

FINANCIAL WELLNESS

Keep Alternatives Out of Your 401(k) Plan

Why private equity, crypto, and other alternative investments may create unnecessary fiduciary risk for veterinary practice owners.

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Veterinary professionals continually evaluate new ideas and decide which ones actually benefit their patients, clients, staff, and businesses. In today's retirement plan world, one of the most aggressively promoted ideas is the use of private equity, private credit, bitcoin, cryptocurrency, and other alternative investments inside participant-directed 401(k) plans. Curiosity in these options has increased in recent years, especially after President Trump signed an executive order for the Department of Labor to reexamine alternative investments as a potential option in retirement plans.

Promoters argue that private markets can outperform public markets. Yet repeated coverage in the financial press has frequently highlighted potential drawbacks, including limited liquidity, valuation uncertainty, opaque fees, and heightened fiduciary exposure for employers.

In our view, alternative investments may be fine for certain individuals, but they may not be appropriate for use within a participant-directed plan governed by the Employee Retirement Income Security Act of 1974 (ERISA). The vast majority of private-sector 401(k) plans are governed by ERISA.



What Are Alternative Investments?

Alternative investments include a wide range of non-traditional assets such as:

- **Private equity:** Wealthy individuals and institutions pool their capital to

purchase private businesses not listed on an exchange. They aim to improve the businesses' financial performance, and then sell them within a few years for a profit.

- **Private credit:** This is like private equity, except the pooled capital is lent to private businesses, offering them a lending alternative to their bank.
- **Cryptocurrency:** Crypto, including bitcoin, is a digital decentralized currency (no bank or government controls it). It involves "blockchain" to securely and electronically record transactions on a public ledger.
- **Venture capital:** This is generally provided by private equity firms that desire to invest in early stage, high-growth companies. It involves substantial risk.
- **Hedge fund:** Hedge funds seek to achieve positive returns regardless of the direction of the stock and bond markets. Generally, these heavily utilize hedging, including buying and selling puts and calls to "bet" on the market's direction.
- **Non-publicly traded real estate trusts:** These illiquid real estate investments are registered with the SEC but do not trade on an exchange.

These vehicles operate with strategies that differ significantly from the liquid, transparent, and easily valued investments that ERISA plans are designed to offer.

Alternative Investments May Not Match Employee Needs

ERISA requires that retirement plans serve all participants, not just sophisticated investors. That means the plan investment menu must be understandable, diversified, liquid, valued daily, and reasonably priced.

Alternative investments can have difficulty meeting these requirements, because they often include:

- ▶ **Limited liquidity:** Many private equity and private credit funds impose multiyear lockups, as do venture capital, hedge funds, and non-traded real estate investment trusts. Others reserve the right to delay or suspend withdrawals during market stress. These features are difficult to reconcile with a plan that must allow participants to take loans, request hardship withdrawals, or roll over accounts when changing jobs.
- ▶ **Valuation challenges:** Private assets do not trade publicly on an exchange. Their values often rely on internal estimates or appraisal models. During volatile periods, these models can lag significantly behind market conditions, which may result in prices that do not reflect current market value.
- ▶ **Opaque fees:** Alternative investments frequently charge multiple layers of fees, including fees for performance, monitoring, transactions, and management. These costs can reduce participant returns and may be challenging to evaluate within an ERISA prudence framework.

Even advocates for alternative investments acknowledge that they are intended for investors who can tolerate limited liquidity, irregular pricing, and complex fee structures. This generally aligns more closely with the profile of an “accredited investor” — a filer with a \$1 million net worth and \$200,000 annual income (single) or \$300,000 annual income (married) — rather than the average retirement plan participant.

Fiduciary Exposure for Plan Sponsors

Offering alternative investments inside a retirement plan may create potential liability for plan sponsors (veterinary practice owners), trustees, investment committees, third-party administrators,



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fiduciary plan advisers, and brokers or registered representatives. If a participant does not understand the risks, if a fund restricts withdrawals, or if valuations diverge from market conditions, the employer could face claims of imprudent fund selection.

While employers are not responsible for investment performance, they still maintain a fiduciary duty to carefully choose and oversee the investment options, and lawsuits over investment options are increasing.

What Belongs in a 401(k) Menu

A well-designed investment menu aligns with ERISA expectations and participant needs. It typically includes:

- ▶ Index-based equity (stock) funds
- ▶ Index-based fixed income (bond) funds
- ▶ Age-based target date retirement funds
- ▶ Transparent, low-fee, core diversification tools, like a broad suite of low-fee index funds covering a variety of equities (stocks) and fixed income (bonds)

These investments are intended to support reliable long-term investment fundamentals like diversification, reduce participant confusion, and minimize fiduciary exposure.

The Bottom Line

Alternative investments generate headlines and promise access to strategies once reserved for institutions. But they also introduce risks that may be incompatible with the structure and fundamental intent of 401(k) plans and are generally not considered suitable for employer-sponsored retirement plans.

Veterinary practice owners already shoulder significant responsibility. Adding alternative investments to your 401(k) plan is an unnecessary fiduciary risk. Keep your 401(k) plan fund menus simple and participant-friendly. **TVB**

ALTERNATIVE INVESTMENTS

Some individuals enjoy exploring alternative investments. They may have higher risk tolerance or deeper financial knowledge. These participants may be able to access private funds through:

- ▶ Individual retirement accounts
- ▶ Taxable brokerage accounts
- ▶ Family trusts or family limited partnerships

These personal accounts allow individuals to make their own investment choices without creating fiduciary exposure for the employer or the plan.