Letter from the Investment Company Institute

October 20, 2026

Internal Revenue Service
Attn: CC:PA:01:PR (CC–00349938–26)
Room 5503
P.O. Box 7604
Ben Franklin Station
Washington, DC 20044

Re: Eligible Investments for Trump Accounts, RIN 1545–BS14

To Whom It May Concern:

On behalf of the Investment Company Institute,[1] we appreciate the opportunity to provide input to the Treasury Department and the Internal Revenue Service (IRS) (referred to jointly as "Treasury" in this letter) in response to the Notice of Proposed Rulemaking on eligible investments for Trump accounts (the "Proposal").[2] The Proposal provides guidance regarding the investments that may be held in Trump accounts (Eligible Investments) and the procedures that Trump account trustees must have in place to monitor and enforce the investment requirements. ICI has a strong interest in helping to make Trump accounts a successful and enduring program, which will foster a culture of investing among young people.

Code section 530A(b)(3) limits investments in Trump accounts to a narrowly defined category, under the term "eligible investments,"[3] which are the only assets in which Trump accounts may

[1] The Investment Company Institute (ICI) is the leading voice of the asset management industry serving individual investors. ICI represents mutual funds, exchange-traded funds (ETFs), closed-end funds, and unit investment trusts (UITs) in the United States, and UCITS and similar funds offered to investors in other jurisdictions. Its members manage $48.6 trillion invested in funds registered under the US Investment Company Act of 1940, serving more than 125 million investors. Members manage an additional $11.5 trillion in regulated fund assets managed outside the United States. ICI also represents its members in their capacity as investment advisers to collective investment trusts (CITs) and separately managed accounts (SMAs) for individual investors. ICI associate members include service providers to funds, including financial communications firms, custodians and transfer agents, and CIT Trust companies. ICI has offices in Washington, DC, Brussels, and London.

[2] See *Guidance on Eligible Investments for Trump Accounts*, published at 91 Fed. Reg. 54280 (August 21, 2026), available at https://www.govinfo.gov/content/pkg/FR-2026-08-21/pdf/2026-17123.pdf.

[3] The term "eligible investment" means any mutual fund or exchange traded fund which—(i) tracks the returns of a qualified index, (ii) does not use leverage, (iii) does not have annual fees and expenses of more than 0.1% of the balance of the investment in the fund, and (iv) meets such other criteria as the Secretary determines appropriate for purposes of this section.

invest during the account beneficiary's growth period.[4] As we stated in an earlier letter,[5] we encourage Treasury to use its interpretive authority to broaden the universe of Eligible Investments, rather than to shrink it. Unnecessarily restricting the already narrow range of Eligible Investments will detract from the success of the Trump accounts program.

In December 2025, Treasury provided initial guidance in Notice 2025-68, which included interpretations regarding the requirements for Eligible Investments and for trustees' procedures for enforcing the requirements.[6] The Proposal builds upon Notice 2025-68 and provides additional guidance. As we previously noted, several aspects of the statutory provision needed further interpretation from Treasury, and we appreciate the guidance Treasury has provided in both Notice 2025-68 and the Proposal.

Executive Summary

Regarding Treasury's interpretation of the statutory Eligible Investment requirements, Treasury should:

- Modify the Proposal's "index tracking" requirements to permit traditional funds of index funds structures (i.e., where the underlying funds track separate indexes) to qualify as permitted Eligible Investments.
- Expand the Proposal's safe harbor for determining whether a qualified index is comprised of equity investments in "primarily" US companies by lowering the 90% threshold for US weighting to a simple majority. This would provide investors with predominantly US equity exposure, while allowing additional diversification and exposure to international investment opportunities.
- More specifically define impermissible "leverage" and provide a clearer, more objective standard.
- Retain the Proposal's definition of ETF, which appropriately includes ETF share classes of mutual funds in the definition of ETF.

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[4] The growth period begins when an initial Trump account is first established for an account beneficiary and ends on December 31 of the calendar year in which the account beneficiary reaches the age of 17.

[5] See Letter from Elena Barone Chism, Deputy General Counsel – Retirement Policy, and Shannon Salinas, Associate General Counsel – Retirement Policy, to Ms. Helen Morrison, Benefits Tax Counsel, Treasury Department, (Oct. 29, 2025) available at https://www.ici.org/sites/default/files/2025-10/25-cl-implementation-trump-accounts.pdf ("ICI's October Letter").

[6] Treasury issued initial guidance in IRS Notice 2025-68 (Notice of Intent to Issue Regulations with Respect to Section 530A Trump Accounts), issued December 2, 2025, available at https://www.irs.gov/pub/irs-drop/n-25-68.pdf. ICI submitted a comment letter in response to Notice 2025-68. See letter from Eric Pan and Paul Cellupica, dated February 20, 2026, available at https://www.ici.org/comment-letter/ici-letter-with-recommendations-on-the-implementation-of-trump-accounts ("ICI's February Letter"). ICI had previously provided recommendations in ICI's October Letter.

