

The logo for Fi360, featuring the text 'Fi360' in a white, sans-serif font. The 'i' in 'Fi' has a dot. The logo is centered within a white square frame that is slightly offset from the center of the page.

Fi360

A Broadridge® Company

# 2020 Fi360 Webinar Series – Premier sponsors

*John Hancock*<sup>®</sup> Investment Management





# To MEP or Not to MEP

That is the Question



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# Meet the Panelists

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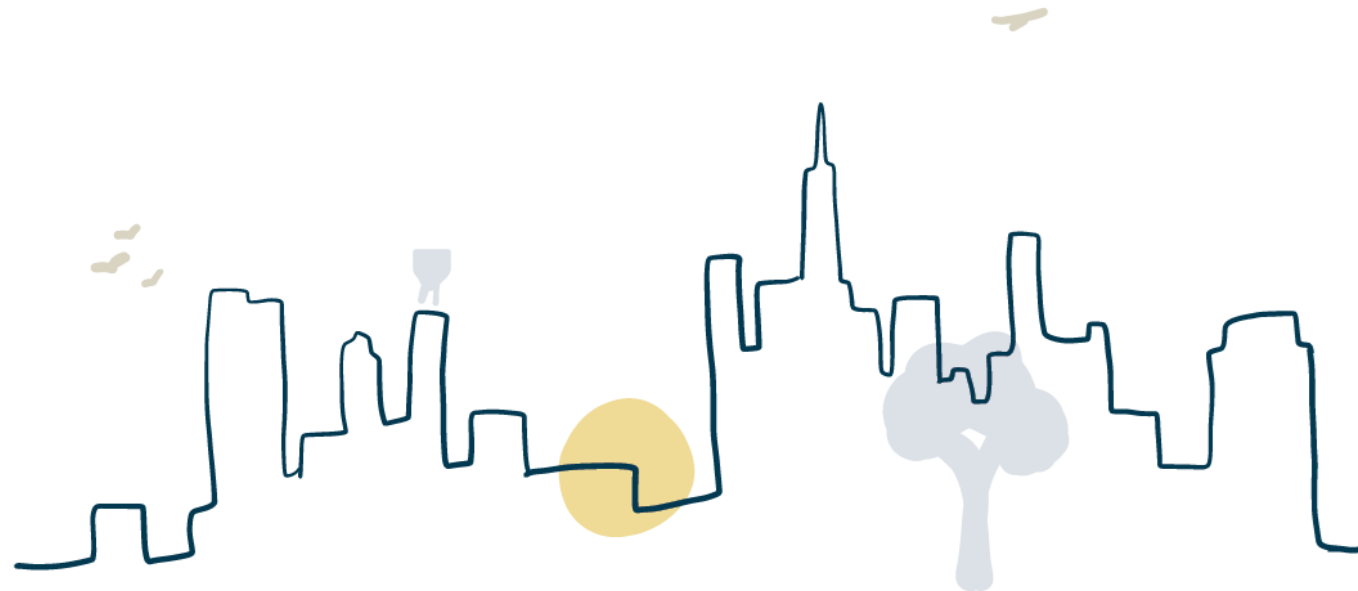
Allison Brecher, JD  
General Counsel & Chief Privacy Officer  
Vestwell



Joshua Forstater, CFA  
SVP, Strategic Partnerships  
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## AGENDA

1. Defining MEPs and PEPs
2. Expanding Your Small Plan Offering with Plan Aggregation
3. Alternatives to MEPs/PEPs
4. Q&A





## Defining a MEP and PEP

# What is a MEP?

## *General Structure and Common Terms*

- A **MEP** is a qualified plan that is maintained by 2 or more employers that are unrelated and don't have a collective bargaining agreement.
- **Lead Employer (LE)** is the plan sponsor. LE can be an individual business, association, PEO, or industry group.
- **Participating Employer (PE)** are the businesses that join the MEP through a participation (joinder) agreement.
- **“Closed MEP”** = PEs are related by something other than being part of the same MEP. Considered 1 plan.
- **“Open MEP”** = PEs have no relationship, considered multiple plans with separate 5500s.

# Understanding the SECURE Act

## *Recent Changes Present New Business Opportunities*

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### July 2019: IRS regulations for certain defined contribution MEPs

- Exception to “one bad apple” rule if (1) the PE responsible for a qualification failure that the employer is unable or unwilling to correct, or (2) the PE fails to comply with a plan administrator’s request for information about the qualification failure.
- While this changed IRS regs, it had no impact on DOL rules.

