

United States Senate

WASHINGTON, DC 20510

June 13, 2025

The Honorable Lori Chavez-DeRemer
Secretary
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210

Dear Secretary Chavez-DeRemer,

We write to express our strong concern with the Department of Labor's (Department) recent action to rescind guidance warning of the risks of offering cryptocurrency in employees' 401(k) plans. The Department's previously issued guidance cautioned plan fiduciaries to "exercise extreme care" before considering the inclusion of crypto in 401(k) plans. This guidance came after the Department found that investments in cryptocurrency "present significant risks and challenges to participants' retirement accounts, including significant risks of fraud, theft, and loss." Thus, we strongly urge you to reinstate this guidance to ensure retirement security for millions of hardworking Americans.

The cryptocurrency market is extremely volatile, making it unfit to serve as a retirement investment tool. For example, after President Trump announced his "Liberation Day" tariffs, the value of Bitcoin, one of the most popular cryptocurrencies, plunged by 10 percent. And in the last five years alone, the value of Bitcoin has swung from lows of less than \$17,000 to highs more than \$111,000. With the Administration's continuing—and constantly changing—trade wars, this volatility will continue. Americans need certainty in their retirement investment accounts, not an unregulated, highly speculative asset that could drastically change the value of their 401(k) plan on a minute-to-minute basis.

Cryptocurrency also is rife with illicit activity. Chainalysis, a cryptocurrency tracking firm, reported that the total amount of illicit crypto activity—including terrorist financing, scams, and sanctions evasion—amounted to at least \$40 billion in 2024. Including cryptocurrency in retirement accounts presents unnecessary risks for Americans and could have grave impacts on their ability to retire.

Millions of Americans rely on their 401(k) plans to retire with dignity. These plans are tax-advantaged, and are meant to incentivize retirement security over speculative investment. Employers who sponsor 401(k) plans have a statutorily mandated fiduciary duty to exercise prudence and care in selecting investment options offered in their plans. Some providers of retirement services already offer exposure to crypto in 401(k) plans. The Department's imprudent decision to rescind its previous guidance gives other retirement service providers the green light to include a volatile asset in their plans, and strips guardrails against risk in retirement investment products.

The fluctuations in the cryptocurrency market, as well as the volume of illicit finance that cryptocurrency facilitates, indicates that crypto is a risky, unstable investment. Americans deserve strong protection of their hard-earned retirement savings.

Thank you for your attention to this important matter. We look forward to your response.

Sincerely,

A handwritten signature in blue ink, reading "Dick Durbin", written in a cursive style.

Richard J. Durbin
United States Senator

A handwritten signature in blue ink, reading "Tina Smith", written in a cursive style.

Tina Smith
United States Senator

A handwritten signature in blue ink, reading "Elizabeth Warren", written in a cursive style.

Elizabeth Warren
United States Senator

A handwritten signature in blue ink, reading "Chris Van Hollen", written in a cursive style.

Chris Van Hollen
United States Senator