- Retain the Proposal's interpretation of the fee and expense limitation. ICI urges Treasury not to impose a new limit or prohibition on account-level administrative fees. To ensure that costs remain low, Treasury should focus on reducing the compliance burdens associated with administering Trump accounts.

Our letter includes the following recommendations regarding a trustee's Eligible Investments oversight responsibilities:

- ICI generally supports the Proposal's framework for annual monitoring of Eligible Investment status, with clarifications.
- To avoid disproportionate harm to Trump account beneficiaries, ICI supports a reasonable period for trustee correction of inadvertent errors and changes to Eligible Investment status. ICI agrees that Treasury should confirm that a trustee is permitted to replace earnings in certain circumstances, and that Treasury should extend the Employee Plans Compliance Resolution System (EPCRS) to allow corrections of inadvertent failures with respect to a Trump account.

Finally, our letter makes recommendations to foster competition and consumer choice in the Trump account marketplace. In particular, Treasury should:

- Provide for a broader menu of Eligible Investments in initial Trump accounts maintained by Treasury's selected trustee and establish a formal process to add qualifying funds.
- Provide guidance as soon as possible permitting rollovers to additional trustees who plan to offer Trump accounts.

I. Eligible Investment Requirements

Below we make recommendations regarding the guidance on Eligible Investments. Our comments are intended to ensure clarity and provide an appropriate level of flexibility in offering Trump account investments that will meet the needs of investors.

A. Treasury Should Make Certain Additional Changes to the "Index Tracking" Requirements

Eligible Investments must track the returns of a "qualified index."[7] Paragraph (c) of the Proposal addresses what it means to track the returns of an index.

We support most aspects of the proposed rule text. We appreciate the technical changes that Treasury made to the guidance in Notice 2025-68, including by clarifying that index funds

[7] To be a "qualified index" under the statute, the index must be either (i) the S&P 500 stock market index, or (ii) any other index comprised of equity investments in primarily US companies and for which regulated futures contracts are traded on a qualified board or exchange.

(i) *seek* to replicate the returns of their chosen indexes, and (ii) often do not hold all stocks that are constituents of their indexes. We especially welcome the Proposal's treatment of securities lending activity. As the Proposal notes, securities lending is common among equity index funds, and it provides another low-risk source of investment returns, consistent with the funds' index tracking investment objectives. Furthermore, we support the Proposal's limitations on securities lending activity.

With respect to funds of funds, proposed paragraph (c)(2) states, "An investment fund that seeks to provide investment results consistent with the return on several different indices does not track the returns of an index." The preamble further clarifies that "nothing in these proposed regulations would preclude a fund of funds from being an eligible investment if it tracks a single index and meets all of the other requirements in section 530A(b)(3)."

We continue to believe that traditional funds of index funds structures (i.e., where the underlying funds track separate indexes) should be permitted Eligible Investments.[8] The SEC has recognized that "[r]etail investors…use fund of funds arrangements as a convenient way to allocate and diversify their investments through a single, professionally managed portfolio. … a fund of funds may provide an investor with the same benefits as separate direct investments in several underlying funds, without the increased monitoring and recordkeeping that could accompany investments in each underlying fund."[9]

Funds of funds should qualify as Eligible Investments if they satisfy the following three conditions:[10]

- The acquiring fund (i.e., the fund of funds) must be a mutual fund or ETF.
- Each underlying fund in which an acquiring fund invests must be a mutual fund or ETF; track the returns of a qualified index; and refrain from using prohibited leverage.
- Total fees and expenses—including both the weighted fees and expenses of the underlying funds and any fees and expenses charged directly by the acquiring fund—are no more than 0.1% of the balance of the investment in the fund.

Assuming compliance with these three conditions, funds of funds would comfortably fit within the statutory framework. The preamble "confirm[s] that a Trump account may be invested in any number of eligible investments… ." From an investment perspective, funds of funds would simply be a more convenient and streamlined way to achieve greater diversification and reduce risk, by using compliant underlying funds as portfolio "building blocks" (e.g., a fund of funds could invest in low-cost large cap, mid cap, and small cap US equity index funds).

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[8] ICI's February Letter at 16-17.

[9] *Fund of Funds Arrangements*, SEC Release Nos. 33-10871; IC-34045 (Oct. 7, 2020) at 4, available at www.sec.gov/files/rules/final/2020/33-10871.pdf.

[10] These conditions would be further qualified by any final applicable Treasury rules or guidance.

Functionally, we see no difference between allowing "all-in-one" funds of funds as outlined above and permitting a Trump account default investment to be a combination of multiple Eligible Investments in specified proportions, as proposed paragraph (g)(4)(ii) would.

