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PRIVATE MARKET INVESTMENTS

Promises and Potential Pitfalls

Rumored regulatory and political support to allow greater private market investment access thrust the issue back into the spotlight. What does it mean for retirement savers?

plus

- Top Defined Contribution Wholesalers
- Five Health Plan Lawsuit-Mitigation Steps
- Top DC Advisor Teams


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RUMORED REGULATORY AND POLITICAL SUPPORT TO ALLOW GREATER PRIVATE MARKET INVESTMENT ACCESS—INCLUDING RETIREMENT PLANS—THRUST THE ISSUE BACK INTO THE SPOTLIGHT. WHAT'S NEW, POSITIVE, AND/OR PROBLEMATIC? IMPORTANTLY, WHAT DO ADVISORS THINK? WE TAKE A LOOK.

BY JOHN SULLIVAN

Rapid and recent developments in the retirement plan space surprised many in an industry known for moving at a slow (some would say glacial) pace.

A renewed push for private market investments (equity, debt, credit, etc.) in retirement plans is underway after years of debate about the role they would or could play in retirement savings. It's driven partly by President Trump's reported consideration of an executive order to expand investor access to these asset classes, among others.

Once part of a larger argument about the appropriateness of offering alternative investments in retirement plans overall, the administration's rumored actions turned a spotlight on the private investment subset. If you've heard the term more frequently recently, you're not alone.

"Alternative is such a vague catch-all that I think it could mean anything," Jason Kephart, Director of Multi-Asset Ratings for Global Manager Research at Morningstar, said. "In the 1990s, people considered publicly traded REITs an alternative investment. Emerging markets used to be alternative. I think it's one of these things where what 'alternative' means constantly changes. I think 'private markets' helps better define what we're talking about. It's probably better to be more specific than less, particularly when discussing people's retirement accounts."

OneDigital Chief Investment Officer Michael Esselman agreed, adding that the vernacular has changed.

"The distinction between alternative and private investments is a good one," Esselman said. "I think it's healthy. If you think about alternatives, that could mean a lot of things to a lot of people. Is it a commodity alternative? Yes. A hedge fund? Clearly. But we're looking specifically at private credit, private equity, private infrastructure, private real estate, and those categories. You can then carve out the other alternatives and say yes to commodities and no to a hedge fund, that sort of thing."

To say that including private market investments in retirement plans is controversial is like saying water is wet, a statement amusingly obvious.

Competing headlines in the consumer press highlight their potential for better diversification and risk-adjusted returns. They include terms like "fairness" and "democratization" when describing the privileged access high-net-worth investors, endowments, and defined benefit plans have enjoyed for years. So, why not everyone else?

They have a point: a June 2025 report from the National Institute on Retirement Security (NIRS) found that from 2001 to 2023, the average public pension plan "reallocated about 20 percent of its assets from public equity and fixed income into private equity, real estate, hedge funds, and other alternative investments," a move that "enabled these funds to grow, deliver reliable benefits, and withstand market turmoil."

Conversely, critics argue that higher fees, a lack of liquidity, complexity, and fiduciary complications make them unsuitable for most retail investors—defined contribution plan participants included.

It's an argument Steve McCourt, Co-CEO of mega investment consultant Meketa Investment Group, heard for years, but one he says the industry is beginning to counter.

"From the institutional, larger [retirement] plan perspective, it appears there's a pivot towards utilizing private markets solutions," McCourt said. "The larger market for a long time has been pretty much constrained by a combination of litigation and regulation on many things, but mostly around fees. So, any high-fee products have been really difficult to embrace with larger 401(k) plans and 403(b) plans."

He added that two developments may allow some larger market plans to consider private market investments. The first is the likelihood of a more receptive regulatory environment going forward.

"The second is the longer that private market investment solutions have been around, the longer the track record there is to develop a prudent approach to using them within portfolios, despite their higher fees," McCourt explained.

And, advisors are playing an increasing role, albeit mainly in wealth management so far.

"Wealth management advisors are going through an adoption cycle, or rather, over the last two years, an educational cycle," Michael Bell, CEO of Meketa Capital, Meketa Investment Group's wealth management arm, said. "There was a heavy embrace of education and digging down to understand what these offerings are, the due diligence involved, and what it really means to incorporate them into a portfolio."

> I THINK THIS IS THE NEW FRONTIER. ANY TIME YOU INTRODUCE SOMETHING SEEMINGLY REVOLUTIONARY, IF YOU WILL, FOR THE DEFINED CONTRIBUTION SPACE, IT TAKES TIME. BUT WHAT I THINK IS ENCOURAGING IS THE FACT THAT YOU HAVE FIRMS LIKE EMPOWER WORKING WITH SOME OF THE BEST PRIVATE ASSET MANAGERS IN THE WORLD THAT HAVE TOP-DECILE, TOP-QUARTILE RETURN RECORDS.

