STATE STREET INVESTMENT MANAGEMENT

Sean P. O'Malley
General Counsel

State Street Investment Management
1 Iron St.
Boston, MA 02210

T + 1-617-664-1465
Sean_O'Malley@ssga.com
statestreet.com

June 1, 2026

Office of Regulations and Interpretations
Employee Benefit Security Administration
Room N-5655
U.S. Department of Labor
200 Constitution Avenue NW
Washington, DC 20210

Re: RIN 1210-AC38 – Fiduciary Duties in Selecting Designated Investment Alternatives

Dear Assistant Secretary Aronowitz:

State Street Investment Management[1] ("State Street Investment Management") appreciates the opportunity to comment on the Department of Labor's (the "Department") March 30, 2026 proposed regulation, *Fiduciary Duties in Selecting Designated Investment Alternatives* (the "Proposal").[2]

Executive Order (EO) 14330, *Democratizing Access to Alternative Assets for 401(k) Investors* directed the Department to ease regulatory and litigation barriers that limit 401(k) plans' ability to offer alternative investments by clarifying fiduciary standards so that plan fiduciaries may consider alternative investments as options in 401(k) plans, consistent with the plan fiduciary's ERISA fiduciary duties.

[1] State Street Investment Management is the investment management division of State Street Corporation, a bank holding company headquartered in Boston, Massachusetts. State Street Investment Management had $5.6 trillion in assets under management as of March 31, 2026, including $979.2 billion in United States defined contribution plans, of which $676.4 billion was invested in collective investment trusts for which State Street Investment Management serves as trustee.

[2] *See Fiduciary Duties in Selecting Designated Investment Alternatives*, 91 Fed. Reg. 16088 (DOL March 31, 2026), *available at* https://www.govinfo.gov/content/pkg/FR-2026-03-31/pdf/2026-06178.pdf.

We commend the Department for advancing this important initiative. The Proposal represents a meaningful step toward clarifying ERISA's fiduciary standards for the prudent selection of default investment alternatives (DIAs) and appropriately focuses on evaluating fiduciary conduct based on a disciplined decision-making process. In addition, we are also very supportive of the asset-class neutral nature of the Proposal, which reinforces plan fiduciaries' ability to consider and evaluate a range of asset classes based on the needs of the fiduciary's particular plan, consistent with ERISA's fundamental principles.

Overall, we believe that the Proposal is beneficial for plan sponsors and plan participants and we strongly support the Department's efforts to support the Executive Order. The comments we are providing below are in support of the Department's objectives. Our comments offer suggestions for strengthening the neutrality and durability of the Proposal as well as mitigating unnecessary litigation risk for plan sponsors.

I. Investment Vehicle Neutrality

The Proposal appropriately emphasizes asset class neutrality. Consistent with ERISA's fundamental principles, plan sponsors must retain broad discretion to consider a range of options that meet the interests of plan beneficiaries based on the specific facts and circumstances of the plan. In furtherance of that principle, we recommend that the final rule include an explicit statement that the rule, and its safe harbor, are neutral as to investment vehicle (*i.e.*, legal structure of the DIA) as well as asset class.

Specifically, the Department should clarify that the examples included in the rule are not intended to favor any particular investment vehicle structure over another. The Proposal currently refers predominantly to mutual funds and registered investment companies and their regulatory framework under the Investment Company Act of 1940, as amended (the "Investment Company Act").

Information Classification: General

We also recommend including examples featuring collective investment trusts (CITs). CITs are widely used in defined contribution plans, including target date funds, and are subject to robust regulatory frameworks, including ERISA fiduciary obligations, OCC Regulation 9.18 and state trust law (for state-chartered trust companies). Including such examples would reflect the range of investment vehicle options available to, and commonly used by, plan sponsors.

Without these changes to emphasize investment vehicle neutrality as well as asset class neutrality, the rule may inadvertently cause a plan fiduciary to select one DIA over another based solely on the fact that its legal structure was described in the rule's safe harbor due to the plan fiduciary's fear of litigation risk.

II. Liquidity Risk Management Framework

State Street Investment Management agrees with the inclusion of a DIA's liquidity and its liquidity risk management program as material factors for consideration of a DIA as a plan fiduciary. As noted above, we also support investment vehicle neutrality.

We note that the conclusion of example (i)(1) is anchored by Rule 22e-4 under the Investment Company Act. Rule 22e-4 is the liquidity framework specifically applicable to open-end mutual funds registered under the Investment Company Act. This rule does not apply to other investment vehicle structures such as CITs and separately managed accounts that are not registered under the Investment Company Act.

To clarify a plan fiduciary's ability to rely on the rule's safe harbor in selecting a DIA that is not registered under the Investment Company Act, we recommend that the final rule include an example that considers a CIT's liquidity risk management program under the provisions of OCC Regulation 9.18, which applies to CITs.

Information Classification: General

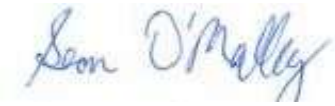
III. Valuation: Conflict Mitigation Rather than Elimination

We believe that ERISA's existing principles that apply to a plan fiduciary's identification, evaluation and oversight of an investment manager's conflicts of interest and conflict mitigation practices provide an appropriate framework for assessing an investment manager's valuation process. We note that example (j)(2) of the Proposal refers to a "conflict-free" and independent process for valuing assets for which there is no readily-available market value. We do not believe it is necessary for the final rule to create a new standard for plan fiduciaries with respect to the conflicts of interest faced by an investment manager. Therefore, we recommend that the final rule align with ERISA's existing principles for managing and mitigating conflicts of interest.

IV. Conclusion

State Street Investment Management appreciates the Department's leadership in advancing a clear and process-based framework for prudent decision-making. We believe that with targeted refinements to emphasize vehicle neutrality and to maintain a principles-based framework for fiduciary decision-making, the final rule will support plan fiduciaries in making prudent investment decisions and enhance outcomes for plan participants.

Respectfully submitted,



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