

401(k) Climate Change and Crypto Considerations: DOL Nurtures the Former but Clips Crypto at the Roots

May 11, 2022

Department of Labor notices in 2020 and 2021 lumped “climate change” with other environmental, social, and corporate governance concerns that the DOL initially said should generally not be considered when selecting retirement plan investment offerings (see [“DOL to Plan Sponsors: ‘It’s All About the Benjamins!’”](#)), but then clarified should only be considered if they might have an impact on investment returns (see [“DOL to Plan Sponsors: ‘It’s Mostly All About the Benjamins!’”](#)).

However, the DOL is now considering climate change as a stand-alone issue. The following are a few of the more than 20 questions exclusively concerning the effect of climate change on retirement plan investments from a [request for information](#) that the DOL issued on February 14, 2022:

- What should the DOL do to protect retirement plan and pension balances from the threats of climate change?
- What are the most significant climate-related financial risks to retirement savings?
- What data on climate-related financial risk should the DOL consider, and should it collect such information by adding questions to the Form 5500 Annual Return?
- Might guaranteed annuities help mitigate climate-related financial risk?

Responses are requested by May 16, 2022.

While clearly looking to devote more time to climate change concerns, the DOL may have “weeded out” crypto in its compliance assistance release titled [“401\(k\) Plan Investments in ‘Cryptocurrencies’”](#) issued on March 10, 2022. Characterizing cryptos as “speculative” investments

that most retirement plan participants are ill-prepared to scrutinize properly, and that pose significant complications to retirement plan administration, the DOL expressed “serious concerns about the prudence of a fiduciary’s decision to expose a 401(k) plan’s participants to direct investments in cryptocurrencies, or other products whose value is tied to cryptocurrencies.”

The release closes with the DOL’s intention to locate (and perhaps fumigate) retirement plans allowing crypto investment, even if it is only permitted through a brokerage window, and “take appropriate action to protect the interests of plan participants and beneficiaries with respect to these investments.”

Authored By



Lowell J. Walters

Related Practices

[ERISA Employee Benefit Plan Litigation](#)
[Life, Annuity, and Retirement Solutions](#)
[Blockchain and Digital Currency](#)
[Labor & Employment](#)

Related Industries

[Life, Annuity, and Retirement Solutions](#)
[Life, Annuity, and Retirement Solutions](#)

©2025 Carlton Fields, P.A. Carlton Fields practices law in California through Carlton Fields, LLP. Carlton Fields publications should not be construed as legal advice on any specific facts or circumstances. The contents are intended for general information and educational purposes only, and should not be relied on as if it were advice about a particular fact situation. The distribution of this publication is not intended to create, and receipt of it does not constitute, an attorney-client relationship with Carlton Fields. This publication may not be quoted or referred to in any other publication or proceeding without the prior written consent of the firm, to be given or withheld at our discretion. To request reprint permission for any of our publications, please use our Contact Us form via the link below. The views set forth herein are the personal views of the author and do not necessarily reflect those of the firm. This site may contain hypertext links to information created and maintained by other entities. Carlton Fields does not control or guarantee the accuracy or completeness of this outside information, nor is the inclusion of a link to be intended as an endorsement of those outside sites.

