U.S. Chamber of Commerce

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Internal Revenue Service
CC:PA:01:PR
Room 5503
P.O. Box 7604
Ben Franklin Station
Washington, DC 20044

Re: Guidance on Eligible Investments for Trump Accounts; CC-00349938-26; RIN 1545-BS14

To whom it may concern:

The U.S. Chamber of Commerce Center for Capital Markets Competitiveness ("CCMC") appreciates the opportunity to submit comments to the Department of the Treasury ("Treasury") and the Internal Revenue Service ("IRS") regarding the proposed regulations under section 530A of the Internal Revenue Code addressing eligible investments for Trump accounts.[1]

Our comments address the practical administration of section 530A and the need for final regulations that can be implemented by trustees, custodians, fund sponsors, intermediaries, and other market participants through existing disclosures, regulatory filings, public information, ordinary account-administration processes, and reasonable compliance procedures.

The proposed regulations establish a new eligible-investment framework that will require affected parties to make and administer eligibility, monitoring, disposition, reinvestment, and correction determinations. Final regulations should assign compliance responsibility to the parties best positioned to perform the relevant function, and should avoid imposing independent analytical, continuous-monitoring, or discretionary-investment obligations on parties that are not positioned to perform them.

[1] Unless otherwise indicated, all textual references to "section" are to sections of the Internal Revenue Code of 1986, as amended.

Consistent with those principles, final regulations should preserve reliance on existing public disclosures and regulatory filings, provide workable monitoring and actual-knowledge rules, permit good-faith correction of operational and administrative errors, and include appropriate transition relief. Treasury and the IRS should also coordinate with relevant regulators as appropriate where required compliance actions could otherwise create uncertainty for trustees, custodians, or intermediaries acting without investment discretion.

I. Fee and Expense Cap

Treasury and the IRS should preserve the distinction between fund-level fees and expenses subject to the section 530A(b)(3)(A) 0.1% limitation[2] and separately charged account-level administrative costs.

The proposed regulations appropriately focus on the 0.1% limitation on fees and expenses charged by or on behalf of the mutual fund or ETF. Separate account-level, trustee, custodial, platform, recordkeeping, payroll, transaction-related, and similar administrative costs are functionally distinct from fees and expenses charged by or on behalf of a fund.

A categorical prohibition on account-level fees could discourage participation by otherwise willing service providers, reduce platform availability, or cause costs to be shifted in less transparent ways. A preferable approach would be to preserve the statutory fund-level limitation while allowing separately charged account-level costs to be addressed through ordinary disclosure, market competition, and otherwise applicable regulatory requirements.

Final regulations should also confirm that trustees and custodians may rely in good faith on prospectus disclosures, SEC filings, and other existing public documents to determine whether a fund satisfies the fee and expense limitation.

II. Product Eligibility Standards

[2] Section 530A(b)(3)(A).

Eligibility determinations under the qualified-index and eligible-investment requirements should be based on objective, administrable standards that trustees and custodians can apply using existing public materials, including prospectuses, SEC filings, publicly available index methodologies, exchange information, and recognized third-party data sources.

To the extent final regulations address the 90% U.S.-companies safe harbor or other technical index-related eligibility requirements, Treasury and the IRS should preserve administrable compliance standards that can be applied using publicly available information and ordinary compliance processes. Trustees and custodians should be able to use publicly available information, exchange information, index methodologies, SEC filings, and recognized third-party data sources to document compliance. Final rules should avoid creating a new obligation for trustees or custodians to undertake independent legal, portfolio, or index analyses beyond ordinary review of available information.

Final regulations should also distinguish prohibited leverage from ordinary portfolio and fund-operational practices that do not materially increase investment risk or otherwise cause a fund to fail the eligible-investment requirements. This includes ordinary index-replication, liquidity-management, cash-management, settlement, and related practices used by mutual funds and ETFs in the normal course. Consistent with that approach, trustees and custodians should be permitted to make such determinations based on publicly available information and ordinary compliance procedures.

III. Operational Administration, Monitoring, and Reliance

The final regulations should provide a practical monitoring framework based on periodic review, reasonable written procedures, existing public information, and an administrable actual-knowledge standard. CCMC supports the proposed periodic-review framework and recommends that final regulations clarify how that framework interacts with the actual-knowledge standard.

