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Trump Accounts: Proposed Regulations Regarding Eligible Investments

By Allison Martinez
September 16, 2026

On July 4, 2026, Trump Accounts ("Accounts") officially launched—and **millions** of Americans have opened them. The government, however, is still ironing out the rules regarding Accounts and how they operate. The latest set of proposed regulations, this time regarding "eligible investments" for Accounts, was published in the Federal Register on Friday, August 21, 2026. This article will discuss the latest proposed rules' highlights and considerations for employers.

The Lay of the Land

The One, Big, Beautiful Bill Act added Sections 128, 530A, and 6434 to the Internal Revenue Code ("Code"). Code Section 530A provides for the establishment of, and contributions to, Accounts. The funds in an Account may *only* be invested in "eligible investments" during the growth period (i.e., the day the Account is opened until the last day of the calendar year when the Account beneficiary turns 17). Code Section 530A(b)(3) defines the term "eligible investment" as any mutual fund or exchange traded fund that:

1. Tracks the return of a qualified index;
2. Does not use leverage;
3. Does not have annual fees and expenses of more than 0.1% of the balance of the investment in the fund; and
4. Meets the other criteria the Secretary of the Treasury determines is appropriate.

After considering comments received in response to Notice 2025-68, this latest set of proposed regulations provides guidance regarding terms used in Code Section 530A and the additional criteria deemed necessary by the Department of Treasury and the Internal Revenue Service for an investment to be considered an "eligible investment."

Level Set—Are We All Talking About the Same Thing?

Definitions are key when it comes to the Code, so the proposed regulations outline the meanings of "exchange traded funds," "mutual funds," "qualified index," and other key terms to ensure that everyone understands the ground rules for qualifying as an "eligible investment."

Eligible investments must be either a mutual fund or an exchange traded fund ("ETF"). The proposed regulations define an ETF as a domestic corporation that is registered under the Investment Company Act of 1940 ("1940 Act"), and that is either: (i) an "exchange-traded fund" as defined by the 1940 Act (17 CFR §270.6c-11(a)(1)); or (ii) an entity that operates in substantially the same manner. A "mutual fund" is considered a domestic corporation registered under the 1940 Act as an open-end company and that is not an ETF.

An "eligible investment" must track the returns of a "qualified index." A "qualified index" is defined by Code Section 530A as: (1) the Standard and Poor's 500 stock market index; or (2) any other index that's comprised *primarily* of equity investments in U.S. companies and for which regulated futures contracts are traded on qualified board or exchange. The proposed regulations contain a safe harbor which provides an index is "primarily" comprised of U.S. companies they represent at least 90 percent of the index based on their weightings in the index.

Tracking the index means that the fund's investment objective is to provide results that—before fees and expenses—replicate the index's performance, and that the fund holds investments that are reasonably expected to accomplish that objective. The proposed regulations make it clear that an investment may only track the returns of a single index.

> ***Environmental, Social and Governance is Out—Period.***
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> The proposed regulations also make it clear that any investment fund that tracks the returns of an environmental, social, and governance ("ESG") index is not an eligible investment. For these purposes, an ESG index includes any index that has, or is marketed as having, a focus on environmental, social, or governance factors. Any investment funds that are marketed or sold as having an investment objective to track an ESG index will not be considered an "eligible investment."

The Trustee's Responsibilities and Related Procedures

The preamble estimates the proposed regulations will affect 85 million children in 44 million American families—and Account trustees are tasked with the responsibility of ensuring that Account funds are only invested in one or more eligible investments during the growth period. The proposed regulations outline how trustees will be deemed to meet this requirement, including the selection and monitoring of eligible investments and default eligible investments, required notices, and how and when errors must be corrected. The duties placed on trustees are paramount because an Account will be disqualified as an Account (and as an individual retirement account ("IRA")) if funds are invested in an investment that is not an "eligible investment" during the growth period. If this occurs, a distribution of all assets held in the Account will be deemed to have occurred on the day of the Account's disqualification.

The proposed regulations also clarify that trustees' fees are not included in the 0.1% limit on fees and expenses. Accounts have been designed with the policy goal of promoting long-term savings for children, and there is concern trustees' fees will chip away at these savings. Accordingly, the Department of Treasury and the IRS are continuing to consider how to keep trustees' fees in check.

What Does This Mean for Employers?

Ensuring funds are invested in "eligible investments" during the growth period is critical to achieve the Accounts' intended goals. Employers, however, do not have the authority to limit trustee selection when setting up a Trump Account Contribution Program ("TACP"). So, the burden of ensuring "eligible investments" are available and selected falls on the trustees who employers do not have the exclusive authority to select, but with whom they (or their recordkeeper) must communicate with on a regular basis if a TACP exists.

Comments on the proposed regulations are due on or before October 20, 2026.

If you're interested in learning more about Accounts and whether they are a good fit for your company's benefits package, please register for Boutwell Fay's webinar which will be held on Tuesday, September 22, 2026, at 10:00 a.m., or contact your Boutwell Fay attorney.

Additional information regarding Accounts can also be found in our earlier articles:

- Third Set is a Charm? Proposed Regulations Regarding Employer Contributions to Trump Accounts
- Trump Accounts are Exempt from ERISA: Should Employers Celebrate by Making Contributions?
- Trump Accounts: At least 5 Million Reasons Why Employers Should be Ready for Questions
- Joining the Party or Sitting on the Sidelines? What Employers Need to Know About Trump Accounts