EDUCATION TO EXECUTION

He's also seen a pivot, starting at the end of last year and the beginning of this year, one from education to execution.

"It's now about how they actually incorporate those private market vehicles into their portfolios, whether through a separate account, model deliveries, or individual investment vehicles," Bell explained. "We've seen adoption take hold in the wealth management space, and advisors are now incorporating it into their non-qualified businesses. They've become comfortable with it in the traditional arena, so how do they incorporate that into defined contribution plans? We're seeing that activity really pick up, led by financial advisors, and maybe even more so than what you would see from traditional participants."

One would think industry reverence for the late David Swensen, Yale University's chief investment officer and a pioneer in private markets, would make acceptance and adoption easier for investment, financial—and yes, retirement plan—advisors.

Not so, according to Bell.

"It's education, and even though these vehicles have been in the market, the investment set hasn't been open and available to advisors until recently," he said. "It was available for institutional investors because of the investment minimums and the paperwork involved. I think advisors were aware of it. They just didn't dig down into it because it really wasn't available to them. Now that it has become available in different evergreen structures, it's like, 'I better understand what's out there and available.'"

REFORM RECKONING

Private market proponents (and many others) agree that litigation reform is critical for widespread adoption in the retirement plan space.

The frenzy of fiduciary breach filings continues uninterrupted, and the numbers are striking. As American Retirement Association CEO Brian Graff noted:

- About one-third of large retirement plans have been sued since 2016.
- Over 50% of plans with more than $1 billion in assets have faced legal claims.
- In 2023 alone, 42 settlements were reached, totaling $353 million.

Calling them "cookie-cutter" lawsuits, critics contend it's gotten so extreme that they simply cut and paste from previous filings, occasionally neglecting to update the name of the defendants. It's one reason Daniel Aronowitz, President Trump's nominee for Assistant Secretary of Labor for the Employee Benefits Security Administration (EBSA), has written so extensively on the subject.

Tort lawyers are salivating at the prospect of another high(er) fee target, regardless of the corresponding value it might deliver to participants.

"The litigation has been painful, and I wouldn't hold my breath for litigation reform," McCourt said. "But gosh, that would be great if it happened."

Empower CEO Edmund Murphy was more optimistic, referencing ongoing discussions with regulators and legislators.

"This is something that I personally spoke with [Lori Chavez-DeRemer] about, who was the Secretary of Labor nominee at the time," Murphy said. "We will continue to have those discussions and dialogue on Capitol Hill and advocate for what we think is an important opportunity for 125 million investors. Not unlike other types of investments where, over time, sponsors have been granted a safe harbor, we'll need regulatory and legislative support to clear that hurdle. That being said, I think there are plan sponsors today that, with the structure that's been outlined, are more than comfortable moving forward."

Empower, the nation's second-largest recordkeeper, recently teamed with private investment providers Apollo, Franklin Templeton, Goldman Sachs, Neuberger Berman, PIMCO, Partners Group, and Sagard to offer them to its 19 million retirement plan participants.

"Private market investments have been available to endowments, foundations, and defined benefit plans for decades," Murphy said, referencing the aforementioned fairness argument. "Some of these asset classes are the best-performing asset classes over the last 30 years. If employers have been willing to make an investment allocation decision in private assets on behalf of their pension plan participants, why not consider it in the defined contribution voluntary system?"

While widespread adoption will take time, he added that he believes many participants in defined contribution plans will allocate some portion of their

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> RIGHT NOW, 87% OF COMPANIES IN THE UNITED STATES WITH REVENUES OVER $100 MILLION ARE PRIVATE. THINK ABOUT THAT. UNTIL NOW, 125 MILLION DEFINED-CONTRIBUTION INVESTORS HAVE HAD NO ACCESS OR EXPOSURE TO THOSE COMPANIES.

discretionary investment dollars to private assets.

Murphy also suggested the manner in which the portfolios are structured can address traditional obstacles to private market investments in 401(k)s, like fee and liquidity issues. He mentioned collective investment trusts (CITs), specifically, which would serve the dual purpose of helping to increase adoption while repelling potential lawsuits.

"I think this is the new frontier," Murphy said. "Any time you introduce something seemingly revolutionary, if you will, for the defined contribution space, it takes time. But what I think is encouraging is the fact that you have firms like Empower working with some of the best private asset managers in the world that have top-decile, top-quartile return records. We think we can work together and bring solutions to those end users in a way that delivers real value and strong investment performance over time."

Indeed, with 40% fewer publicly traded companies, he said private market access will be critical moving forward.