Finally, we recommend amending the first sentence of paragraph (c)(2) to state that "an investment fund does not track the returns of an index if the fund uses one or more strategies to **seek to** outperform or otherwise perform differently from the index." This addition would be consistent with the text in paragraph (c)(1) and clarify that actual index fund performance can vary from that of the index itself for several reasons.

B. Treasury Should Expand its Safe Harbor Regarding Whether a Qualified Index Is Comprised of Equity Investments in Primarily US Companies

As explained above, by statute Eligible Investments must track the returns of a "qualified index." Proposed paragraph (e) sets forth several criteria for determining whether an index is "qualified." As with Notice 2025-68, the Proposal includes a safe harbor under which an index will be treated as comprised of "primarily" US companies if US companies represent at least 90% of the index based on their index weightings.

We support the concept of a safe harbor with a clear numerical minimum for indexes with exposure to foreign companies, but we continue to believe that 90% is too high and would unduly narrow the range of qualified indexes and investments.[11] ICI's October Letter recommended that Treasury define "primarily" to mean a majority of the index's total equity exposure, and this continues to be our view. Treasury's adoption of our proposed definition would be consistent with the statutory language and well within its rulemaking authority.

A broader safe harbor also would be a prudent policy choice. Permitting investments in a broad array of US *and* non-US issuers allows account holders to diversify their investment exposures and therefore better manage risk and seek growth opportunities across markets and market cycles. US and international stocks have outperformed each other over different periods (Figure 1, below). For instance, international developed market stocks outperformed US large-cap stocks in 2025, with total returns of 35.3% and 17.9%, respectively.[12] This relative outperformance has continued in 2026 through September 30, with international developed market stocks returning 14.9% compared to 12.7% for US large-cap stocks.

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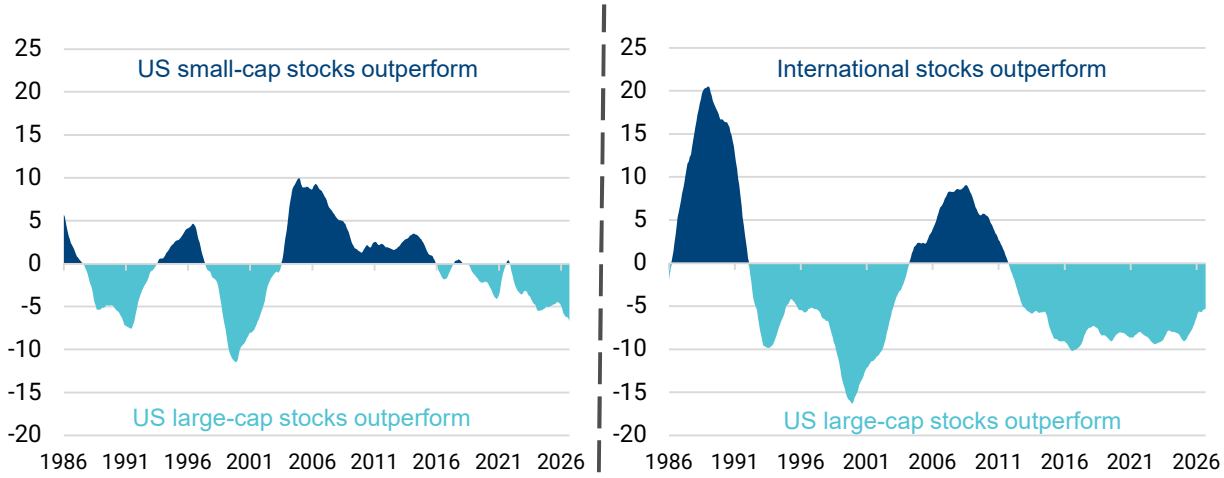
[11] See ICI's October Letter at 6-8 and ICI's February Letter at 13-14.

[12] Performance of international developed market stocks are measured using the total return on the FTSE Developed All Cap ex US Index, and those for domestic large-cap stocks are measured using the total return on the S&P 500 index. Data are sourced from LSEG Workspace.

Figure 1
Markets Move in Cycles
Relative performance (percentage points) of US small-cap or international stocks to US large-cap stocks*



*Relative performance is calculated as the difference between the 5-year moving average of annual returns on the Russell 2000 or MSCI World ex USA indexes and the S&P 500 index. Positive values indicate the outperformance of US small-cap or international stocks, while negative values indicate outperformance of US large-cap stocks. Data are through September 30, 2026.
Source: ICI calculations of Refinitiv and Bloomberg data

For instance, we believe that an index fund tracking the MSCI World Index—which had a US weighting of 72.94% as of September 30, 2026—should qualify as an Eligible Investment. Consistent with the statute's language and intent, this type of index fund still would provide investors with predominantly US equity exposure, while still providing some exposure to international investment opportunities.

