

The DOL Says Certain Private Equity Investments May Be Permissible Designated Investment Alternatives Under Individual Accounts Plans

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On June 3, 2020, the DOL issued an information letter addressing the possibility of including a private equity type investment as a “designated investment alternative” under a participant directed individual account plan. The DOL concluded that, as a general matter, “a plan fiduciary would not . . . violate [ERISA’s fiduciary duties] solely because the fiduciary offers a professionally managed asset allocation fund with a private equity component as a designated investment alternative for an ERISA covered individual account plan in the manner described in [the] letter.” The DOL observed that private equity investments “involve more complex organizational structures and investment strategies, longer time horizons, and more complex, and typically, higher fees” and they generally have “different regulatory disclosure requirements, oversight, and controls” and “often have no easily observed market value.” In addition to these considerations, the DOL listed several factors that plan fiduciaries should evaluate when considering whether a particular investment vehicle with an allocation of private equity would be appropriate as a designated investment alternative. The selection of an investment for inclusion under an individual account plan is a fiduciary decision. Because private equity type investments present issues that are unique to participant directed individual account plans, plan sponsors should use additional care, consider all relevant factors, and properly document their decision-making process before offering such investments. The information letter is available [here](#).