MassMutual® | White paper

Open Multiple Employer Plans

What Open MEPs May Mean for Your Business

WHAT'S INSIDE

This whitepaper highlights the:

- Features and benefits of Open MEPs.
- Opportunity for employers to promote financial security for their employees.
- Making the most of Open MEPs.
- Importance of working with a MEP expert.

Expanding access to retirement plans

It's been well-documented that Americans aren't saving enough for retirement. One reason may be that many of the nearly 40 million people employed by companies with fewer than 100 employees[1] don't have access to a retirement plan at work. That is why more than 70 percent of middle-income Americans — those with annual household incomes of between $45,000 and $150,000 — say they are behind in saving for retirement, according to MassMutual's research.[2]

To help fill some of those gaps, Congress passed the Setting Every Community Up for Retirement Enhancement, or SECURE, Act of 2019 and the President signed the legislation. This bipartisan act includes a provision that expands access to Multiple Employer Plans (MEPs), making it easier for small employers to provide a robust retirement plan for their employees. These expanded access plans are often referred to as Open MEPs.

Proponents are hailing Open MEPs as a means of reducing both the burden and cost of sponsoring a retirement plan for smaller employers. However, as this white paper explores, these benefits may prove elusive depending upon the specific needs and preferences of the participating employer and the plan options selected.

Financial advisors, third party administrators, and small- and medium-sized employers may want to begin educating themselves on the challenges and opportunities presented by what is the biggest change in retirement plan design since the Pension Protection Act of 2006 authorized auto-enrollment.

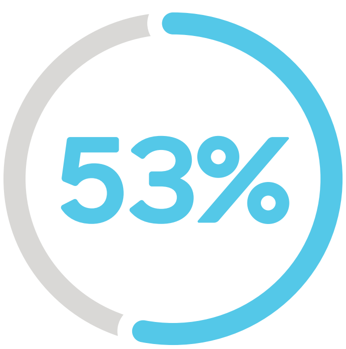
40 MILLION people employed by companies with fewer than 100 employees[1] **don't have access to a retirement plan at work.**

Expanding retirement savings opportunities

Employer-sponsored retirement plans are essential to the future financial security of American workers. Yet, more than half (53 percent) of businesses with fewer than 50 employees today do not offer a workplace retirement plan[3], leaving millions of employees at risk of being financially unprepared for the future.

The SECURE Act aims to narrow the retirement savings gap by expanding access to Multiple Employer plans (MEPs). These plans will make it easier for small- and medium-sized employers to offer a full-featured retirement plan while avoiding some of the operational and fiduciary responsibilities required of a larger plan sponsor.

Not surprisingly, Open MEPs have widespread support across the retirement industry. In fact, the defined contribution advocacy group Defined Contribution Institutional Investment Association (DCIIA) recently named Open MEPs at the top of their wish list for improving retirement readiness.[4]



53% of businesses with fewer than 50 employees **don't offer a workplace retirement plan today.**[3]

The proposed "Open MEP" model enables unaffiliated businesses to combine resources, take advantage of economies of scale, and reduce some of their fiduciary and administrative burden.

Leveling an uneven playing field

It's important to keep in mind that multiple employer plans aren't new. Traditional MEPs have been used successfully for decades by trade associations whose members share a commonality of interest. They've also been adopted by professional employer organizations (PEOs) that share a co-employer relationship with their clients and certain large employers who end up sponsoring a MEP in the aftermath of a corporate restructuring or similar transaction. However, Department of Labor (DOL) guidelines previously required businesses to have a "common nexus," or shared economic or representational interest, to qualify for a traditional MEP, a factor that prevented more employers from taking advantage of the benefits these plans offer.

The SECURE Act eliminates the common nexus requirement and creates an Open MEP model that will allow unrelated and unaffiliated employers to pool assets in a single plan, regardless of their industry or geographic location. This rule change has the potential to significantly expand coverage to include a greater number of employers and plan participants.

Defining terms

A Multiple Employer Plan (MEP) is a qualified defined contribution plan that is sponsored by two or more unrelated employers, as covered under Internal Revenue Code Section 413(c). It is considered a single plan under both the Tax Code and ERISA, which means only a single Form 5500 needs be filed for the plan. Open MEPs, as defined by the SECURE Act, allow participation by any employers whether or not they share a common interest.