C. Treasury Should More Specifically Define Impermissible "Leverage"

By statute, Eligible Investments may not "use leverage." Proposed paragraph (d)(1) would treat a fund as impermissibly "using leverage" if it uses borrowings, derivatives, or economically equivalent strategies "in a way that materially increases the risk of loss associated with an investment in the investment fund (as compared to an investment in a fund that holds the index components physically and that does not borrow or use derivatives)."

We appreciate that Treasury agreed with our recommendations[13] that (i) the prohibition should not restrict the transactions that ordinary index funds use to gain efficient exposure to an index,

[13] See ICI's February Letter at 14-15.

and (ii) the analysis should look at the fund as a whole rather than at individual transactions in isolation. We also strongly support the confirmation in paragraph (d)(2) that short-term borrowings for liquidity and derivatives used for synthetic exposure to index components are permitted.

However, the proposed standard still has the weakness we identified in commenting on Notice 2025-68: it rests on subjective terms that funds and trustees cannot practically apply with confidence.[14] The new "risk of loss" wording also extends the standard beyond leverage-related risk.

"Materially increases the risk of loss" is vague and overly broad.

The proposed rule does not describe:

- which measure of risk applies (for example, volatility, Value-at-Risk (VaR),or counterparty exposure);
- how much additional risk is acceptably "immaterial"; or
- over what period, or across what market conditions, the comparison is made.

Nor is it clear whether the proposed point of comparison—"a fund that holds the index components physically and that does not borrow or use derivatives"—will exist or be readily identifiable. Again, equity index funds commonly borrow and use derivatives for the reasons set forth in paragraph (d)(2).

Without these details, funds and trustees could reasonably reach different conclusions about the same fund. A fund's status could also change after a single period of unusual market volatility, triggering the 30-day disposition requirement in paragraph (g)(5)(ii). Forced sales of that kind would serve no investor protection purpose and would impose transaction costs borne by fund shareholders. The SEC faced a similar choice when it regulated fund derivatives use and adopted objective, quantitative tests rather than an open-ended comparison.[15]

And proposed paragraph (d)(2) suffers from the same defect, conditioning permitted borrowing and derivatives usage on "not materially increas[ing] the risk of loss." As a result, the safe harbor gives no more certainty than the general rule.

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[14] *Id*.

[15] Compare *Use of Derivatives by Registered Investment Companies and Business Development Companies*, SEC Release No. IC-31933 (Dec. 11, 2015), available at https://www.sec.gov/files/rules/proposed/2015/ic-31933.pdf, with *Use of Derivatives by Registered Investment Companies and Business Development Companies*, SEC Release No. IC-34084 (Nov. 2, 2020), available at https://www.sec.gov/files/rules/final/2020/ic-34084.pdf; see 17 CFR 270.18f-4(c)(2), (c)(4).

Borrowing and Derivatives risks are not synonymous with leverage, and they are already regulated.

We agree that using borrowing and derivatives may introduce certain additional risks to funds, but they are different from leverage risk.[16] The preamble explains that the purpose of the leverage restriction is to exclude higher-risk funds that seek to multiply or magnify index changes. The second sentence of proposed paragraph (d)(1)—whether a change in the index tends to cause a materially greater proportional change in the fund's net value—suffices for that purpose. By contrast, counterparty, clearing, and operational risks do not magnify a fund's exposure to its index, yet a broad "risk of loss" test would nevertheless capture them.[17]

Fortunately, the Investment Company Act and Rule 18f-4 thereunder substantively limit and regulate mutual funds' and ETFs' use of borrowing and derivatives. Among other things, they impose restrictions on:

- **Borrowing.** Mutual funds and ETFs are permitted to borrow from a bank if, immediately after borrowing, the fund's total net assets are at least three times total aggregate borrowings. In other words, the fund must have at least 300% asset coverage.[18]
- **Derivatives.** A fund that uses derivatives beyond a limited amount must adopt a written derivatives risk management program.[19]A fund that qualifies as a "limited derivatives user" must still adopt policies and procedures reasonably designed to manage its derivatives risks.[20]

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[16] These may include, for example: counterparty risk; clearing and margin risk; basis and tracking risk; and operational and valuation risk.

[17] For example, an index fund may use equity index futures to put cash to work until it can buy the underlying stocks. The position carries clearing and margin risk, but it generally would not increase the fund's exposure beyond its net assets. In fact, it likely brings the fund's returns closer to the index than holding uninvested cash would. Under the proposed wording, however, a fund or trustee might question whether the clearing risk alone "materially increases the risk of loss" compared with a physical portfolio. That is the kind of uncertainty the statute does not require and the preamble does not intend.