"Right now, 87% of companies in the United States with revenues over $100 million are private. Think about that. Until now, 125 million defined-contribution investors have had no access or exposure to those companies. Yet, those invested outside DC plans, wealthy investors, and defined benefit plan participants have access. I think about it from a standpoint of just plain fairness. It's the democratization of private assets. I know the term gets overused, but it is appropriate."

"I think there's a fair argument that if you want to own the market and want exposure, private companies are part of the market," Morningstar's Kephart said. "There's a lot of private companies that investors don't have access to. There also are a lot of smaller companies. I think there's definitely an argument you can make there. I think the challenge comes then, 'Okay, what do we do about the fees, especially in retirement plans where it's so fee sensitive?' I think if there is an executive order, and it doesn't really address fee litigation, then I'm not sure. That's one of the biggest barriers—so many excessive fee lawsuits in 401(k) plans."

POINT OF ENTRY

In an earlier article, we quoted Jason Zweig from The Wall Street Journal and his frank views about alternative investments.

"In the right hands, these assets work wonders. In the wrong hands, they wreak havoc," Zweig wrote at the end of last year.

He returned in May, specifically addressing private market investments in retirement plans, decrying the illiquidity premium (additional return generated from investments difficult to sell and convert to cash immediately) and interval funds (in which liquidity is available at defined periods, or "intervals"), among other private market investing characteristics.

Yet, again, the portfolio's structure can address cost, complexity, and other traditional obstacles to 401(k) inclusion that Zweig and other critics describe—meaning as part of a professionally managed solution rather than a stand-alone investment menu selection from which individual participants can choose. The managed solution's overall allocation to private market investments would ideally be small, for example, 5%.

"Instead of offering it as a stand-alone solution, putting it in a target date fund means you now have a diversified portfolio that participants can invest in," McCourt said. "It's also easier to highlight as a plan sponsor that you've integrated private market solutions in a diversified way that mitigates risk and improves liquidity for the participant."

"I don't think anybody, for good reason, is going to bring that into the core investment menu lineup," OneDigital's Esselman further emphasized. "That's just not prudent. People have put them in custom target date funds in large plans for a long, long time, but really, it will be the asset-controlled programs like managed accounts, which is where we're looking at bringing them in. Does the plan have a professionally controlled asset allocation program? That's where it's likely to come in first."

ADVISOR ATTITUDES

But what are retirement plan advisors, specifically, seeing, and what do they think?

"A lot of the same players that were offering these for the high-net-worth accredited investors are the ones that are bringing it to the 401(k) market as well," Jennifer Doss, CAPTRUST's Senior Director and Defined Contribution Practice Leader, said. "It's a lot of the same names, and in a lot of cases, it's the same evergreen investments that they've been running for, in some cases, years and years. They're just packaging them a little differently to be appropriate for the 401(k) market, putting them into collective investment trust wrappers. There's a lot of overlap with what we've already been doing on the private wealth side with the due diligence that now we can bring over to the 401(k) side."

She was diplomatic when asked to

elaborate further and if she thought private market investments make sense in retirement plans and are appropriate for participants.

"I'm going to give you an economist answer and say it depends," she said. "It depends on the client; it depends on the participant demographics; it depends on the sophistication of the committee (and whether they outsource to a 3(38)-investment manager). So, I think the answer is, 'it depends.'"

She said she likes the way they're discussed within the industry—a small allocation placed within broader asset allocation vehicles like target date funds, managed accounts, or risk-based models—rather than directly into 401(k) plan menus for participants to figure out.

"A professional asset manager, or again, a 3(38)-investment advisor, is making decisions in terms of the due diligence, picking the managers, handling the liquidity, verifying the reasonability of the fees, and then managing the asset allocation and making changes over time," Doss said. "If you do it that way, they could certainly add value for the right client."

She added that, regardless, private market investment interest from her plan sponsor clients is low—hardly surprising given the general lack of awareness and the concept's relative newness.

"I don't think we're unique in saying that, historically, on the 401(k) side, this has not been a point of conversation outside of the last six months."

Christian Stanley, Partner and Senior Financial Advisor with Greenspring Advisors, agreed, noting that "after over a decade of doing this, I've knowingly had two individuals ask. One was the CFO of a nonprofit organization, and the other was the CEO of a for-profit medical practice, both of which have happened in the last five years. The inquiries are low. I think, like anything, ESG, retirement income, etc., we drive all those conversations to our clients instead of clients coming to us."

So, while general industry interest is increasing, there's still a long way to go with plan sponsors, participants, and advisors. Widespread adoption will take time, yet the rationale and innovation are quickly converging, making (at least) the case for retirement plan consideration. NNTM

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