NPPG

An Employee Benefits, Retirement Planning,
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Department of Labor
Employee Benefits Security Administration
Office of Exemption Determinations – Z-RIN 1210-ZA28
Docket ID: EBSA – 2020 – 0001
Email: e-OED@dol.gov

A. Pooled Plan Providers and MEP Sponsors

1. What types of entities are likely to act as pooled plan providers?
   Answer: Broker Dealers, TPAs, Payroll Companies, Private Equity firms, Insurance agents, Banks, Credit Unions, and Associations.
   For example, there are a variety of service providers to single employer plans that may have the ability and expertise to act as a poled plan provider, such as banks, insurance companies, broker-dealers, and similar financial services firms (including pension recordkeepers and third-party administrators).

   Are some of these entities more likely to take on the role of the pooled plan provider than others? Why or why not?
   Answer: The entity would need to want or have to accept the responsibility associated with being the sponsor of the Pooled Plan Provider. There are few entities with the expertise to appropriately and capably administer a plan.

   Will a single entity establish multiple PEPs with different features?
   Answer: It would be cost effective to have multiple PEP with different features to all reduce the administrative work associated with the plan. (i.e. PEP for all Safe Harbor Match with no Profit Sharing option for instance)

2. What business models will pooled plan providers adopt in making a PEP available to employers?
   For example, will pooled plan providers rely on affiliates as service providers, and will they offer proprietary investment products?
   Answer: Yes, pooled plan providers may rely on affiliates as service providers and possibly they will offer proprietary investments; but this would not be required. (the answer should have verbiage referencing "business models.")

3. What conflicts of interest, if any, would a pooled plan provider (along with its affiliates and related parties) likely have with respect to the PEP and its participants?
   Answer: Payments to related entities, fiduciaries hiring or overseeing themselves.

4. To what extent will a pooled plan provider be able to unilaterally affect its own compensation or the compensation of its affiliates or related parties through its actions establishing a PEP or acting as a fiduciary or service provider to the PEP?
   Answer: They will unilaterally need to make decisions regarding fees.

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5. Do respondents anticipate that the Department's existing prohibited transaction exemptions will be relied on by pooled plan providers, and if so, which exemptions are most relevant?
   Answer: Yes

6. If additional prohibited transaction relief is necessary, should the Department consider developing distinct exemptions for different categories of pooled plan providers (e.g., to specifically address the unique prohibited transactions involved for certain entities) or should the Department address pooled plan provider conflicts more generally, in a single exemption? What are advantages and disadvantages of either approach?
   Answer: Depends on #5

B. Plan Investments

1. What plan investment options do respondents anticipate will be offered in PEPs and MEPs?
   Answer: Same as MEP options; mutual funds or group annuities

2. What role will the entities serving as pooled plan providers or MEP sponsors, or their affiliates or related entities, serve with respect to the investment options offered in PEPs and MEPs?
   Answer: Seat on Investment Committee; create an investment committee or hire a 3(38)

C. Employers in the PEP or MEP

1. How many employers are likely to join a PEP or MEP?

   Will joining a PEP or MEP be more appealing to employers of a particular size?
   Answer: This will be different depending on the size of the adopter

   Are there any estimates of the total number of employers and participants likely to be covered by newly formed PEPs and MEPs?
   Answer: 20% of membership

   Are there any estimates of the number of employers and participants that will migrate from a single employer plan to a newly formed PEP or MEP?
   Answer: This will be interesting to see as we believe there will not be a large percentage that will change.

2. Will larger employers also seek to join PEPs or MEPs in order to take advantage of additional economies of scale?
   Answer: Larger plans might join to avoid the expense of an audit. Up to 15m in assets might join. 750k – 5 million would be the sweat spot.

3. Will the existence of multiple employers in a PEP or MEP cause greater exposure to prohibited transactions in connection with investments in employer securities or employer real property?
   Answer: No