

DOL Urges Caution

Before Adding Cryptocurrency as a 401(k) Plan Option

While cryptocurrency has captured the interest of investors, this digital currency presents significant risks of fraud, theft and loss, therefore, the Department of Labor (DOL) is cautioning 401(k) plan sponsors to exercise extreme care before considering this as an option in their fund lineups. The DOL doesn't believe it meets the plan sponsor's duty as a fiduciary to act in the best interests of their plan participants.

DOL's Summary of Cryptocurrency Risks

- **Speculative and volatile investments:** At this stage in their development, cryptocurrencies have been subject to extreme market volatility, and the SEC has said it's a highly speculative investment.
- **Plan participant challenges:** Because of their lure, the concern is that inexperienced plan participants may not understand the risks cryptocurrency represents to their overall retirement investments.
- **Custodial and recordkeeping concerns:** These assets aren't held like traditional plan assets in a custodial account or trust, therefore aren't easily available to value and aren't available to pay benefits and plan expenses. And, because it's a digital asset, it's open to hackers and theft.
- **Valuation issues:** The DOL is questioning the reliability and accuracy of cryptocurrency valuations. In addition, the cryptocurrency market intermediaries may not be subject to the same reporting and data integrity requirements as those who work with more traditional investments.

- **Evolving regulatory environment:** Some market participants may be operating outside of existing regulatory frameworks or not complying with them. Fiduciaries would be required to include their analysis of how regulatory requirements may apply to issuance, investments, trading or other activities and how those regulatory requirements might affect investments by participants in 401(k) plans.

DOL to Investigate Further

Because of all of these concerns, the DOL's Employee Benefits Security Administration expects to conduct an investigative program aimed at plans that offer participant investments in cryptocurrencies and related products, and to take

appropriate action to protect the interests of plan participants and beneficiaries with respect to these investments.

Consider Other Inflation-Hedge Investments

While some may believe cryptocurrency represents an inflation hedge, there are other less speculative investments plan sponsors might consider in their fund lineup to help combat the current high inflation rate in the U.S.

For example, they could consider including exposures to a mix of asset classes that provide inflation protection both within the suite of target date funds and on the investment menu.

Look Closely at Target Date Funds' Underlying Investments

Plan sponsors should consider consulting with their RPS advisor to review any target date funds they offer to make sure that they are designed for late-career employees and in-retirement employees and contain lower allocations of public equities and higher allocations to fixed income and cash to ensure the funds are providing principal preservation.

Offer a Diversified Fund Lineup

It's more important than ever that plan sponsors offer a full, diversified fund lineup versus offering inflation-protection investments as standalone options on the fund menu.

Ultimately plan sponsors should encourage participants to stay the course and invest for the long term rather than shifting assets during high inflationary periods or during market ups and downs. This approach will serve participants better over the long term.

Consult With Our Team

The retirement plan solutions team at Mariner Wealth Advisors is here to assist plan sponsors with plan design, investment selection, asset allocation, ERISA compliance, investment monitoring and more to help them meet their fiduciary requirements.

For more information visit: marinerwealthadvisors.com

Sources:

[Department of Labor, Compliance Assistance Release, No. 2022-01](#)
["Investment Considerations for Inflation Protection"](#)

The views expressed are for commentary purposes only and do not take into account any individual personal, financial, legal or tax considerations. As such, the information contained herein is not intended to be personal legal, investment or tax advice. Nothing herein should be relied upon as such, and there is no guarantee that any claims made will come to pass. The opinions are based on information and sources of information deemed to be reliable, but Mariner Wealth Advisors does not warrant the accuracy of the information.

The investment characteristics of virtual currencies, cryptocurrencies, and digital coins and tokens ("Digital Assets") generally differ from those of traditional currencies, commodities or securities. Importantly, Digital Assets are not backed by a central bank or a national, supra-national or quasi-national organization, any hard assets, human capital, or other form of credit. Rather, Digital Assets are market-based. A principal risk in trading Digital Assets is the rapid fluctuation of market price. The value of client portfolios relates in part to the value of the Digital Assets held in the client portfolio and fluctuations in the price of Digital Assets could adversely affect the value of a client's portfolio. There is no guarantee that a client will be able to achieve a better than average market price for Digital Assets or will purchase Digital Assets at the most favorable price available.

There is no assurance that the virtual currency market, or the service providers necessary to accommodate it, will continue to support Digital Assets, continue in existence or grow. Further, there is no assurance that the availability of and access to virtual currency service providers will not be negatively affected by government regulation or supply and demand of Digital Assets. Currently, many of the companies providing Digital Assets custodial services fall outside of the SEC's definition of "qualified custodian", and many long-standing, prominent qualified custodians do not provide custodial services for Digital Assets or otherwise provide such services only with respect to a limited number of actively traded Digital Assets. The regulatory schemes possibly affecting Digital Assets or a Digital Asset network may not be fully developed and subject to change. It is possible that any jurisdiction may, in the near or distant future, adopt laws, regulations, policies or rules directly or indirectly affecting a Digital Asset network. It is also possible that government authorities may take direct or indirect investigative or prosecutorial action related to, among other things, the use, ownership or transfer of Digital Assets, resulting in a change to its value or to the development of a Digital Asset network.

Please refer to our ADV Part 2A for additional risk disclosures. You may also want to review Investor Alert issued by the SEC's Office of Investor Education and Advocacy https://www.sec.gov/oiea/investor-alerts-bulletins/investoralertsia_bitcoin.html

Mariner Wealth Advisors ("MWA"), is an SEC registered investment adviser with its principal place of business in the State of Kansas. Registration of an investment adviser does not imply a certain level of skill or training. MWA is in compliance with the current notice filing requirements imposed upon registered investment advisers by those states in which MWA maintains clients. MWA may only transact business in those states in which it is notice filed or qualifies for an exemption or exclusion from notice filing requirements. Any subsequent, direct communication by MWA with a prospective client shall be conducted by a representative that is either registered or qualifies for an exemption or exclusion from registration in the state where the prospective client resides. For additional information about MWA, including fees and services, please contact MWA or refer to the Investment Adviser Public Disclosure website (www.adviserinfo.sec.gov). Please read the disclosure statement carefully before you invest or send money. Securities Offered through MSEC, LLC, Member FINRA & SIPC, 5700 W. 112th Suite 500, Overland Park, KS 66211.