

DOL Supplements Prior Information Letter on Private Equity in Designated Investment Alternatives

January 6, 2022

The DOL recently published a supplement statement (the "**Supplement Statement**") relating to its June 3, 2020 Information Letter (the "**Letter**") regarding the use of private equity investments in designated investment alternatives for individual account retirement plans. The Letter stated that a plan fiduciary would not violate the fiduciary duties under ERISA solely due to the plan fiduciary's offering of a professionally managed asset allocation fund with a private equity component as a designated investment alternative, subject to the conditions set forth in the Letter. The DOL noted that the Letter was not an endorsement of such private equity investments and that plan fiduciaries must determine whether such an investment is prudent and made solely in the interests of plan participants and beneficiaries. Our prior blog post regarding the Letter is available [here](#).

The Supplement Statement clarified that plan fiduciaries should not misread the Letter "as saying that [private equity] as a component of a designated investment alternative is generally appropriate for a typical 401(k) plan." Specifically, the DOL stated the Letter was issued in the context of plan fiduciaries who offer both defined benefit and defined contribution plans and who invest in private equity for the defined benefit plan, but not for the participant-directed individual account plan, due to fears of liability. In that context, the DOL noted that the plan fiduciary is likely better suited to analyze private equity investments for a participant-directed individual account plan due to its experience evaluating private equity investments for its defined benefit plan, particularly if the fiduciary is assisted by a qualified fiduciary investment adviser. The DOL cautioned against applying the Letter outside of this context and further stated that "plan-level fiduciaries of small, individual account plans are not likely suited to evaluate the use of [private equity] investments in designated investment alternatives in individual account plans."

The Supplement Statement is available [here](#).