Collective investment trusts

Regulation and disclosures

Collective investment trusts (CITs) are a popular investment option for defined benefit retirement plans, and their use by defined contribution plan sponsors continues to grow. CITs offer many advantages for the efficient and safe management of pooled investment assets and operate within well-established regulatory frameworks under both banking and fiduciary laws. CITs that manage 401(k) assets are also subject to the Employee Retirement Income Security Act (ERISA), which provides an additional layer of oversight and protection.

How CITs are regulated

CITs are subject to regulation under banking and fiduciary laws. When used to hold 401(k) assets they are subject to *three layers* of regulatory oversight:

Banking oversight

The Office of the Comptroller of the Currency (OCC) and state banking regulators oversee CITs[1] and set detailed requirements for banks and trust companies that offer them[2], covering risk management, fund administration, audit, and compliance. Banking rules also require the bank to act as a fiduciary.

Adviser oversight (SEC)

CITs are mainly managed day to day by SEC-registered investment advisers, who are subject to the Investment Advisers Act of 1940, SEC oversight, and a fiduciary duty to the CIT.

Fiduciary duties (ERISA)

When CITs hold 401(k) funds, those holdings are considered ERISA "plan assets" and must be managed under ERISA's strict prudence, loyalty, bonding, and prohibitions on self-dealing. This imposes fiduciary obligations on anyone with discretion over them.

[1] 12 C.F.R.§ 9.18

[2] Comptroller's Handbook, Collective Investment Funds (May 2014, last updated March 20, 2025)

Sample of key rules governing CITs

Requirement	Governing rules / oversight
Liquidity	Banking liquidity audit guidelines, ERISA fiduciary oversight
Custody	ERISA trust requirement, requirement to custody with regulated bank or trust company
Independent audit	Form 5500 and OCC audit guidelines
Valuation	OCC rule related to valuation: 12 CFR 9.18
Disclosure	DOL rules 404a-5 and 408b-2
Duty of care	ERISA section 404, OCC fiduciary guidelines
Prohibition on self-dealing	ERISA section 406, DOL exemptions (e.g. 84-14, 91-38)
Examinations	DOL, federal and state bank examiners, plus SEC for any sub-advisers

What CITs must disclose

CITs are subject to disclosure obligations at three levels: to the public, to plan participants, and to employers acting as plan fiduciaries.

- **Public disclosure:** The banking regulators require CITs to make a publicly available written plan disclosing investment policy, use of income and profit, fees, audit, valuation, and distributions.
- **Participant disclosure (DOL):** ERISA rules[3] require participants to receive a chart comparing all plan investment options, including CITs, by fees, performance, benchmarks, and investment type. Participants must also be informed promptly of any menu changes. CIT providers issue prospectus-like fund "fact sheets" with this and additional information. On request, participants can also receive the CIT's financial statements and reports, and full portfolio holdings.
- **Employer and public disclosure (DOL):** Plan fiduciaries (e.g., employer or plan sponsor) evaluating a CIT receive the fund's trust and participation agreements (and any amendments), the direct and indirect fee and cost disclosures required by DOL rules, and the fund's annual Form 5500, which includes a schedule of assets and an independent audit report. Form 5500 are also posted publicly on the DOL website, giving participants and other stakeholders access to the same information.

[3] 29 C.F.R. § 2550.404a-5.