

DOL Lifetime Income Investment Options Guidance for Qualified Default Investment Alternatives

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PRACTICES Employee Benefits and Executive Compensation

On September 23, 2025, the DOL issued an advisory opinion (the “**Advisory Opinion**”) concerning the use of lifetime income investment options under an investment menu for a participant-directed defined contribution plan, such as a 401(k) plan. According to the DOL, the Advisory Opinion follows President Trump’s Executive Order directing the DOL and other administrative agencies to reexamine its guidance for the purpose of making available alternative assets, including lifetime income investment strategies, through 401(k) plans (the “**Executive Order**”). Our prior article discussing the Executive Order is available [here](#). As background, lifetime income investment options convert a portion of a participant’s retirement account into a guaranteed stream of payments for at least the remainder of the life of the participant or the joint lives of the participant and the participant’s designated beneficiary.

Pursuant to the Advisory Opinion, the DOL determined that lifetime income investment options may be offered on the plan’s investment menu as a qualified default investment alternative (a “**QDIA**”). When investing in a QDIA, a participant is treated as exercising control over his or her assets even in the absence of an investment election, such as under the plan’s automatic enrollment feature. Pursuant to DOL regulations, the plan’s fiduciary remains responsible for the prudent selection and monitoring of the QDIA but is generally not liable for any investment losses that result. The DOL also indicated that a plan fiduciary would satisfy its fiduciary duties in its selection and monitoring of insurers that provide lifetime income guarantees through such investments by making such selections in accordance with the DOL’s annuity provider fiduciary safe harbors, one of which we previously reported on [here](#).

Although the Advisory Opinion is another example of the current administration’s interest in providing access to alternative assets in 401(k) plans similar to the DOL’s recent cryptocurrency and private equity guidance (as we previously reported on [here](#) and [here](#)), the Advisory Opinion does not alter a plan fiduciary’s responsibility to prudently select and provide investment options to plan participants and beneficiaries in accordance with the requirements of ERISA. As noted in the Advisory Opinion, whether a fiduciary has satisfied its duties under ERISA in selecting an investment alternative as a QDIA, for example, would depend on the facts and circumstances with respect to such investment.

The Advisory Opinion is available [here](#).