[18] See 15 U.S.C. 80a-18(f). For background on these limitations, see Investment Company Institute, *2026 Investment Company Fact Book (66th ed., 2026)* at Appendix A at 128, available at https://icifactbook.org/pdf/2026-factbook-app-a.pdf.

[19] See 17 CFR 270.18f-4. The program must cover leverage, market, counterparty, liquidity, operational, and legal risks. It must be administered by a designated derivatives risk manager and include: (i) risk guidelines; (ii) stress testing; (iii) backtesting; (iv) internal reporting and escalation; (v) periodic review; and (vi) oversight by the fund's board.

[20] See 17 CFR 270.18f-4(a) (defining "derivatives risks"), (c)(1) (derivatives risk management program), (c)(4) (limited derivatives users).

Funds must also disclose the principal risks of their derivatives use in their prospectuses. Relying on this framework would address any additional concerns about borrowing or derivatives risks without creating unnecessary and unworkable standards.

A clearer, more objective standard would address Treasury's concern.

The preamble rejected ICI's earlier recommendation because it would leave the leverage prohibition without independent effect. A more clearly defined, objective, exposure-based test would avoid that concern. It would also specifically target what the statute is meant to exclude: funds that seek to multiply or magnify index changes. We recommend that Treasury replace the "risk of loss" wording in paragraph (d) with the changes described below:

- **Leverage defined exclusively by magnified exposure.** The rule text should clearly state that a fund impermissibly "uses leverage" if it seeks, or is designed or operated, to provide investment returns that correspond to a multiple of the performance of its index, whether through borrowings, derivatives, or another economic equivalent. This builds on the example already included in paragraph (d)(1). Borrowings and derivatives used to manage flows, equitize cash, or gain synthetic exposure to index components, as described in paragraph (d)(2), would not be considered use of leverage.[21]
- **Safe harbor.** The rule also should provide a safe harbor providing that a fund does not use impermissible leverage if it is a limited derivatives user under Rule 18f-4(c)(4)[22] or otherwise keeps derivatives exposure within that rule's 10%-of-net-assets threshold, and its borrowings are limited to the purposes described in paragraph (d)(2).

These changes would keep leveraged and inverse products out of Trump accounts while providing funds and trustees a standard that can be applied consistently, using information funds already disclose under the federal securities laws.

D. ICI Supports the Modifications to the Definition of ETF

An Eligible Investment must be a "mutual fund or exchange traded fund." The Code does not define either term. Proposed paragraph (b) would define "ETF," "mutual fund," and the umbrella term "investment fund," which means a mutual fund or an ETF.

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[21] Treasury should also confirm that trustees may rely on a fund's prospectus disclosure of its objective, principal strategies, and principal risks in applying the leverage test, consistent with our comments on paragraph (g)(6).

[22] Among the index equity funds that held at least one derivative in 2025:Q4, 81% of funds (constituting 98% of index equity fund assets) identified on Form N-CEN that they were "limited derivatives users." Based on Investment Company Institute and publicly available SEC Forms N-CEN and N-PORT data. (Data exclude funds that "seek to achieve performance results that are a multiple of an index or other benchmark, the inverse of an index or other benchmark, or a multiple of the inverse of an index or other benchmark." See Item C.3.c. of Form N-CEN.)

We support the proposed definitions. We especially appreciate that Treasury adopted ICI's recommendation to include ETF share classes of mutual funds in the definition of ETF.[23] As we noted, the SEC has expanded the number of issuers permitted to offer ETF share classes. Including them enables Trump account beneficiaries to invest in these low-cost index products as they become more widely available. We also support the flexibility in the "operates in substantially the same manner" language. It appropriately expands coverage to include ETFs that operate under SEC exemptive relief rather than simply under the ETF exemptive rule under the Investment Company Act.

E. Limit on Investment Fees and Expenses

By statute, Eligible Investments cannot have annual fees and expenses of more than 0.1% of the balance of the investment in the fund (i.e., 10 basis points). Notice 2025-68 provided initial guidance on the application of this cap, including that fees not charged by the fund, are not subject to the cap. ICI generally supports Treasury's interpretation of the fee and expense limitation, as articulated in section (f) of the Proposal, including that any fees charged by a trustee for providing an account or certain fees charged by a financial intermediary for a service are not subject to the limitation.[24]

In the preamble to the Proposal, Treasury indicates that it is "considering ways to keep costs down" for Trump accounts. One option under consideration is prohibiting trustees from charging fees to account beneficiaries or with respect to investments held in their accounts.[25] Treasury requests comments on this potential prohibition and alternative approaches to controlling costs.

Treasury should not restrict account-level administrative fees.

Treasury should not impose a new limit or prohibition on account-level administrative fees for several reasons:

- **The statute limits investment fund expenses, not account-level fees**. Section 530A(b)(3)(A)(iii) expressly limits fees and expenses charged by the investment fund itself. It does not impose a comparable restriction on account-level charges, such as custodial or administrative fees.

