



CfPA Urges Department of Labor to Provide a Meaningful Fiduciary Safe Harbor for Alternative Assets in Retirement Plans

FOR IMMEDIATE RELEASE

WASHINGTON, D.C. – May 27, 2026 – (KOREWIRE) – The Crowdfunding Professional Association (CfPA) announced that its public comment letter to the U.S. Department of Labor is now available on [Regulations.gov](https://www.regulations.gov), responding to the Department’s proposed rule, “Fiduciary Duties in Selecting Designated Investment Alternatives” (RIN 1210-AC38).

The proposed rule would clarify how ERISA’s duty of prudence applies when plan fiduciaries select designated investment alternatives for participant-directed retirement plans, including asset allocation funds that may include alternative assets.

CfPA commended the Department for advancing a process-based, asset-neutral framework that preserves fiduciary discretion while recognizing the evolving role of private-market investment opportunities. At the same time, CfPA urged the Department to make the proposed safe harbor more practical by adding objective criteria and documentation thresholds that fiduciaries can apply consistently.

“Expanding access to private markets should not mean lowering the bar,” said Brian Belley, President of the Crowdfunding Professional Association. “It should mean giving fiduciaries a clearer, more disciplined process for evaluating opportunities. Regulated investment crowdfunding was built around public disclosures, federal oversight, and investor-protection frameworks. Those structures should matter when fiduciaries evaluate private-market exposure.”

CfPA’s comment letter recommends that the Department supplement the proposed safe harbor with checklist-style standards that could create a rebuttable presumption of prudence where fiduciaries document compliance with minimum quantitative and procedural criteria. These criteria may include appropriate benchmarking, risk-adjusted return analysis, liquidity classification, written investment memoranda, and reliance on qualified third-party advisors where appropriate.

In addition, CfPA recommended that the Department add a seventh factor to the safe harbor framework: whether an alternative asset is offered through a regulatory pathway that provides standardized disclosures, eligibility requirements, and federal oversight. CfPA pointed to Regulation Crowdfunding (Reg CF) and Regulation A (Reg A+) as examples of SEC-regulated retail private-market pathways that can provide useful diligence inputs for fiduciaries and investment managers.



CfPA emphasized that its position is not a blanket endorsement of all alternative assets in retirement plans. Rather, CfPA supports a prudent, documented, and process-driven approach that distinguishes between regulated disclosure-based pathways and less transparent private-market offerings.

CfPA's letter argues that clearer safe harbor criteria would help fiduciaries evaluate alternative assets with greater confidence, reduce unnecessary litigation risk, encourage responsible innovation in retirement investment options, and better align ERISA plans with evolving capital markets.

The full comment letter is available at:

<https://www.regulations.gov/comment/EBSA-2026-0166-31553>

CfPA will convene journalists, policymakers, entrepreneurs, investors, and industry leaders at the annual Regulated Investment Crowdfunding Summit, October 20-21, 2026, in Washington, D.C. Registration is available at <https://ricsummit.org>.

Learn more at <https://CfPA.org>, <https://www.crowdfundingecosystem.com>, or join as a member at <https://cfpa.org/joinus>.

About the Crowdfunding Professional Association

The Crowdfunding Professional Association (CfPA) is a 501(c)(6) nonprofit trade association dedicated to fostering the growth of the regulated investment crowdfunding economy. CfPA supports issuers, investors, regulated intermediaries, and crowdfunding professionals through education, advocacy, industry engagement, and policy work. CfPA advocates for responsible growth of regulated investment crowdfunding, including Regulation Crowdfunding, Regulation A, intrastate crowdfunding, and related frameworks that expand access to private-market investment opportunities under established regulatory structures.

Media Contact

Jason Fishman

Vice President | Chair, Growth Committee

Crowdfunding Professional Association, Inc.

Email: press@cfpa.org

Website: <https://cfpa.org>