MEPs 2.0

Proponents call Open MEPs a game changer for the retirement plan industry — and for retirement savers. By granting small employers the ability to band together with other unaffiliated businesses through a "pooled plan provider," Open MEPs provide access to many of the same plan features typically available through a 401(k) or other qualified plan.

Beyond removing the affiliation requirement, what distinguishes Open MEPs is the potential for small employers to reduce some of the administrative duties and fiduciary responsibilities of offering a plan if they adhere to the plan design options and investment choices offered by their Open MEP plan sponsor (provider). Another important benefit is the ability to transition from an Open MEP to a standalone plan should a small business find it has the capacity to offer its own single-employer plan.

The SECURE Act also eliminates the so-called "bad apple rule," which provides that a qualification failure by one participating employer can disqualify the entire plan.

The ability to ease the administrative and fiduciary burden of implementing and maintaining a retirement plan could make Open MEPs a good solution for smaller companies that would like to offer a retirement plan but are concerned about the time commitment and complexity of doing so.

Defining terms

It's easy to confuse Multiple Employer plans (MEPs) with *multi*-employer plans, but they're not the same. MEPs are defined contribution plans, while multi-employer plans (sometimes called Taft Hartley plans) are collectively bargained retirement plans typically offered by unions.

Why choose an Open MEP over a single-employer plan?

Open MEPs can offer the following advantages:

One plan audit, covering all participating employers.

Common Form 5500, Annual Return/Report of Employee Benefit Plan, covering all participating employers.

Delegation of many plan administration duties to the plan provider.

Reduced fiduciary liability for participating employers.

Increased purchasing power for participating employers, based on pooling of assets.

MYTH	REALITY
Open MEPs are a low-cost retirement plan alternative.	Open MEPs are likely to come in many "models," as plan providers create their own version of a Multiple Employer Plan. Pricing will depend on the size of the plan, its design, and the level of services provided.
Employers are able to totally offload plan administration.	While Open MEPs are certain to take a large chunk of the administrative burden off the shoulders of small business owners, not every task can be outsourced. At a minimum, employers will likely be required to submit timely payroll, receive and update participant deferral and loan changes, and monitor outstanding loans.
Open MEPs relieve employers of their fiduciary responsibilities.	Open MEPs are designed to relieve small business owners of many of the fiduciary responsibilities of implementing and managing a plan, but not all. For example, timely submission of payroll and tracking deferral and loan changes are a fiduciary responsibility, and one that employers will likely continue to handle under a MEP. It is important to review any Services Agreement with the 3(16) Fiduciary to understand what is and what is not covered under the agreement.

Can Open MEPs help more small employers offer retirement plans?

Proponents sometimes describe Open MEPs as an easy-to-use, low-cost, turnkey solution for smaller employers who have been traditionally underserved by the retirement plan market. In our view, it is too soon to gauge how well Open MEPs will deliver on all aspects of this promise.

For starters, until the DOL issues regulations and guidance to enable retirement plan providers to create their own Open MEP models, there is no way to know the specifics of how Open MEPs will operate, the degree to which they will actually offer fiduciary and administrative relief, and whether they will provide the cost savings that some are suggesting they will.

Here's what we know: the SECURE Act includes a provision that provides attractive tax credits to small employers who join a pool and offer an open MEP to their employees. Specifically, it raises the $500 tax credit that businesses receive for three years for offering a retirement plan to $5,000 a year. That's welcome news for any employer, regardless of size.

We also know that Open MEPs are intended to provide small employers with a high degree of support, starting with the handing off of day-to-day plan administration and regulatory filings to a 3(16) plan provider and investment discretion to a 3(38) fiduciary. Effective fiduciary support will come at a price, however. In fact, one study found that because of these operational complexities, Open MEPs could cost four basis points more than a traditional 401(k) plan.[5]

The turnkey nature of Open MEPs is designed to make them less burdensome and intimidating. Expect plan providers to provide participating employers with a uniform platform of plan design options and investment choices. This may work for many small employers, but not for those who seek to customize a plan to their specific needs.

For these and other reasons, we believe it will be critical for employers and their advisors to carefully review the pros and cons of Open MEPs and to weigh their benefits relative to other retirement plan options. Based on our decades of experience managing MEPs on behalf of employers, participants, and financial advisors, **Making the Most of Open MEPs** (right) offers some insights to consider before deciding on a pooled arrangement.