Specifically, final regulations should clarify what constitutes actual knowledge that an investment is no longer an eligible investment. The rules should address when knowledge is attributed to a trustee or custodian and should make clear that actual knowledge is not triggered merely because information is publicly available

somewhere in the marketplace. Rather, actual knowledge should be tied to information identified through the trustee's or custodian's ordinary monitoring, compliance, review, or escalation procedures.

Final regulations should also provide a monitoring safe harbor under which a trustee or custodian is treated as satisfying its monitoring obligations if it maintains reasonable written monitoring policies, conducts periodic reviews consistent with those policies, and acts within the applicable correction or disposition period after identifying that an investment has ceased to qualify. This approach would recognize that trustees, custodians, and intermediaries may not be positioned to conduct continuous, real-time monitoring of fund fees, investment focus, index methodology, underlying holdings, or other product characteristics.

Guidance issued by Treasury and the IRS should permit receiving trustees and custodians to rely in good faith on information, certifications, records, and reporting received from a transferring trustee, custodian, Treasury, or another authorized source. That reliance should extend to account status, contribution history, basis information, investment eligibility, prior reporting, beneficiary information, and other information relevant to administering the account.

A receiving trustee or custodian that reasonably relies on such information should not be required to independently reconstruct historical account activity or reverify matters previously reviewed by another authorized party. Treasury and the IRS should also clarify that a receiving trustee or custodian is not responsible for operational, reporting, contribution, or investment-compliance failures that occurred before the account transfer, absent actual knowledge of the failure.

The final regulations should provide a reasonable period for disposition and reinvestment after a trustee or custodian identifies, through its monitoring process or otherwise acquires actual knowledge, that an investment has ceased to qualify. Treasury and the IRS should recognize that a reasonable compliance period may be needed to process transactions, communicate with account holders or responsible parties, address circumstances in which instructions are not provided on a timely basis, and complete disposition and reinvestment activities through ordinary operational procedures.

Final regulations should also confirm that ordinary operational mechanics do not cause an otherwise compliant account to fail the eligible-investment requirements. These mechanics include settlement periods, temporary cash holdings, cash sweep or settlement processes, dividend reinvestment, fractional shares, residual balances, and small-balance accounts, provided amounts are held outside eligible investments only for a reasonable period necessary to complete permitted transactions or address de minimis administrative issues.

Treasury and the IRS should also confirm that trustees and custodians may use default eligible-investment procedures where an account holder, parent, guardian, or other responsible party does not provide timely investment direction needed to maintain compliance. Without such a rule, trustees and custodians could be placed in an untenable position where inaction creates tax compliance risk, but action could be viewed as giving investment advice or exercising discretion. Treasury and the IRS should also provide a safe harbor under which a trustee or custodian that acts pursuant to reasonable written compliance procedures and the final regulations will not be subject to adverse tax consequences, account-level disqualification, or similar liability solely as a result of undertaking required compliance transactions.

IV. Correction Framework and Self-Correction

Final regulations should establish a correction framework that permits self-correction of good-faith operational and administrative errors identified through ordinary monitoring, reconciliation, account-administration, or compliance-review processes, without causing account disqualification where the error is appropriately remedied.

The proposed regulations request comments on correction procedures, including procedures for administrative errors and restoration of earnings that would have accrued if an account had been properly invested. CCMC encourages Treasury and the IRS to include a practical correction framework in final regulations or other published guidance. In developing that framework, Treasury and the IRS should consider drawing on familiar correction-program principles used for other tax-favored savings arrangements, including, where appropriate, the Employee Plans Compliance Resolution System or a comparable published correction process tailored to Trump accounts.

The correction framework should apply to good-faith failures involving investment eligibility, temporary investment in nonqualifying assets, residual balances, settlement mechanics, dividend reinvestment, delayed liquidation or reinvestment, excess contributions, reporting issues, and similar administrative or operational failures. Correction procedures should be calibrated to the nature of the failure, the party responsible for the failure, and the actual impact on the account beneficiary.

The final regulations should also provide a reasonable, discovery-based correction period once a trustee, custodian, intermediary, or other responsible party identifies through reasonable written monitoring, compliance, review, or escalation procedures, or otherwise acquires actual knowledge, that an account holds cash, an ineligible investment, or another asset that does not satisfy the applicable requirements. For this purpose, actual knowledge should not be imputed to a trustee, custodian, intermediary, or other responsible party solely because information concerning a fund, index, or other investment is publicly available.

