

THE BUZZ FROM WASHINGTON

SPECIAL ALTS IN DC EDITION

October 2025



There continues to be no shortage of public policy updates on retirement plan topics. But, since the last publication of this report, one topic dominates the buzz: Alternatives in Defined Contribution (DC) plans. A flurry of activity resulted from the August 7th Executive Order titled [*Democratizing Access to Alternative Assets for 401\(k\) Investors*](#).

With that in mind, this edition of “The Buzz from Washington” will focus on this topic. While adding alternatives in DC plans may not be the most important element to help participants secure a better retirement, [*studies*](#) do suggest that providing this access can have a meaningful impact. More importantly, this topic touches on broader fundamental issues as it relates to our retirement system including the role of the fiduciary, the impact of litigation risk, barriers to innovation, and government’s role in plan design.

TOP FIVE BUZZIEST RETIREMENT UPDATES

- 1. The Executive Order Explained** – So, what does the Executive Order (EO) do? Maybe we should start with what it didn’t do: create new rules or regulations. Instead, it establishes that the policy of the government is that Americans saving for retirement should have access to alternative investments when the fiduciary believes it to be prudent. The EO instructs federal agencies—specifically the Department of Labor (DOL) as well as the Securities and Exchange Commission (SEC)—to review in the following 120 days any past and existing guidance, as well as issue new guidance, to further that policy. The EO argues that alternative assets have played a role in the allocations of high-net-worth individuals and those in pension plans but blames regulatory overreach and litigation as to why DC plan sponsors have not added such assets. It remains to be seen what form and content the agencies’ policy actions will take, including new proposed regulations and sub-regulatory guidance. But quickly, the DOL took some early action...
- 2. Rescission of 2021 Supplemental Statement on Alternative Assets in 401(k) Plan** – Within days of the EO’s release, the DOL rescinded Biden-era guidance from 2021. That guidance raised concerns for fiduciaries, particularly plan sponsors of smaller plans, who are looking to add alternative assets to their DC plan. But that wasn’t the start of the proverbial ping-pong match. The Biden guidance was supplemental to guidance the first Trump DOL put forth in 2020 in the form of an information letter that was more supportive of plan sponsors who wanted to consider such asset classes. In the [*press release*](#) announcing the recent rescission, the DOL stated their desire to put further policies that

reflect a “neutral, principled-based approach to fiduciary investment decisions” and not favor or disfavor certain asset classes. This action, as well as anticipated regulatory actions, should help plan sponsors be more comfortable in adding alternative assets that they feel would benefit their participants. But greater innovation may require...

3. **Litigation Reform** – The proliferation of ERISA Class Action lawsuits continues into 2025, following 130+ cases filed in 2024. These cases spanned across health care, DB, and DC plans, with many focused on excessive fees, poor performance and the use of forfeiture assets. Many plan sponsors cite fears of getting sued as reasons to avoid more innovative solutions in DC plans, whether that be actively managed public and private asset classes, participant advice, and retirement income. There is a lot of activity and discussions from industry groups and policy makers on actions that can be taken from a regulatory or legislative perspective to address this issue. Stay tuned.
4. **New EBSA Chief Confirmed** – In September, the Senate confirmed Daniel Aronowitz as assistant secretary of labor for the Employee Benefits Security Administration (EBSA), the agency within the Labor Department that oversees ERISA plans. While his nomination was advanced out of committee months ago on a relatively bi-partisan basis, his nomination had been delayed amongst dozens of other nominees. So why does this matter for alternatives in DC plans? Aronowitz most recently was President at Encore Fiduciary, a fiduciary liability company. He saw firsthand the impact of litigation risk on plan sponsor decision making and has spoken publicly on the issue. Thus, he may be well-suited to craft policies that address those risks.
5. **Retirement Income and Alts?** – The EO’s alternative asset definition listed several different types of asset classes: private markets, real estate, commodities, digital assets and infrastructure. But the final item surprised many. The EO listed “lifetime income investment strategies including longevity risk-sharing pools” as an alternative asset. While this would seem to include annuities, risk-sharing pools indicate an interest in other structures, particularly collective defined contribution or tontine-like structures that are gaining some interest in the US and globally. While the inclusion of retirement income strategies in this list was not anticipated, it seems to play in to the broader theme of helping plan sponsors be comfortable including more innovative options to enhance DC plans. It’s interesting to note that on September 23rd, the DOL issued [*Advisory Opinion 2025-04A*](#), in response to an inquiry on AllianceBernstein’s Lifetime Income Strategy (LIS) program with Guaranteed Lifetime Income Withdrawal Benefit (GLWB), stating that the program can be a Qualified Default Investment Alternative (QDIA).

OTHER TOPICS CREATING A BUZZ

- **Roth Catch-Up Contribution Rules Finalized** – The SECURE 2.0 Act from 2022 required that starting in tax year 2026, all catch up contributions for high earners (those with FICA wages over \$145,000) must be made on a Roth basis. In September, the Treasury Department issued final regulations, answering many specific implementation questions. It also provided a transition period for 2026.
- **DOL's Regulatory Agenda** – In early September, the DOL published its Spring regulatory agenda, listing its current priorities including: ESG, Pooled Employers Plans (PEPs), Pension Risk Transfers (PRTs), Employee Stock Ownership Plans (ESOPs), and fiduciary rule revisions.
- **Congressional Proposals** – No major retirement legislation is expected, but some proposals are floating around. These include bipartisan bills covering CITs in 403(b) plans, support for ESOPs, and new language to support retiree decisions on when to claim Social Security. There are also Republican-led DOL reform bills regarding the agency's investigation practices and how they share information with plaintiffs' attorneys.
- **SEC Fines on Managed Account Providers** – Last month, the SEC levied large fines on both Empower and Vanguard for "inadequate disclosure of conflicts of interest and misleading statements" regarding managed account investments. Expect continued regulatory scrutiny.

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