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## PEPs Gaining Ground, But One Size May Not Fit All



The Department of Labor (DOL) is asking for public input on how to support small businesses that want to adopt pooled employer plans (PEPs), a signal that regulators see these arrangements as one way to help close the coverage gap. PEPs have gained significant traction since they first became effective in 2021.

PEPs expand on the MEP model by addressing two features that previously complicated participation in these plans. First, they eliminate the “commonality” requirement, which stipulates that employers must share an industry or location. And second, they sidestep the “one bad apple” rule, where one employer’s mistake could jeopardize the qualified status of the entire plan. PEPs are required to be administered by a pooled plan provider, or PPP.

These plans are showing signs of growth. Aon’s PEP, for example, has more than doubled in assets over the past two years and now manages over \$5 billion for 130 employers and 100,000 participants. According to the DOL, per-participant costs in the three largest PEPs ranged from 0.23% to 0.42% in 2023, compared with Morningstar’s data showing the median cost in small stand-alone plans at 0.84%.

### Limitations and Considerations

Nonetheless, PEP adoption by small businesses has yet to become widespread. Standardized plan designs often leave less room for customization to meet the unique needs of any given workforce. Employers seeking flexibility in match formulas, auto-features, or financial wellness programs may find many PEPs too rigid.

Employers also give up a measure of governance and control, since fiduciary and administrative decisions are more centralized within the pooled arrangement. This differs from traditional plans, where sponsors can have greater flexibility to change out a recordkeeper, investment menu, or a TPA that’s not a good fit. And because the PEP model is still relatively new, the regulatory environment remains fluid. Guidance from the DOL and other agencies will continue to evolve, and plan sponsors may encounter changes along the way.

PEPs are not universal or a complete solution. According to the Federal Register, “under federal law, employers joining a PEP are legally responsible as fiduciaries for the proper selection of investment



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options for their employees unless the pooled plan provider hires an investment professional to act as a fiduciary with respect to investment selection.” Sponsors also have a duty to prudently select and monitor the PPP and other providers/fees.

### Takeaways for Plan Sponsors

While the ongoing evolution and adoption of PEPs is worth monitoring, the trade-offs in flexibility, governance, and investment access may in some cases outweigh the benefits of a more tailored and flexible structure. Employers, for example, can also ease fiduciary burdens and lower costs through options like hiring a 3(38) investment manager, adding a 3(16) plan administrator, or incorporating CITs into their lineup — without needing to join a PEP.

#### Sources:

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