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GAO on Crypto in 401(k)s: Risks and Oversight Challenges



Recent findings from the Government Accountability Office (GAO) highlight critical considerations for sponsors exploring cryptocurrency as a retirement plan investment option. The GAO report emphasizes that while cryptocurrency assets remain a small portion of the 401(k) landscape, they carry significant risk.

Known for their high volatility, crypto assets like bitcoin can lead to substantial swings in portfolio value. For instance, a GAO simulation found that allocating 20% of a portfolio to bitcoin resulted in notably higher volatility compared to smaller allocations of 1% or 5%. Such unpredictability underscores the importance of exercising caution.

Limited Oversight and Data Gaps

One of the major challenges with including cryptocurrency in retirement plans is the lack of comprehensive oversight and data. According to the GAO, the Department of Labor (DOL) currently lacks the tools to systematically measure the presence of crypto assets in 401(k) plans. Reporting gaps in plans with fewer than 100 participants and those within self-directed brokerage windows — as well as regulatory blind spots — create uncertainty for fiduciaries trying to assess potential risks.

Fiduciary Responsibility and Due Diligence

The DOL has previously cautioned plan sponsors to act with “extreme care” when considering crypto assets. Despite cryptocurrencies such as bitcoin recently hitting record highs, sponsors must evaluate whether offering such investments aligns with their duty to act in the best interest of participants. The unique risks associated with crypto — including cybersecurity threats, potential theft and lack of standardized return projections — warrant careful consideration before including these options in investment lineups.

A Call for Greater Oversight

Massachusetts Congressman Richard Neal, a leading voice on retirement policy, requested the GAO report and has reiterated the need for stronger federal oversight of cryptocurrency in plans and robust measures to safeguard participants. “[The GAO] report shows there’s more to do to protect American workers and their retirement savings from the volatile, high-risk environment that comes with cryptocurrencies,” Neal said in a statement.



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Considerations for Plan Sponsors

For employers considering or already offering cryptocurrency options, it's advisable to:

- Review fiduciary obligations. Ensure all investment options meet the highest standards of prudence and regularly evaluate potential risks of including cryptocurrencies in the plan lineup.
- Monitor regulatory updates. Stay informed about developments in federal oversight and reporting requirements.
- Educate participants. Provide clear information on the risks and volatility of crypto investments.
- Limit exposure. If offering crypto, consider restricting allocations to a small percentage of portfolios to mitigate risk.
- Consult with legal counsel. Ensure compliance with ERISA guidelines and other relevant federal regulations when considering cryptocurrency investments.

By approaching cryptocurrency with caution and due diligence, plan sponsors can better protect participants while navigating the challenges of this rapidly evolving market.

Sources

<https://www.gao.gov/products/gao-25-106161>

<https://www.dol.gov/newsroom/releases/ebsa/ebsa20220310>

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