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[23] See ICI's February Letter at 12.

[24] As we noted in ICI's October Letter, under a plain reading of the statutory text, this limitation should apply to the investment itself (i.e., the mutual fund or ETF). Nothing in the legislation appears to limit an account level fee, such as a custodial fee.

[25] 91 Fed. Reg. at 54287.

- **A prohibition would exceed the statutory framework**. Congress did not expressly authorize Treasury to regulate or prohibit account-level fees. Treasury therefore should not impose additional restrictions that the statute does not contemplate.
- **Marketplace competition should constrain fees**. Some IRA providers may elect to offer Trump accounts for nominal or no fees, particularly when competing with the subsidized Trump accounts offered through Treasury. Competitive pressure—not regulatory price controls—should help keep trustee fees reasonable.
- **A competitive market will benefit account holders**. ICI has consistently supported policies that promote a robust and competitive market for Trump accounts. Allowing providers flexibility in structuring their fees will encourage participation, innovation, and consumer choice.

There is no evidence that regulatory fee caps or a requirement to provide Trump accounts free of charge are necessary to keep costs low.

We recommend alternative ways to reduce costs.

Treasury should instead focus on reducing the compliance burdens associated with administering Trump accounts. Appropriate cost-saving measures could include:

- permitting electronic delivery of required notices and disclosures and use of electronic communications generally, consistent with the practices of the initial Treasury-selected trustee; and
- establishing reasonable and streamlined reporting and other compliance obligations.

These measures would reduce administrative costs without discouraging providers from entering the market or limiting the range of services available to account holders.

II. Trustee Responsibilities to Determine that all Investments Made Available are Eligible Investments

The Proposal describes the procedures that a Trump account trustee must have in place to ensure that the account funds are only invested in Eligible Investments.[26] Among the requirements, the Proposal describes the trustee's duty to monitor each investment fund and the steps to be taken if an investment is determined to no longer be an Eligible Investment.

[26] Code section 530A(b)(1)(C)(iii) provides that the written governing instrument of a Trump account must meet the requirement that "[n]o part of the account funds will be invested in any asset other than an eligible investment during any period before the first day of the calendar year in which the account beneficiary attains age 18."

A. ICI Generally Supports the Proposal's Framework for Monitoring Eligible Investment Status, with Clarifications

Proposed paragraph (g) provides that a trustee must "ensure" that, during the growth period, Trump account funds are invested only in one or more Eligible Investments. The monitoring safe harbor in proposed paragraph (g)(6) would require a trustee to (i) initially determine that an investment fund is an eligible investment when the trustee first offers it to any Trump account and (ii) then "make subsequent periodic determinations at least once every 12 months whether the investment fund continues to be an eligible investment." Furthermore, "[t]he trustee may rely on an investment fund's prospectus and other public documents required by Federal securities laws" in making these determinations.[27]

ICI appreciates the Proposal's clarification of the trustee's obligations and the inclusion of a monitoring safe harbor. We agree that overly frequent monitoring by a trustee would be inefficient and impracticable. We therefore generally support this proposed monitoring framework, but believe it would benefit from some clarifications and additional guidance.

First, Treasury should state that trustee monitoring is required only for funds that Treasury itself has *not* identified as Eligible Investments.[28] With respect to the investment funds offered by initial Trump accounts opened through Treasury, other trustees offering the same investments should be able to rely on Treasury's diligence and approval processes for purposes of their own eligibility monitoring.

Second, the rule text should explicitly incorporate a "reasonableness" standard (for funds that Treasury has not identified as Eligible Investments). Rather than stating that a trustee "***must ensure*** that Trump account funds are invested only in one or more eligible investments during the growth period" (proposed paragraph (g)(1), emphasis added), the rule text instead should require that the trustee "reasonably determine" this. Parts of proposed paragraph (g) imply a kind of "reasonableness" standard (e.g., permitting "Eligible Investments" determinations annually), and the rule text should explicitly adopt this as the overarching standard.

Third, the final rule text should be accompanied by supplementary guidance providing (non-exclusive) examples of how a trustee could meet that "reasonableness" standard. To that end, Treasury should clarify that a trustee could rely entirely on (i) the summary section of an Eligible Investment's current prospectus, and (ii) publicly available *summary information* about

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[27] A trustee's procedures are not required to meet the requirement of subsection (g)(6). Proposed subsection (g)(2) specifies that "[t]he written governing instrument creating a Trump account must include the procedures provided in paragraphs (g)(4), (5), and (7) of this section."