Final regulations should incorporate reasonable-cause and good-faith protections where a trustee, custodian, fund sponsor, intermediary, or other responsible party maintained reasonable procedures and acted promptly after identifying the issue. Where a responsible party follows ordinary compliance processes and corrects within a reasonable period after identification, account beneficiaries should not face disproportionate consequences.

Treasury and the IRS should provide de minimis correction relief and simplified correction methods for minor operational failures, temporary investment failures, residual cash balances, settlement-related issues, fractional-share issues, delayed reinvestments, and other low-risk administrative errors. The correction framework should preserve the account's status where a good-faith operational or administrative error is corrected within the prescribed correction period.

Where appropriate, the correction framework should also permit a trustee, custodian, intermediary, or other responsible party to restore earnings that would have accrued but for a correctable operational or administrative error, without treating the restoration as a contribution, excess contribution, or separate tax compliance failure.

Finally, Treasury and the IRS should confirm that a correction made in accordance with the final correction framework will not itself result in a separate tax compliance failure.

V. Securities-Law and Other Regulatory Coordination for Required Compliance Transactions

Treasury and the IRS should coordinate with the SEC and other relevant regulators, as appropriate, to help ensure that required compliance actions under section 530A do not create overlapping, inconsistent, or duplicative obligations for trustees, custodians, intermediaries, or other service providers.

This issue is particularly important where a trustee, custodian, intermediary, or other service provider is required under section 530A and the final regulations to dispose of an ineligible investment, reinvest proceeds in an eligible investment, or complete another compliance-driven transaction without exercising investment discretion or receiving timely direction from the account holder or responsible party. In those circumstances, the service provider is acting to satisfy statutory and regulatory obligations rather than making investment recommendations, providing discretionary investment advice, or exercising discretionary trading authority.

Treasury and the IRS should recognize the nondiscretionary nature of these compliance actions and, to the extent possible, coordinate with relevant regulators so that trustees, custodians, intermediaries, and other service providers are not subject to unnecessary uncertainty regarding the treatment of such actions under other regulatory frameworks.

CCMC also encourages Treasury and the IRS to consider whether required disposition, reinvestment, correction, or related compliance transactions undertaken solely to satisfy section 530A may raise unintended issues under other legal frameworks, including prohibited-transaction considerations where applicable,[3] and to coordinate with relevant regulators as appropriate to minimize unnecessary uncertainty for parties acting in a ministerial or nondiscretionary compliance capacity.

VI. Implementation, Transition, and Good-Faith Compliance Relief

[3] See section 4975.

Final regulations should provide a reasonable implementation period for governing instruments, procedural, disclosure, monitoring, documentation, reporting, and systems changes required to comply with the final rules. Implementation of the eligible-investment rules will require coordination across trustees, custodians, fund sponsors, intermediaries, employers, platform providers, index providers, and data vendors. Final rules should recognize that affected parties will need time to adapt systems, procedures, monitoring protocols, default-investment processes, account documentation, and correction procedures.

Treasury and the IRS should provide transition relief for good-faith implementation errors identified and corrected during the initial implementation period, consistent with the correction framework described above. Final regulations should also provide first-year good-faith compliance relief for trustees, custodians, fund sponsors, intermediaries, employers, and other affected parties that make reasonable efforts to comply while systems and operational processes are being implemented. During the transition period, trustees and custodians should be permitted to continue using existing compliance processes and publicly available information, absent actual knowledge to the contrary, while updated systems and documentation are implemented.

Transition relief should include reasonable time for disposition and reinvestment where an account holds an investment that was reasonably treated as eligible before final guidance but requires additional review, documentation, or adjustment after final rules are issued. Treasury and the IRS should also consider providing model governing-instrument provisions or other standardized implementation tools to reduce uncertainty and promote consistent administration.

Finally, Treasury and the IRS should coordinate final guidance with related Trump account reporting, recordkeeping, correction, rollover, transfer, employer-contribution, and securities-law guidance to avoid inconsistent or duplicative compliance obligations.

VII. Conclusion

CCMC would welcome the opportunity to engage further with Treasury and the IRS as they develop final regulations and implementation guidance under section 530A. CCMC appreciates Treasury and the IRS's consideration of these comments.

Sincerely,



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