### July 2019: DOL MEP Final Rule affects plans after 9/30/19

- Streamlined requirements to be a “bona fide” employer association, group, or PEO. Geographic location is enough. The association can’t be a financial services organization.
- Big winners = chambers of commerce, trade associations & PEOs that can now sponsor MEPs/use brand to drive new revenue
- No impact on Open MEPs.

### December 2020: SECURE Act affects plans after 12/31/20

- Legislation relaxed the “one bad apple” rule through the introduction of Pooled Employer Plans (PEPs)
- PEPs include “Pooled Plan Providers”(PPP) that could perform all administrative plan duties and oversee PE’s compliance → PPP’s will assume most fiduciary duties, there’s no “commonality of interest” needed, and PEs will be treated as a single employer and sponsor for plan assets



# What is a PEP?

## *Taking a Closer Look*

A PEP is a tax qualified plan created to benefit employees of 2 or more employers where the employers do not have a common interest other than the plan, and the plan was not in existence before 12/20/19 unless administrator elects it.

The plan documents and PEs must:

1. Designate a “Pooled Plan Provider”
2. Have the PPP act as the named fiduciary
3. Designate 1 or more trustees (other than the LE or PE)
4. Monitor the PPP and other fiduciaries
5. Make sure all PEs and participants are not subject to unreasonable restrictions or fees and that they receive all disclosures.

# Differentiating MEPs and PEPs

## *Identifying the Core Features*

Feature	Closed MEP	Open MEP	PEP
Commonality	Yes	No	No
Filings (5500, audit, ERISA bond)	One	Multi	One
One bad apple rule	No	Yes	No
Servicing (fiduciary/named administrator)	Lead employer	Lead employer + participating employers	Pooled plan provider
Plan types	401(k), 403(b), defined benefit plans, 457(b) plans, multi-employer plans	401(k), 403(b), defined benefit plans, 457(b) plans, multi-employer plans	401(k)

# How Does a MEP or PEP Work?

## *Understanding the Division of Responsibility*

LE/PPP Responsibilities	PE Responsibilities
Plan Administrator and Named Fiduciary	Can withdraw and either spin assets to a standalone 401(k) or another MEP.
Can amend or terminate the plan	Can configure its own benefits formula for its participants as long as coverage and nondiscrimination rules are followed (different matching contributions, auto enrollment, and other discretionary contributions plus different vesting schedules).
Decide on the plan features	
Follow correction procedures in the event of a non-compliant or unresponsive PE	

# How Does a MEP or PEP Work?

## *Understanding the Parties Involved*

Financial Advisor

3(38) investment management, enrollment, & education

Partner, Association, or  
Platform

Named Fiduciary (as lead employer or PPP)

Platform Provider

Branded retirement portal for members

3(16), TPA, recordkeeping, trust, & custody

Advisor/Platform to provide marketing, sales, and consultation to drive distribution

# Advantages and Disadvantages

## *Outlining the Legal Benefits and Implications*

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### MEPs/PEPs present some good opportunities ....

- Cost efficiencies with closed MEPs due to one Annual Return and audit
- Administrative efficiencies with lead employer serving as the plan sponsor
- Ability to sell a “black car” to a number of plans at scale
- Fiduciary risk management

