

News

Kreps Discusses ETPs and Cryptocurrency with PLANADVISER

ATTORNEYS & PROFESSIONALS

Michael Kreps

mkreps@groom.com

202-861-5415

PUBLISHED

01/10/2024

SOURCE

PLANADVISER

SERVICES

Employers & Sponsors

- Fiduciary & Plan Governance

Retirement Services

- Investment of Plan Assets

Groom's [Michael Kreps](#), principal and chair of the firm's [Retirement Services](#) group, was featured by *PLANADVISER* in the article, "Bitcoin and Brokerage Windows: A Risk for Fiduciaries?," where he delved into the Securities and Exchange Commission's ("SEC") approval of applications for some spot bitcoin exchange-traded product ("ETP") shares and what that decision might mean for plan sponsors.

According to *PLANADVISER*, Kreps said that "guidance issued by the Department of Labor ("DOL") in March 2022 cautioning sponsors against using cryptocurrency in plans governed by the Employee Retirement Income Security Act is 'still good agency guidance.'"

The platform reported that "the DOL has not elaborated on this, but if the 'federal government is telling people, firing a warning shot, that if you invest in crypto, we will investigate you, it is hard to see that as not having any sort of chilling effect,'" said Kreps.

PLANADVISER further reported that, according to Kreps, "the 2022 guidance suggests that sponsors should be monitoring what is offered through brokerage windows, though that is not a common practice in the industry."

PLANADVISER wrote that Kreps explained that "very few plans offer crypto assets in their lineups or brokerage windows. A sponsor does have a fiduciary duty to select a prudent brokerage window provider, and that provider is not a fiduciary itself. However, if either party 'vets the investments that are offered in that window, or over-curates the window, you could at some point become a fiduciary.'"

To read the article, [click here](#).