FUTUREBENEFITS OF AMERICA

What is an Open MEP?

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INTRODUCTION

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A recent National Compensation Survey by the Bureau of Labor Statistics found that only 46% of small businesses with 1-99 employees offer any kind of retirement plan. [1]

Some of the reasons small business owners give for not offering a 401(k) or similar option include:

- "We aren't big enough."
- "It's too expensive."
- "It's too time-consuming."
- "My employees aren't interested."

At one time, these ideas may have been true; but today, the facts paint a different picture:

- Companies of any size (even those with just one employee!) qualify to start a 401(k).
- A retirement program has some the lowest costs of any benefits program a small business owner can offer.
- Talent goes where it's appreciated – offering a good retirement plan helps draw qualified individuals to your company and incentivizes them to stick around.
- Small business owners can easily outsource retirement plan management to avoid the administrative nightmare of doing it themselves.
- Most importantly: employees want it!
  - According to the Transamerica Center for Retirement Studies, 81% of prospective employees consider retirement programs to be a major factor in their decision-making process. [2]
  - **Over half of employees surveyed by Charles Schwab said a 401(k) is their number-one choice of benefits programs. (90% ranked it as a top-three choice.)** [3]

It can be challenging for small business employers to set up and maintain a retirement plan for their employees that is cost-effective, has low administrative hassle, and mitigates employer fiduciary responsibility. **That's where multiple employer retirement (MEP) plans become the perfect fit.** MEPs harness the economies of scale of multiple companies and leverage their collective strength in ways that a single employer could never do on their own.

1 https://www.bls.gov/ncs/ebs/benefits/2018/ownership/private/table01a.pdf
2 https://www.transamericacenter.org/docs/default-source/retirement-survey-of-employers/tcrs2018_sr_employer-retirement-research.pdf
3 https://corporateservices.schwab.com/public/file/P-10419818

WHAT IS A MEP?

An Open MEP is a fully-integrated yet fully customizable, turn-key retirement plan designed to reduce employer and personal fiduciary liability.

In a traditional MEP, a program that has existed since the early 20th century, some kind of relationship or commonality generally existed between participating employers–restaurateurs, lawn service companies, or tech start-ups, for example, joined together with others in their respective fields to create a larger pool.

After some time, groups of un-linked employers—often called Professional Employer Organizations (PEOs) or simply co-employers, at the time—began to join together to offer MEPs to their companies' employees. This practice brought in all kinds of legal problems and began to be questioned by the IRS. [1]

In 2002, the IRS published Revenue Procedure 2002-21, which mandated changes to the MEP structure, no longer allowing PEOs to continue to function the way they had been working for decades, but insisting they must work as legal co-sponsors of the retirement plans. A later ruling in 2012, DOL Advisory Opinion 2012-04A, opened the door for Open MEP's to be created. These "open" MEPs introduced a fresh, new approach which allowed even more business owners the opportunity to provide 401(k) plans for their employees. Open MEPs are fee-based, qualified 401(k) retirement plans that permit unaffiliated employers to opt into a retirement plan sponsored by an outside entity that bears responsibility for administering the plan.

"An 'open' MEP is a plan where participating unrelated employers have no commonality except for providing retirement benefits to their employees." [2]

"Although Open MEPs are being discussed as something new, they are clearly a continuation of the established MEP plan structure. The advantages they offer should be a consideration for any employer exploring their fiduciary and administrative options." *Fred Reisch, Partner Drinker Biddle* [3]

1 https://www.pentegra.com/wp-content/uploads/2017/10/The-History-and-Future-of-MEPs-and-PEPs.pdf
2 http://www.retire.prudential.com/media/managed/DOLAdvisoryOpinion2012-04A-CB.pdf
3 https://ww1.prweb.com/prfiles/2011/09/28/8835007/Open%20Multiple%20Employer%20Plans_09212011.pdf