Making the Most of Open MEPs

Making Open MEPs available to small-business owners holds promise for achieving multiple retirement savings goals. However, the ability to reap the full benefits of Open MEP participation is dependent on several factors, including the following:

Off-the-shelf vs. custom plan design. Plan design decisions (rules about eligibility and vesting, inclusion of auto-features and matching contributions, and others) can play a significant role in how effective a plan may be in enrolling participants, encouraging savings, and preparing workers to retire on their own terms. Because Open MEPs are designed to streamline the process of offering and maintaining a retirement plan, participating employers may have limited choices when it comes to plan design. As you consider Open MEP sponsors, carefully consider the plan provisions and whether they are a good fit for your specific plan goals and workforce demographics.

Hands-on vs. hands-off plan administration. The time and cost of administering a retirement plan can sometimes discourage small businesses from offering one. By joining with other companies in an Open MEP, employers may have the opportunity to both ease the burden of plan administration and reduce costs by achieving economies of scale. However, making sure you partner with an experienced third-party administrator (TPA) will be crucial to achieving these benefits and in helping participating employers handle administrative responsibilities outside the Open MEP umbrella, such as IRS nondiscrimination testing and contribution limits, allocating employer contributions and forfeitures, calculating participant vesting percentages, and preparing loan paperwork. In addition, it's important to understand what support a TPA provides in helping to assess the needs of the business to minimize plan expenses and maximize successful retirement outcomes.

Limited investment menu or customized. The selection and availability of investment choices within a retirement plan are a big part of the cost equation. The ability to combine assets under one universal umbrella enables Open MEPs to offer access to lower-cost funds typically available only to larger companies with greater assets and more purchasing power. However, those cost savings come at the expense of customization. Open MEPs provide participating employers with a pre-selected investment menu that may limit the ability of participating employers to tailor an investment lineup to meet all their preferences. Here again, advisors and small employers can learn a lot by carefully considering how an Open MEP sponsor structures plan options and what level of customization may be available.

3(38) vs. 3(21) fiduciary oversight. One of the most important benefits of Open MEPs is that they are structured to provide employers a significant amount of support. This includes the ability to reduce some (but not all) of their fiduciary responsibilities, particularly as it relates to handing over control of selecting and monitoring investment options for their plan to a so-called 3(38) investment manager. This is in contrast to 3(21) fiduciary services, where an advisor recommends investment options while the employer retains discretion, authority, and fiduciary liability for fund selection.

Ready for what comes next

Expanding the availability of Open MEPs is good news for the millions of small employers and their workers looking for a new way to build financial security for the future.

At MassMutual, we stand ready for whatever comes next. As a long-time provider to Multiple Employer Plans, we have the knowledge and experience to deliver the right retirement plans for every employers' needs, as well as the service model to support third party plan administrators. For what's now and what's next.

To learn more, call your retirement plan advisor or contact your MassMutual sales representative today at 1-800-874-2502, option 4.

The value of MEP expertise

As you begin to consider whether an Open MEP may be right for your needs, it's important to keep in mind that Open MEPs, like all retirement plan structures, are complex in their design. That is why it's important to work with a retirement plan partner who can help ensure you maximize the success of whatever type of retirement plan you select. A retirement plan provider with a strong background in MEPs can help ensure that implementing and maintaining your plan goes as smoothly as possible, including:

- ✓ Helping to keep the plan in compliance.
- ✓ Maintaining a well-diversified platform of investment choices.
- ✓ Creating timely reporting for you, your participants, and your advisors.
- ✓ Providing outstanding customer service to help ensure your needs and those of employers and plan participants are met.

Notes:

[1] *2019 Small Business Profile*, U.S. Small Business Administration Office of Advocacy. https://advocacy.sba.gov

[2] MassMutual Middle America Financial Security Study 2017, https://www.MassMutual.com/~/media/files/MM-Financial-Security-Study-GEN-POP-617

[3] *The Benefits of Working for a Small Company, TED: The Economics Daily.* May 4, 2018. Bureau of Labor Statistics https://www.bls.gov/opub/ted/2018/the-benefits-of-working-for-a-small-business.html

[4] *Open MEPs Top DCIIA's Retirement Plan Coverage Gap Wish List*, April 18, 2018. PlanAdviser. https://www.planadviser.com/open-meps-top-dciias-retirement-plan-coverage-gap-wish-list/

[5] Barney, Lee. *Open MEPs Not for Every Plan Sponsor*, July 10, 2019. PlanSponsor. https://www.plansponsor.com/exclusives/open-meps-not-every-plan-sponsor/

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