Retirement Dollars Could Fuel the Next Retail and Real Estate Investment Boom

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More than 90 million Americans participate in employer-sponsored defined contribution plans like 401(k)s, which have traditionally been limited to conventional investments such as stocks, bonds, and mutual funds. However, the executive order "Democratizing Access to Alternative Assets For 401(k) Investors," signed by President Trump on August 7, 2025, aims to broaden access to more alternative asset classes. When implemented, 401(k) participants will be able to allocate a portion of their retirement dollars to "alternative assets," which notably include private market investments, real estate investments, and digital assets, like cryptocurrencies.

In this *Triple Net* blog post, we explore the growing access to capital for private equity holdings and real estate investors and consider the potential it presents for Americans seeking portfolio diversification.

Broader Access to Investment Opportunities

Private equity firms have long been seen as the gatekeepers to exclusive investment opportunities, typically available only to large institutions, pension funds, family offices, and high-net-worth individuals. Private equity often involves investing in private companies or taking public companies private. A notable example, BC Partners acquired PetSmart in 2015, focusing on growing revenues and strengthening PetSmart's omnichannel retail strategy, integrating online and offline sales, and expanding services such as grooming and vet clinics. In 2023, Apollo Global Management made a strategic equity investment, supporting PetSmart's continued market leadership and growth. These private equity moves have helped strengthen PetSmart's position in the pet retail space. More recently, Barnes & Noble, once taken private by Elliott Management, has opened new stores and further committed to opening more

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stores and expanding its business. Now, the recent executive order regarding alternative assets will open the door to everyday investors to make such investments.

Private equity has the potential for higher returns and can provide access to fast-growing industries and innovative businesses. However, these types of investments often require funds to be committed for a longer period, limiting liquidity and flexibility. For those comfortable with that tradeoff, private equity could be a valuable way to add more variety and potential long-term growth to a 401(k) plan, assuming plan fiduciaries determine such investments are appropriate.

Upon implementation of Trump's executive order, 401(k) funds will be able to invest in "private market investments, including direct and indirect interests in equity, debt, or other financial instruments that are not traded on public exchanges, including those where the managers of such investments, if applicable, seek to take an active role in the management of such companies." Plans are already underway in this space. BlackRock has announced that it will include private assets in its retirement plans once the secretary of labor outlines implementation of the executive order. This should provide private equity firms with access to a broader pool of investors and increased capital to invest in businesses. Further, "direct and indirect interests in real estate, including debt instruments secured by direct or indirect interests in real estate" are specifically called out as an additional "alternative asset."

Sale-Leasebacks and M&A Strategies

For commercial businesses that rely on or are interested in private equity for funding or growth, these changes mean that there is likely more capital to be deployed, helping those businesses expand, innovate, or improve operations. In addition to a more traditional mergers and acquisitions (M&A) investment strategy, we expect sale-leaseback transactions to continue to gain momentum and expand along with the increased investment, on its own. Sale-leasebacks may also be utilized to enhance the value of M&A transactions, a strategy typically applied by private equity firms.

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In all, increased investment could significantly boost the amount of capital directed into real estate projects and funds by making these opportunities more accessible to retirement investors. This shift would broaden the investor base, allowing individual retirement savers, not just institutions, to participate in real estate and infrastructure projects through their 401(k) plans. Additionally, eased regulations and clear guidance may encourage innovation, fostering the development of new real estate investment vehicles specifically tailored for retirement plans.

Next Steps and Key Takeaways

Within 180 days of the Executive Order, the secretary of labor is required to review existing policies and provide clarification and guidance on the Department of Labor's position relative to alternative assets and criteria for asset allocation under the Employee Retirement Income Security Act of 1974 (ERISA), as amended. This includes identifying criteria for fiduciaries to prudently balance higher expenses with long-term net returns and diversification goals, potentially resulting in new rules and guidance on these points. Furthermore, the Department of Labor must also consult with the Securities and Exchange Commission and Treasury Department to align on regulatory changes. As the retirement landscape continues to evolve, so too must the strategies used to navigate it. Our attorneys will continue to monitor this implementation and its various impacts on the real estate market.

Please contact the authors or any attorney with Frost Brown Todd's Retail and Shopping Center Finance and Employee Benefits teams if you have questions about how these changes could impact your investment strategy or would like assistance addressing any real estate, ERISA, or fiduciary issues.

Triple Net Blog

Whether you're a developer, landlord, tenant, or investor, Triple Net is your go-to resource for keeping pace with issues impacting triple net properties, while getting insight into the latest strategies to help you manage legal risks and optimize deal flow and outcomes.

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