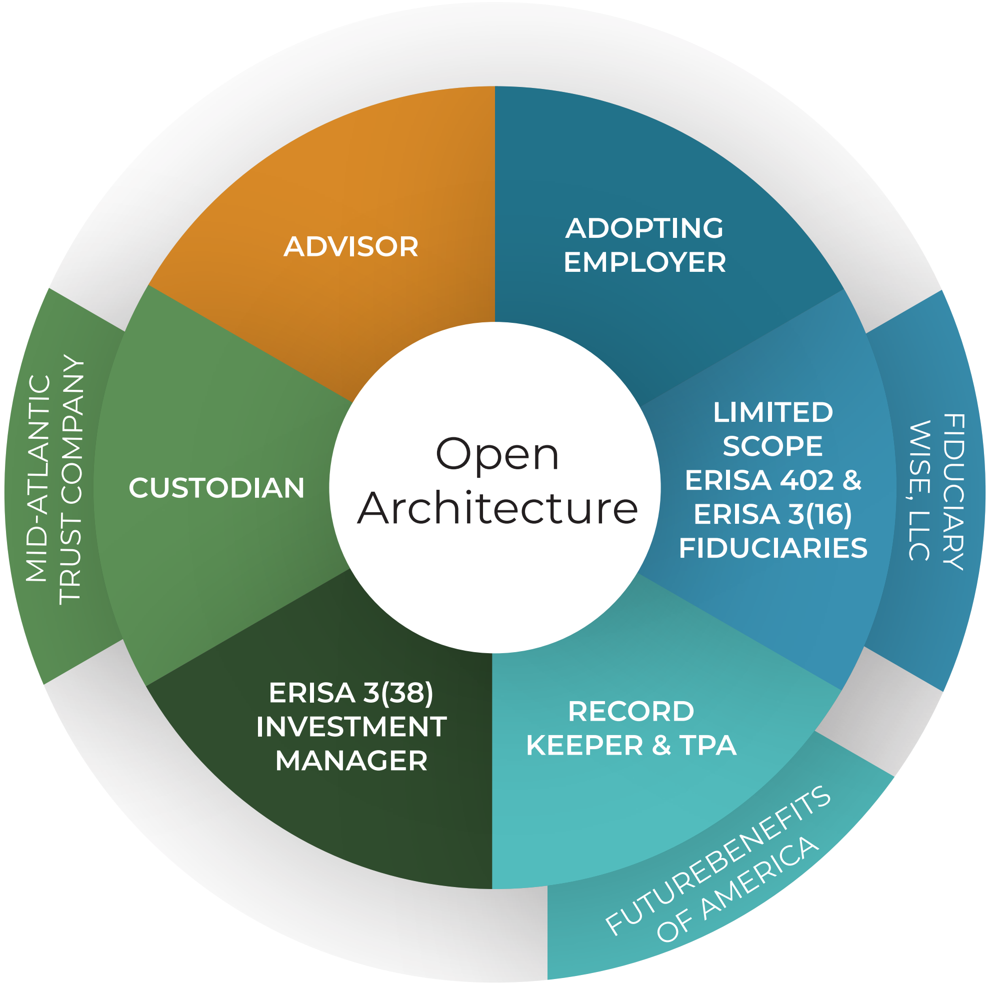
HOW DOES AN OPEN MEP WORK?

Based on the unique structure of this plan, fiduciary liability is transferred to the ERISA 402 and ERISA 3(16) fiduciary, and further to an ERISA 3(38) fiduciary via a contract executed between the plan custodian, adopting employer and 3(16) fiduciary. The advisor provides support to the adopting employer and becomes the liaison between them and the other providers.

The 401(k) world is riddled with high-priced annuity products. Open MEPs are not annuities. All fees and expenses are fully disclosed and extremely competitive.

Open MEPs are designed with the different needs of each individual adopting employer and the affiliated partners in mind:

- Combining resources to achieve economies of scale, we effectively lower expenses and better position your employees for a successful retirement outcome.
- We utilize an 'Open Architecture' investment platform, free of any potential conflicts-of-interest.
- We significantly reduce fiduciary liability for each Adopting Employer by means of Fiduciary Wise carrying the overall fiduciary burden as plan administrator and lead fiduciary.
- Your current advisor or broker may be retained to deliver continued service and support.



For an Open MEP to work, the following roles need to be filled:

1. **Adopting Employer:** This is the business owner who is choosing to enroll in the plan to provide retirement planning options for themselves and their employees.
2. **Full Scope ERISA 402(a) Named Fiduciary and the Limited Scope ERISA 3(16) Plan Administrator (we partner with Fiduciary Wise, LLC)**: This is an independent firm that remedies risks to plan sponsors and participants by becoming the named fiduciary and protecting plan participants.
3. **Recordkeeper and TPA (we, at FutureBenefits of America, fill this role)**: This role is the customer's primary "point-of-service" taking care of record keeping, plan administration, and support.
4. **ERISA 3(38) Fiduciary/Investment Manager (we partner with various Investment Fiduciaries)**: Accepts discretion over plan assets and assumes full responsibility and liability for the fiduciary functions concerning decisions related to the plan assets.
5. **Custodian (we partner with Mid-Atlantic Trust Company)**: Provides the platform that allows the record keeper to access investments for the plan. This cost-effective and efficient system for mutual fund investing allows all client purchases, sales, and exchanges to be executed through the convenience of a single source and held in a single account.
6. **Open Architecture**: the structure allowing access to funds across a wide range of companies.
7. **Advisor/Investment Education**: the adopting employer can keep their current advisor, if they wish, to further serve their needs and provide ongoing education.

WHY WOULD AN OPEN MEP BE A GOOD OPTION FOR MY BUSINEES

An Open MEP is a fantastic tool for today's business owner. The employer and the employee both win when the benefits begin to impact the company's bottom line. Consider these benefits for your company of participating in a MEP:

1. **Lower Retirement Plan Expenses**
   By combining resources with all of the other companies associated with the MEP, you achieve an economy of scale that lowers expenses and better positions your employees for a successful retirement outcome.

2. **Eliminate Conflicts-of-Interest**
   By utilizing the Open MEPs' "open architecture" investment platform, free of any potential conflicts-of-interest, clients are able to have access to funds offered by competing institutions and fund managers– resulting in deeper trust in your retirement investments.

