The Impact of the Secure Act on Multiple Employer Plans

Low-Cost Retirement Plans for Small- and Mid-Sized Employers

Many small- and mid-sized employers have faced significant challenges when it comes to offering a retirement plan to their employees. In fact, there are 55 million working Americans who do not have a retirement plan available from their employer. Recent legislative and executive actions have delivered new ways to help small- to mid-sized employers deliver effective and efficient retirement plan solutions to their employees, enabling them to save for retirement. The challenges these employers face include:

- Plan costs associated with offering an employee retirement plan
- Fiduciary duties, responsibilities, obligations and liabilities
- Limited resources to manage the plan on a daily basis
- Reduced focus on growing the revenues and profits of the company

SECURE Act – Ushering in a New Frontier

The SECURE Act is the first significant retirement-related legislation in more than a decade. A key provision of the SECURE Act allows employers to offer retirement plans to their employees through a Pooled Employer Plan (PEP), which is a type of Multiple Employer Plan (MEP).

Different Types of MEP/PEPs

- **Closed MEP:** Treated as a single retirement plan. It files a single 5500, undergoes a single audit, and determines ERISA bonding requirements based on aggregate MEP assets.
- **Open MEP:** Participating employers are treated as maintaining individual retirement plans. Currently, each participating employer must file its own Form 5500 and may need to employ an accountant to perform an audit of the plan. Each employer must establish a trust, although a group trust may be used to pool assets.

A helpful rule of thumb to remember:

All PEPs are MEPs but not all MEPs are PEPs.

- A PEP is treated as a single retirement plan. It files a single 5500, undergoes a single audit, and determines ERISA bonding requirements based on aggregate PEP assets. A pooled plan provider assumes most fiduciary responsibility for the operation of the PEP.

An Overview of the Multiple Employer Plan

Rather than establishing a plan of its own, a business can choose to join together with other employers in a MEP. The entity that establishes the MEP is its sponsor, which typically designs the basic features of the MEP. These include the provisions that determine any waiting periods that employees must satisfy to participate, which types of contributions can be made to the MEP, when and in what form participants can take distributions from their account balances, whether loans and other optional features are available, etc.

> Open MEPs and PEPs cover employees of employers with no relationship other than their joint participation in the MEP.

The MEP sponsor also generally serves as the official plan administrator—the primary administrative fiduciary for the plan. It is the MEP sponsor that appoints the trustee and other service providers for the plan, communicates with participants regarding plan benefits, ensures compliance with regulatory rules, decides claims disputes and other plan issues, and determines available investment menus, among other duties.

The Benefits for Small- and Mid-Size Employers

Costs are lower for participating employers because the MEP sponsor is able to negotiate lower fees from service providers based on larger participant numbers and account balances. Much of the fiduciary and legal risk is transferred to the MEP sponsor and administrator. Employees who participate in the MEP have access to the same low-cost investment funds that large employers can offer. Smaller employers can more easily compete with larger companies in recruiting and retaining workers.

A PEP is administered by a pooled plan provider, such as a financial services company. The provider will be a named fiduciary of the plan, but each employer is responsible for choosing and monitoring the provider.

Advantages of a Pooled Employer Plan

PEP is one plan that bundles together unrelated employers from unrelated industries. As a member of a PEP, the employer does not take on additional risk associated with other employers in the plan; thus, a PEP offers the upside of a larger plan without any additional downside risk of a prior pooled plan via Pooled Plan Provider (PPP).

In addition, a PEP can offer:

- **Cost Efficiencies:** Costs are spread across a larger participant and asset base, thereby reducing the costs for each member of the plan.
- **Fiduciary Risk Mitigation:** Fiduciary investment duties may be outsourced to the plan advisor, an ERISA 3(38) investment fiduciary.
- **Operational Outsourcing:** Newport can serve as the 3(16) operational fiduciary, and assume many of the administrative burdens on behalf of the employer, including eligibility, beneficiary tracking and plan disbursements.
- **Increased Focus:** The employer uses fewer resources, allowing more focus on growing revenues and profits in its business.

Pooled Plan Provider assumes most fiduciary risk and responsibilities on behalf of adopting employers.

- Recordkeeping
- Administration
- 3(16) Fiduciary Services
- Trust and Custody
- Named Plan Administrator

PEPs will be permitted for plan years starting in 2021 or later, and Newport believes most MEPs going forward will elect to be PEPs.

Closed MEPs	Open MEPs	PEP
• Financial services companies cannot be the lead employer • Individual account plans • Under new regs NO requirement for a lead employer to place their employees into the MEP • Commonality definition has expanded to Bona Fide Group/Associations/ Chambers/BBB/Agencies/ PEOs/Franchises/Other	• Financial services companies can be the lead employer • Defined contribution and defined benefit plans • Need a lead employer whose employees must be in the plan • No Commonality/Bona Fide Group • One Bad Apple Rule still exists	• Financial services companies can be the lead employer • 401a defined contribution plans only • Under the SECURE Act, NO requirement for a lead employer to place their employees into the PEP • No Bona Fide Group requirement • No geographic/ regional constraints

Closed MEPs	Open MEPs	PEP
• Geography and regionalization exists • One Bad Apple Rule eliminated starting in 2021 • Banding together plans of different companies and industries where geographical commonality exists • Efficiency of pricing and process • One 5500, one audit, one fidelity bond based on assets	• No geographic or regional constraints • Banding together plans of different companies and industries where there is NO Commonality • Efficiency of pricing and process • Separate 5500's, audits, trusts, fidelity bonds • Each adopting employer retains all primary fiduciary liability	• One Bad Apple Rule eliminated • Banding together plans of different companies and industries/no geographical limitations • Efficiency of pricing and process • One Plan: one 5500, audit, fidelity bond; separate testing • Adopting employers may be relieved from investment, operational and fiduciary liability; other than sending plan contributions in timely manner and monitoring pooled plan provider and other fiduciaries

Multiple Employer Plans – An Experienced Partner

Newport is the market Leader in MEPs providing service to more than 200 open and closed MEPS. We can establish a PEP and serve as its PPP, providing access to a product and platform.

FIND OUT MORE

To learn more contact your Newport representative or visit us at newportgroup.com.

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