

## Institutional Advisors

# Pooled Employer Plans: The Next Frontier for Improving Participant Outcomes

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## A giant step forward

The 401(k) plan has become the dominant source of retirement savings for most Americans. That said, a 401(k) plan was not originally designed to be the primary retirement tool. As the dominant vehicle for retirement savings today, it has fallen short because of limited employee participation, stock market volatility, and longer lifespans. Over the years, changes in the regulations for 401(k) plans allowed for several improvements, including default contribution levels and automatic escalation features. While this provided some positive enhancements for participants, more is needed to improve employee participation levels and to simplify procedures for employers to offer these types of plans.

In December 2019, the Setting Every Community Up for Retirement Enhancement (SECURE) Act was signed into law. It provided several enhancements to 401(k) plans, including introduction of the pooled employer plan (PEP), which paved the way for employers to have access to scale and efficiencies when offering a defined contribution plan. In December 2022, the SECURE Act 2.0 expanded PEPs to include 403(b) plans.

## What is a PEP?

A pooled employer plan (PEP) is a defined contribution retirement plan that allows unrelated employers to participate in a single consolidated plan through a pooled arrangement. A PEP must designate a pooled plan provider (PPP) responsible for performing all administrative duties, providing for a substantial reduction in the administrative burden and fiduciary risks for adopting employers. As PEPs reflect the pooling of assets, this may also provide for overall lower costs to participants and employers. Importantly, PEPs can also provide improved retirement outcomes for participants with access to financial wellness tools and participant communications from established recordkeeping providers.



In addition to the PPP, there are several other service providers, including the investment manager and the recordkeeper. When individual employers are considering joining a PEP, the various service providers in a particular PEP can be thought of as a “bundled arrangement,” which is what allows for potential economies of scale pricing as well as overall administrative simplicity. PEPs offer many advantages to individual plan sponsors, but they do have some limitations regarding overall control and flexibility, given the nature of a bundled arrangement.

Note that PEPs are not a new concept; they’re an evolution of the multiple employer plan (MEP). PEPs represent a significant leap forward in opportunities for plan sponsors. PEPs eliminated the requirement for participating employers to have some level of connectivity, such as common industry or geography, and are therefore proving to be an attractive option to many employers.

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## Why an employer should consider a PEP



### Simplicity

A pooled plan arrangement solution is designed to make retirement plan business simpler for clients.



### Fiduciary outsourcing

Fiduciary outsourcing significantly reduces investment fiduciary and administrative fiduciary responsibilities for employers.



### Access to best-in-class providers

Companies can access recordkeeping services, participant communications, investment management, and plan support.



### Economies of scale pricing

Pooling of assets allows for economies of scale pricing for businesses, so they are not purchasing as an individual business but as part of a larger collective.

## Role of the pooled plan provider

The PPP is the named fiduciary of the PEP and has the overall responsibility for the PEP, which includes initial selection and ongoing monitoring of the various service providers. Typically, the PPP will also act as the 3(16) plan administrator, fulfilling almost all the administrative roles that typically would be handled by the employer for an individual 401(k) plan. Note that with a PEP, a single consolidated Form 5500 is filed and, if required, a single plan audit is performed. Participating employers would no longer need to file their own Form 5500 or have a plan audit performed, which is welcome news for many.

Examples of the types of administrative duties that the PPP/3(16) plan administrator handles would include:

- Plan document support
- Compliance and discrimination testing
- Signature and submission of Form 5500
- Coordinating PEP plan audit
- Government reporting
- Authorizing loans/distributions

## Investment management

Discretion for investment selection in a PEP is typically delegated to a third-party investment fiduciary under ERISA Section 3(38). Their role generally includes selecting the fund menu lineup and monitoring investment performance and manager selection. This approach

may provide scale and pricing power to the participants by pooling assets. As with an individual 401(k) plan, participants have the ultimate responsibility for asset allocation decisions for their own portfolios.

## Fiduciary responsibility

Not all PEPs are the same, as each may have a somewhat different overall service model and level of administrative support. A PEP should be evaluated based on many factors, including the overall strength and experience of the various service providers. While many fiduciary responsibilities may be transferred to the PPP in a PEP, individual plan sponsors still maintain some level of fiduciary responsibility. This would include:

- The initial decision to join a PEP and selection of the specific PEP.
- The ongoing monitoring of the PEP and its service providers.

Importantly, PEPs also protect individual adopting employers from the “one bad apple” rule, so adopting employers generally don’t need to be concerned about liability arising from possible issues from other adopting employers.



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## Conclusion

As the costs of regulation, compliance, complexity, and litigation have increased, many employers from small to large are considering leveraging the scale and efficiency available through PEPs. The challenge is clear: How do employer-sponsored defined-contribution plans gain access to high-level expertise and the benefits of scale while maintaining efficiency? The answer may be a pooled employer plan.

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## About the Author

Craig Greenwald is a Senior Vice President and the National Director of Pension Solutions at KeyBank. In this role, Craig is responsible for leading our client experience and new client acquisition strategy for pension funds and retirement solutions. Craig has over 25 years of experience with deep expertise in defined benefit pension programs, defined contribution retirement programs, retiree medical benefits, reinsurance, and captive insurance arrangements.

Craig's experience also includes overall plan strategic financial risk management, including solutions related to de-risking and liability driven investments (LDI). Prior to joining KeyBank, Craig worked at some of the largest global consulting firms including Willis Towers Watson, Mercer, and Buck. Craig has also held several leadership roles including as the Global Wealth Practice Leader at Buck.

Craig has had the opportunity to work with clients in several industries including energy, utilities, healthcare, transportation, education, banking, manufacturing, retail, non-profit, and public sector. Craig is a credentialed retirement actuary as a Fellow of the Society of Actuaries (FSA), Enrolled Actuary (EA), and Member of the American Academy of Actuaries (MAAA). Craig earned a B.S.B.A. in Actuarial Science from Drake University, Magna Cum Laude.

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