

# President Trump Signs Executive Order Seeking to Facilitate 401(k) Access to Private Funds and Digital Assets

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On August 7, 2025, President Trump signed an executive order aimed at facilitating and expanding access to alternative investments — such as private equity, private credit, real estate and digital assets like cryptocurrency — by retirement plans regulated by ERISA, including 401(k) plans. The executive order directs the Department of Labor to reexamine and clarify its stance on fiduciary obligations when offering alternative assets to ERISA plans within 180 days, and to propose new rules or guidance, including potential safe harbors for plan fiduciaries. To that end, on August 12, 2025, the DOL rescinded guidance from 2021 that discouraged fiduciaries from considering alternative assets in 401(k) plan investment menus (available [here](#)). The executive order also directs the SEC to consider revising applicable regulations to facilitate ERISA plan access to alternative investments.

From the perspective of private fund sponsors, the executive order opens the door to access an enormous capital pool estimated at more than \$12 trillion, depending on the guidance and/or rulemaking that results from the various regulatory agencies. In addition, the inclusion of digital assets further broadens the scope of potential investors who may benefit from certain platformed tokenized products.

Private fund sponsors should consider the following actions to prepare for the potential regulatory changes that will arise from the order:

- *Forming Strategic Partnerships* – with (i) retirement plan service providers (e.g., recordkeepers, plan fiduciaries and their asset managers) and (ii) asset managers to allocation vehicles currently structured to offer alternative assets to retirement plans (e.g., collective investment trusts (CITs), target date funds, etc.), to discuss product design and suitability for investment menus.
- *Ensuring ERISA Compliance* – including whether the fund sponsor can operate an ERISA-compliant fund and/or avail itself of the Qualified Professional Asset Manager (QPAM) exemption when managing a fund that becomes a “plan asset” look-through entity.
- *Updating Marketing Materials* – to allow retirement plan service providers and asset managers to evaluate a fund sponsor’s existing product menu.
- *Monitoring Guidance Closely* – especially as it relates to fiduciary safe harbors provided by regulatory guidance and allowing access to alternative assets through direct investment options (as opposed to access solely through allocation vehicles structured to offer alternative assets to retirement plans).

The executive order is available [here](#).

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