3. **Expand Your Choices**
   Our Open MEPs allow employers to cast their nets across a wider range of funds in order to realize greater returns. Adopting employers will be provided a menu of investment options that incorporate risk-based portfolios selected by the 3(38) Investment Fiduciary along with core investment options that allow for self-direction.

4. **Reduce Your Liability**
   Open MEPs significantly reduce fiduciary liability for the Adopting Employer since the employer is no longer the trustee or plan administrator for their retirement plan. Responsibility is transferred to an independent fiduciary and they then carry the overall burden as the plan administrator and lead fiduciary.

5. **Increased Flexibility**
   Open MEP plans allow for custom design so that each Adopting Employer can implement provisions (e.g. eligibility, matching) to fit their specific needs.

6. **Widen Your Talent Pool**
   Most companies can't afford other options when it comes to retirement. With Open MEPs, businesses now have the ability to offer retirement plans which allow you to be more competitive when it comes to recruiting and retaining talent.

WHY SHOULD I CONSIDER AN OPEN MEP INSTEAD OF A TRADITIONAL 401(K)?

When established, the Open MEP allows an Adopting Employer to provide its employees with a 401(k) platform that they can easily adopt to replace their current plan.

At the participant level, the plan will feel very much the same as any 401(k) plan available in the marketplace. In fact, employees may not even notice a difference at all!

- Participants will still have access to their plan online.
- They can still choose to receive statements electronically.
- They will still be provided with education about the plan and its investment options.
- They can still take loans and hardship withdrawals.
- They will still be able to save for retirement in an employer-sponsored plan.

The benefits are just as compelling from the perspective of the Adopting Employer:

- They retain all of the flexibility in design that they would have in most other plans.
- They will no longer be responsible for filing an IRS Form 5500.
- They will have the opportunity to reduce their costly annual plan audit (required for plans that have over 100 eligible employees).
- They are replaced as the plan administrator and trustee for their retirement plan.
- And most importantly: employer fiduciary liability is reduced as The Open MEP transfers personal liability to an independent fiduciary.

Employer features, responsibilities, and liabilities in a traditional 401(k) vs an Open MEP:

Traditional 401k Plan:

- Employer serves as Plan Sponsor, named fiduciary, & Trustee of Plan.
- Employer designs Plan Document and maintain qualified status; produces and maintains an Investment Policy Statement (IPS); complies with ERISA Section 404(c) provisions; provides prospectus delivery to participants on investment alternatives.
- Employer oversees and manages the process, in conjunction with TPA, for annual filing of Form 5500; provides for an annual audit of the plan (if required).
- Employer conducts periodic investment committee meetings; reviews and validate compliance testing; submits Year-End census data to TPA; distributes required annual notices to participants (e.g. Safe Harbor).
- Employer coordinates enrollment and employee education meetings; administers Distribution and Rollover requests for terminated employees.

Open MEP—Eliminates the burdens associated with a traditional 401(k) by reducing the above list to four items. The employer only needs to:

- Serve as Adopting Employer to the Plan
- Provide initial Year-to-Date employee census file
- Submit timely and accurate payroll data each pay period
- Provide requested annual information for year-end testing

CONCLUSION

There are plenty of reasons for offering a 401(k).

- **Happy employees lead to higher profits.** The more satisfied employees are with their work, the more productive they are…which generates more revenue, reduces inefficiency, and increases profit.
- **Happy employees stay longer.** Employers experience lower turn-over when they offer stable retirement savings platforms. And when you factor in the cost of replacing an employee, businesses are wise to keep the good ones as long as possible.
- **The best talent goes where the best jobs are.** The vast majority of job-seekers report that retirement benefits are a top factor in deciding to work for a company.
- **Employers can save on taxes**. Tax credits for simply offering a 401(k) and tax deductions for employer contributions mean more money to re-invest into growing the business.

However, there are also plenty of headaches and frustrations involved with managing a traditional 401(k) plan on your own.

- **Fees.** It is not unusual for business owners to become overwhelmed by the sheer volume of fees associated with managing their own 401(k)s.
- **Liability.** It is up to the employer to make sure the plan's management and investment decisions are handled in the best interest of the plan participants at all times. If they are not, the Department of Labor will hold the employer directly responsible.
- **Time.** The amount of time an employer spends on administrative tasks related to a 401(k) could be better spent doing things that grow the company and make more money.
- **Stress.** Usually, whenever employers move away from their area of expertise into the world of finance and retirement investing, anxiety and aggravation aren't far behind.

Don't let it happen to you. You're standing at a crossroads. Will you continue to struggle through a traditional 401(k) model…or worse for you and your employees, not participate at all? Or will you choose to focus your resources on running your business instead of a retirement plan?

We here at FutureBenefits of America know a lot about 401(k) plans. We also love taking care of our customers and providing world class customer service and support. We handle everything with regards to Plan Administration and MEPs. Got a question or just want to pick up the phone to learn more about us? Don't hesitate to call - we'd love to hear from you!

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