[28] *See, e.g.*, Treasury Announces Investment Lineup for Trump Accounts (July 1, 2026) (announcing the selection of State Street SPDR Portfolio S&P 500 ETF (SPYM), iShares Core S&P 500 ETF (IVV) Vanguard Total Stock Market ETF (VTI), State Street SPDR Portfolio S&P 1500 Composite Stock Market ETF (SPTM), iShares Core S&P total U.S. Stock Market ETF (ITOT) as permitted investments for Trump accounts).

a qualified index's methodology and composition. Among other things, the summary section of a mutual fund's or ETF's prospectus includes the fund's investment objectives or goals; a fee and expense table; and the fund's principal investment strategies and risks.[29] A review of this material should allow a trustee to reasonably determine that a mutual fund or ETF is an Eligible Investment. More specifically, the trustee could review the fee table to determine compliance with the fee and expense cap; the fund's investment objective and principal investment strategies to determine compliance with "index tracking" requirement; and the principal investment strategies and risks to determine compliance with the leverage restriction.[30] Trustee reliance of this kind is reasonable because mutual funds and ETFs have every incentive to ensure that their prospectus disclosure is accurate and materially complete.[31]

With respect to the "qualified index" requirement, Treasury should permit a similar kind of analysis. The publicly available documents associated with an index's methodology and composition are often numerous and voluminous.[32] Trustees should be permitted to limit their reviews to an index's relevant summary information (e.g., germane fact sheets) in determining whether an index is "qualified." This should suffice in determining whether an index meets the statute's and rule's various requirements.[33]

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[29] See Items 2 through 4 of Form N-1A. Mutual funds and ETFs use Form N-1A to register under the Investment Company Act and to offer their shares under the Securities Act of 1933 (the "Securities Act"). "Summary prospectuses" (which mutual funds and ETFs may use to satisfy their prospectus requirements under Rule 498 of the Securities Act) also contain this key fund information.

[30] For instance, if it is not facially evident from a review of a fund's investment objective and principal investment strategies and risks that the fund is "levered" (e.g., a "2x S&P 500 index fund") or borrows or uses derivatives in ways inconsistent with the final rule, then a trustee should be able to proceed, without undertaking an extensive analysis of all available public information (e.g., a fund's shareholder reports and Form N-PORT filings). Assuming Treasury takes our recommendation above about creating a safe harbor from the leverage restriction for "limited derivatives users," a trustee could determine a fund's status by reviewing its publicly available Form N-CEN filing (Item C.7.n.i).

[31] Section 11 of the Securities Act creates a cause of action for any person acquiring a security when its registration statement contains an untrue statement of a material fact, or omits a material fact required to be stated or necessary to make the statement not misleading. Section 12(a)(2) creates a separate cause of action for purchasers of securities when securities are sold by means of a prospectus or oral communication containing a material misstatement or omission.

[32] For instance, the current S&P U.S. Indices Methodology document is 88 pages, and S&P Global website contains a wide assortment of data, factsheets, and other documents for its S&P 500 and other indexes.

[33] For instance, if it is not facially evident from a review of these summary materials that an index is "industry- or sector-specific," then a trustee should be able to proceed, without undertaking an extensive analysis of all available public information.

B. ICI Recommends a Reasonable Period for Trustee Corrections and Additional Guidance on Restorative Payments and Other Error Corrections

Proposed paragraph (g)(3), together with proposed paragraph (g)(5)(ii), addresses the consequences when an investment held by a Trump account ceases to qualify as an Eligible Investment during the growth period. Under these provisions, the trustee generally has 30 days from the date the fund becomes ineligible to dispose of the ineligible investment and reinvest the proceeds in an Eligible Investment.[34] Similarly, if any assets of a Trump account are not invested in an Eligible Investment during the growth period due to administrative error by the trustee, proposed paragraph (g)(7) provides that if a trustee has adopted the required monitoring procedures, the trustee will have a limited period to correct the error. In that case, the trustee must sell or dispose of the assets that were incorrectly invested and reinvest the proceeds in an Eligible Investment within 30 calendar days from the first day that the assets were invested in an ineligible fund.[35]

Failure to correct these issues within the strict 30-day period has an exceptionally severe consequence: the account ceases to qualify as a Trump account (and as an IRA) and is treated as having distributed an amount equal to the fair market value of all assets held in the account. This result is particularly concerning because an inadvertent or administrative error by a financial institution could cause the account beneficiary to lose the account's tax-qualified status through no fault of the beneficiary. The potential consequence may be disproportionate to the underlying error and underscores the need for a reasonable correction mechanism that allows trustees sufficient time and flexibility to cure inadvertent failures. Rather than the specified 30-day period, the regulation should allow a trustee to make the necessary correction within a reasonable period of time, which may vary depending on the circumstances. This standard would only benefit Trump account beneficiaries, who generally will not be responsible for ensuring that their assets are invested only in Eligible Investments.

