



DOL Allows Private Equity Funds Investment in Defined Contribution Plan

June 09, 2020

On June 3, 2020, the DOL issued an information letter concerning the role of private equity funds in defined contribution plans governed by ERISA, such as 401(k) plans. Specifically, the letter addresses the use of private equity investments as designated investment alternatives made available to participants and beneficiaries in individual account plans.

The DOL writes that plan fiduciaries of an individual account plan may offer an asset allocation to private equity as an option under the plan without violating the fiduciary duties under Section 403 and 404 of ERISA. However, due to private equity's complexity, long-term nature and generally higher fees, the fiduciary must engage in a careful and thorough analysis of the allocation fund with a private equity component in order to make a prudent decision concerning whether to offer it. In order to determine that the option is a prudent one, the DOL suggests that fiduciaries should consider:

- Whether adding the particular asset allocation fund with a private equity component would offer plan participants the opportunity to invest their accounts among more diversified investment options within an appropriate range of expected returns net of fees (including management fees, performance compensation, or other fees or costs that would impact the returns received) and diversification of risks over a multi-year period
- Whether the asset allocation fund is overseen by plan fiduciaries (using third-party investment experts as necessary) or managed by investment professionals that have the capabilities, experience and stability to manage an asset allocation fund that includes private equity investments effectively given the nature, size and complexity of the private equity activity
- Whether the asset allocation fund has limited the allocation of investments to private equity in a way that is designed to address the unique characteristics associated with such an investment, including cost, complexity, disclosures and liquidity, and has adopted features related to liquidity and valuation designed to permit the asset allocation fund to provide liquidity for participants to take benefits and direct exchanges among the plan's investment lineup consistent with the plan's terms

Plan administrators who would like to offer private equity in their defined contribution lineup should familiarize themselves with this guidance and consult with their advisor concerning any potential investments.

[DOL Information Letter »](#)

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