### But also some open questions and other issues .....

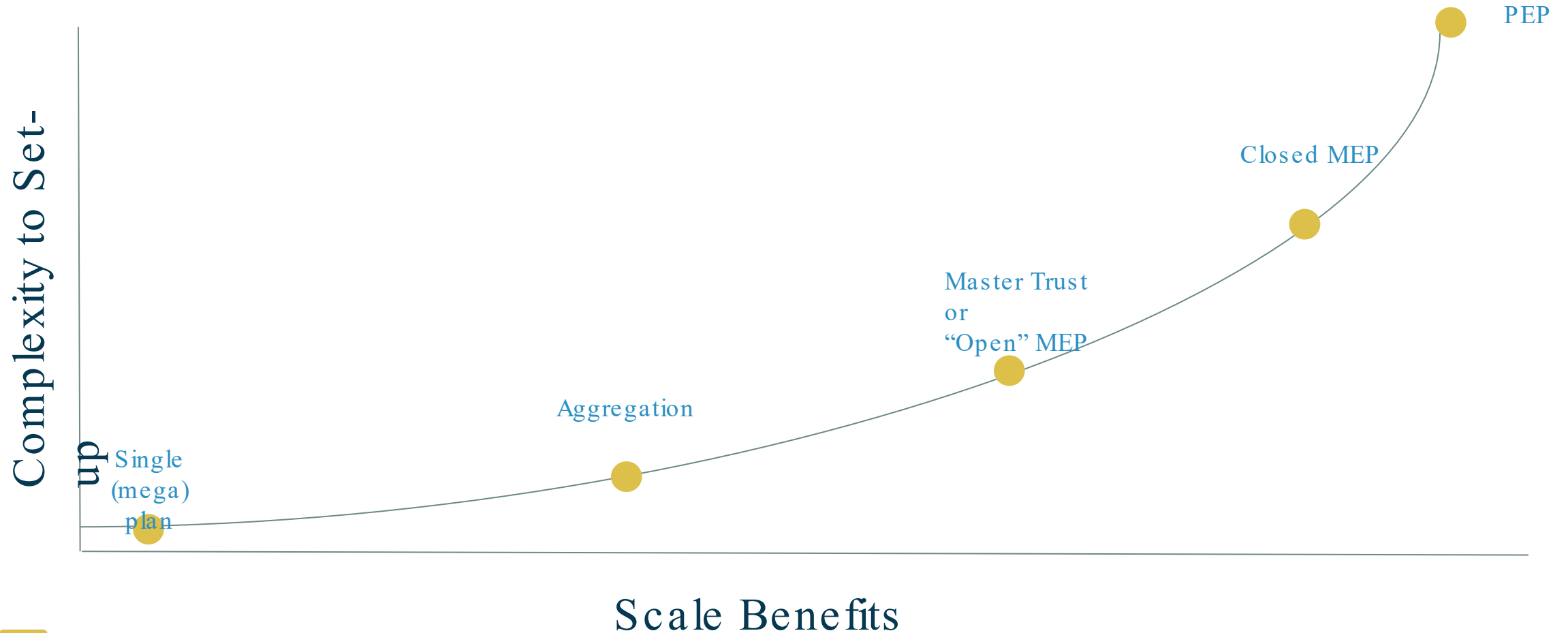
- Participating employers will likely use different payroll providers and many MEPs retain a data aggregator (at additional cost)
- The law is unclear about the scope of each participating employers’ fiduciary liability
- They may not reduce costs for all plan sponsors
- Regulatory uncertainty
- **Are there other ways to aggregate plans?**



# Expanding Your Small Plan Offering with Plan Aggregation

# Expanding Your Small Plan Offering with Plan Aggregation

## *Spectrum of Opportunity*



# Expanding Your Small Plan Offering with Plan Aggregation

## *Why Should Advisors Consider Plan Aggregation?*

Strategic way to partner with key centers of influence

- Effective lead channel
- Efficient servicing
- Highly defensible

Effective marketing package

- Leverage branding
- Consistent, easy to understand fiduciary approach
- Recruitment tool for additional associations/companies

Efficient way to service smaller clients as 3(38) fiduciary

- Highly effective way to advise starter/small plans
- Ability to provide consultation as the plan grows
- Mitigate client concerns around time, cost and risk



# Expanding Your Small Plan Offering with Plan Aggregation

## *Partnership Opportunities* Employer Organizations

### PEOs

- Looking to provide “one stop” for benefits
- Highly effective sales and retention tool
- Plan benefits from single payroll system

*Best for: Closed MEP structure*

*Best for: Closed MEP structure*

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### Associations

- Chambers of commerce or trade associations
- Provides additional benefit to members
- Highly effective sales and retention tool

*Best for: Open MEP, Aggregation, PEP)*

# Expanding Your Small Plan Offering with Plan Aggregation

## *Partnership Opportunities*

### Payroll Providers

- Take a play from PEO playbook
- Highly effective strategy to “group price” their plans
- Potential new revenue stream and lead source

Best for: Aggregation...  
or PEP?

### Recordkeepers

- Building out solutions in partnership with advisors and TPAs
- Key source of distribution
- Size and scale to help advisors

*Best for: Adapts to every situation*

### Broker-Dealers

- Potential to replace existing small plan programs with a PEP
- Allows home office control over 3(38) program
- Effective pricing

*Best for: Adapts to every situation*

# Expanding Your Small Plan Offering with Plan Aggregation

*Where does the PEP fit?*

## Fits

- Large providers that have the marketing and scale to drive benefits
- Large providers that want to go direct-to-market
- Associations and payroll partners that want to be combined into one program
- Solutions for starter and micro-plans
- **Innovators ready to solve legacy tech & payroll problems!**