Treasury requests comments on whether it should specifically permit a trustee to replace earnings in an account that would have accrued if the account had been properly invested in an Eligible Investment, where such earnings would not be considered contributions.[36] ICI agrees that it would be helpful for Treasury to confirm that a trustee is permitted to replace earnings in this manner and that such earnings would not be considered a contribution to the

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[34] Proposed paragraph (g)(5)(ii)(B)(2) provides that if the trustee is in compliance with the monitoring and periodic determination requirements described earlier, the fund is treated as ceasing to be eligible on the earlier of the date of the next periodic determination made by the trustee or the date on which the trustee has actual knowledge that the fund is no longer an Eligible Investment. We strongly agree that any time period for correction should not begin before the date of the periodic determination on which ineligibility is determined (or actual knowledge if earlier).

[35] The trustee also must disclose to the account beneficiary the duration of the error, the assets that were held during the error period, and the amount reinvested at the end of the error period.

[36] 91 Fed. Reg. at 54287.

Trump account. Guidance along these lines would be consistent with existing guidance permitting restorative payments in defined contribution plans and IRAs.[37]

The Proposal indicates that Treasury intends to provide additional correction procedures for trustees, as needed, to correct certain Trump account failures and requests comment regarding whether potential Trump account corrections should be included as part of the IRA correction procedures authorized under section 305(c) of the SECURE 2.0 Act (expanding EPCRS to allow IRA corrections).[38] ICI supports including Trump account corrections within the forthcoming IRA correction procedures and we plan to provide additional comments regarding Trump account errors that are appropriate to include in future correction procedures.

III. Treasury Should Support a Broader Menu of Investments and a Competitive Marketplace for Trustees

In addition to our comments on the Proposal, ICI strongly encourages Treasury to implement a transparent and objective formal process for adding qualified funds to the Trump account platform maintained by the initial trustee selected by Treasury. The initial Trump account platform is slated to offer five ETFs, with one of those currently serving as the default investment. Expanding the investment menu need not complicate the default investment structure. Treasury could retain a single, straightforward default investment while permitting beneficiaries or responsible parties who wish to make an affirmative investment election to select from a broader range of qualifying Eligible Investments.

As the program matures, a more inclusive process would benefit Trump account beneficiaries. A broader menu would permit beneficiaries or responsible parties to choose among funds providing different forms of exposure to qualified indexes, while remaining entirely within the investment parameters Congress established for Trump accounts. Providing a pathway for additional qualifying funds to participate also would promote competition among fund providers on factors such as tracking performance, service, and cost.

Should Treasury adopt this recommendation, Treasury should make clear that any funds offered through the initial Trump account platform are not intended to constitute an exclusive list of Eligible Investments, or an endorsement by Treasury, and that other funds not

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[37] Revenue Ruling 2002-45 provides that payments that are made to a defined contribution plan account to restore some or all of the account's losses due to an action (or failure to act) that creates a reasonable risk of liability are restorative payments. To be a restorative payment, the payment does not need to be the result of legal action; it only needs to be made as a result of a reasonable determination that there is a reasonable risk of liability. Rev. Rul. 2002-45 is available at https://www.irs.gov/pub/irs-drop/rr-02-45.pdf. Existing private letter rulings extend this treatment to restorative payments in IRAs. See, e.g., IRS Letter Ruling 200714030, dated Jan. 11, 2007, available at https://www.irs.gov/pub/irs-wd/0714030.pdf.

[38] 91 Fed. Reg. at 54287. Section 305(c) of the SECURE 2.0 Act directs Treasury to expand the IRS EPCRS to allow IRA custodians to address eligible inadvertent failures with respect to an IRA.

specifically accepted to be offered through Treasury may still qualify as Eligible Investments that could be offered by other Trump account trustees. In addition, Treasury should maintain a clear, public, up-to-date listing of funds available on the platform so that trustees can easily track eligibility status for those funds at any given time.

In the vein of promoting competition, we also would like to reiterate the urgent need for guidance from Treasury to permit rollovers of Trump accounts to other private sector providers. As we have noted in earlier comments, providing for a competitive marketplace is key to the long-term success of the Trump accounts program, as it will incentivize firms to devote resources to promotion and education regarding the accounts. Yet rollovers from initial Trump accounts maintained by the Treasury-selected trustee are not yet available. Other IRA trustees and custodians would like to offer Trump accounts to their clients and need to know the rules of the road before building systems to accept these rollovers. We therefore urge Treasury to prioritize issuing guidance for rollover trustees and enabling individuals to initiate rollovers.

Conclusion

ICI appreciates the opportunity to comment on proposed regulations. If you have any questions or would like to discuss our comments, please contact Elena Chism at 202/326-5821 (elena.chism@ici.org) or Matt Thornton at 202/371-5406 (matt.thornton@ici.org).

Sincerely,

/s/ Paul G. Cellupica

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