Open MEPs no 401(k) silver bullet, but idea worth pursuing, industry leaders say

By **Nick Thornton (/author/profile/Nick Thornton/)** | September 10, 2018 at 03:03 PM

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While the idea of Open MEPs offers the potential to help workers without retirement plans, industry leaders caution against hyperbole. (Photo: Shutterstock)

The Trump administration's assertion of **support for Open Multiple Employer Plans (https://www.benefitspro.com/2018/08/31/trumps-executive-order-instructs-labor-to-set-tabl/)** advanced in a recent presidential executive order has drawn wide support from stakeholders.

That support comes in spite of the potential for new regulations to disrupt some retirement plan providers' business models

Others caution against over-estimating MEPs' ability to address plan coverage gaps.

"Is this a panacea for coverage access? No," said Drew Carrington, senior vice president and head of institutional DC products at Franklin Templeton.

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"Is the fact that it's not a panacea reason to not do it? Of course not. This is a good step. Our view is that anything we can do that makes it easier to sponsor a retirement plan and removes unnecessary burdens is great," added Carrington.

President Trump's order instructs the Labor and Treasury Departments to revisit existing policies that restrict small and midsized employers from joining **MEPs (https://www.benefitspro.com/2018/07/23/employers-would-not-be-fiduciaries-in-open-meps/)**. A 2012 Advisory Opinion from the Obama-era Labor Department established a "nexus," or commonality requirement among employers in order to fully benefit from pooling resources under one retirement plan.

The Advisory Opinion slowed a decades-long "gold rush" of providers putting MEP design innovations in front of employers, say Pete Swisher and Robert Alin, senior vice president and general counsel, respectively, for Pentegra Retirement Services, a MEP provider.

Pentegra has published the first in a series of white papers calling on industry to inform the conversation on MEPs as regulators set out to reorganize policy on pooled plan arrangements.

While Trump's executive order does not explicitly instruct regulators to remove the existing nexus requirement, it does imply—strongly—that the barrier should be lifted.

As an existing pooled provider, Pentegra has an obvious interest in expanding the availability of MEPs.

Even with skin in the game, and a firm belief that MEPs would be poised to grow significantly beyond their current 1 percent claim of the retirement market if regulatory and legislative actions facilitated adoption, Pentegra too cautions against hyperbolic claims of MEPs being the silver bullet that brings a 401(k) plan to every business in the country.

"MEPs will not singlehandedly close the retirement plan coverage gap or cut plan costs in half—as some suggest they will—but they enjoy a genuine structural advantage over single-employer plans," say Swisher and Alin.

Pooled plans are a century-old idea

Millions of Americans work for employers that **do not sponsor a retirement plan (https://www.benefitspro.com/2018/07/31/can-open-meps-close-the-access-gap-with-small-empl/)**.

According to the Bureau of Labor Statistics, nearly a quarter of private sector, full-time employees lack access to a workplace retirement savings option. Only 53 percent of those employed at firms with fewer than 100 workers have access to a plan, compared to 89 percent of those working for employers with at least 500 employees.

The concept of **pooling employers (https://www.benefitspro.com/2017/03/14/participants-and-hr-will-love-the-mep-401k/)** under one retirement plan to achieve economies of scale and administrative efficiency is not new—Pentegra says the idea has been around for nearly a century.

If regulators remove the MEP nexus requirement, some think the real impact will be existing sponsors of single-employer plans opting to join a MEP to control costs and offload some fiduciary liability, rather than plan-less businesses migrating to MEPs.

Phil Waldeck, president and CEO of Prudential Retirement, cautions against forecasting without knowing the policy specifics that emerge.

"I think this is an important step to solve the problem of coverage access," Waldeck told BenefitsPRO. "It's easy to speculate as to what will happen, but it's not clear. Let's see what actually develops in terms of policy."

Prudential Retirement, which administers nearly $263 billion in defined contributions assets on its recordkeeping platform, does not currently have a MEP offering. Waldeck says there is an opportunity for Prudential and other service providers if regulations—and legislation—support wider inclusion for employers. Prudential does administer pooled defined contribution plans for collectively bargained multi-employer plans.

"We already have the engine in place. The question is what would our role be," said Waldeck.

While resistance—if it exists—to opening up **MEPs (https://www.benefitspro.com/2017/11/08/time-is-now-for-401k-meps-carosa/)** has been quiet so far, clearly some stakeholders stand to be adversely affected by a swell of Open MEP adoption.

CPAs could see thousands of fewer single-employer plans to audit—annual plan audits can cost up to $30,000, say some MEP providers. And plan advisor specialists could lose single-plan clients if they migrate to a MEP.

"Different voices will have concerns, but everyone sees the problem of insufficient coverage," said Waldeck, who underscored Prudential's long-standing support for Open MEPs.

"This is about addressing the workers that are not in retirement plans," he said. Waldeck does not see the disruption of incumbent service provider models as necessarily threatening. Rather, he sees a world where Open MEPs thrive as an opportunity for providers willing to adjust—more plans, more sponsors, and more participants would need services.

"This would make the pie bigger," said Waldeck.

MEPs allow participating sponsors the option not to match

If MEPs are to close the plan coverage gap, employers that don't sponsor a plan will have to choose to begin doing so. That means absorbing new costs.

Ultimately, market forces, more than regulators and lawmakers, will be what motivates employers to offer retirement options for the first time, says Waldeck.

Franklin Templeton's Carrington notes that new sponsors would have flexibility.

In a prospective Open MEP, new sponsors would not be beholden to one matching schedule—one employer in the plan could match 50 percent of an employee's deferrals after 3 percent, and another employer could offer no match.

“Employer A and B would have the same plan document, statements, Form 5500 and investment choices, but the plan features and matches do not have to be the same. Employer A could have voluntary enrollment, and Employer B could auto-enroll workers. There are options,” said Carrington.

The DOL has six months to produce options under President Trump’s executive order. It could issue a new opinion on MEPs, a quicker process, or it could fully amend regulations, a longer process that would be subject to a comment period.

Whatever emerges, both Waldeck and Carrington say passage of the Retirement Enhancement Security Act, a primary provision of which addresses Open MEPs, is incumbent to most successfully closing the retirement plan access gap.

“There are limits to what can be done with regulation,” said Waldeck. “Ultimately, to do this well, legislation would be very helpful.”

Both are also cautiously optimistic about RESA’s passage before the end of the 115th Congress.

“From a policy perspective, we should be doing better,” added Waldeck. “This is an opportunity to do better.”

More Open MEP reading from BenefitsPRO:

Open MEPS could affect millions of retirement plan participants overnight (https://www.benefitspro.com/2018/09/05/open-meps-could-affect-millions-of-retirement-plan/)

Would Open MEPS disrupt the 401(k) market? (https://www.benefitspro.com/2018/09/04/would-open-meps-disrupt-401k-plan-market/)

A big push for Open MEPs (https://www.benefitspro.com/2015/01/28/a-big-push-for-multiple-employer-plans/)

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