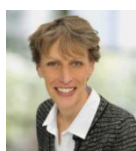
seek to take an active role in the management of such companies

- 2) *Direct and indirect interests in real estate, including debt instruments secured by direct or indirect interests in real estate*
- 3) *Holdings in actively managed investment vehicles that are investing in digital assets*
- 4) *Direct and indirect investments in commodities*

- 5) *Direct and indirect interests in projects financing infrastructure development*
- 6) *Lifetime income investment strategies including longevity risk-sharing pools*

For more information, please contact [Mike Sullivan](#) or [Amy Matsuo](#).

Contact the author:



Amy Matsuo
Principal and National Leader
Regulatory Insights
amatsuo@kpmg.com

Some or all of the services described herein may not be permissible for KPMG audit clients and their affiliates or related entities.

Learn about us:  kpmg.com

© 2025 KPMG LLP, a Delaware limited liability partnership and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved. USCS018133-1A. The KPMG name and logo are trademarks used under license by the independent member firms of the KPMG global organization.