## Doesn't Fit

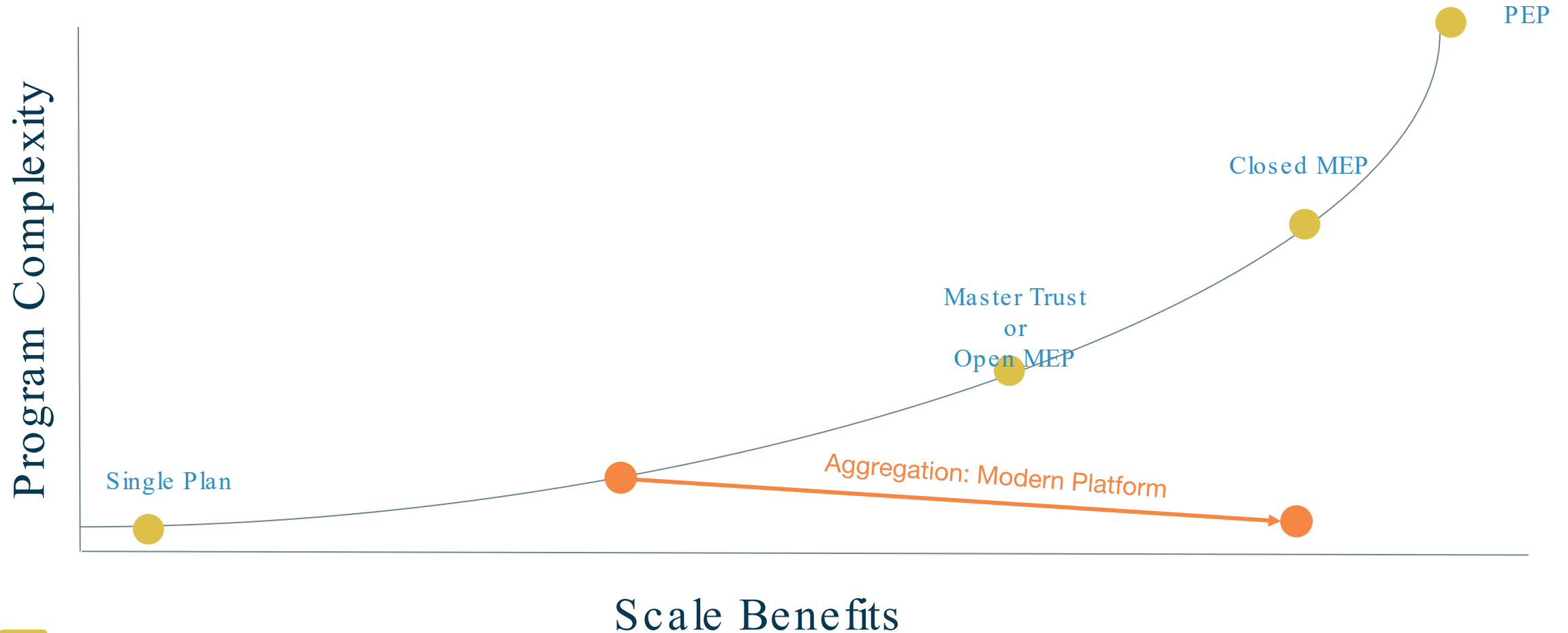
- Plan conversions (converting from a single employer to multi-employer plan can lead to complications
- Larger plans that require flexibility in plan design and fund selection
- Advisors that want to customize
- Those not ready to stand-up a PPP
- **Advisors that don't want to give up control**



## Alternatives to MEPs/PEPs

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## *Spectrum of Opportunity: Modern Technology*



# Alternatives to MEPs/PEPs

## *How Technology Improves Aggregation*

Standard Investment Program

Consistent “unconflicted” 3(38) lineup with ability to make “bulk” lineup changes across plans

Standardized Services

Bundled 3(16) Administration and TPA services reduces “all-in” cost

Fully Digital Experience

Digital onboarding, transactions, and year-end to reduce errors and service time

Automated Payroll

Payroll integrations and advanced data validations to errors and service time

Affordable Pricing

Tiered pricing **up to 70% cheaper** compared to legacy platforms!

# Alternatives to MEPs/PEPs

## *Aggregation Programs*

### Easy program setup

- Setup aggregation program with turnkey 3(38) program; no need for PPP or LE

### Private branding

- Branding can be to partner or as a private label; common to set-up micro-site

### Efficiently bundled services

- Bundled 3(16) administrative fiduciary and TPA services
- Advisor sets up a 1-2 3(38) lineups across the program

### Removes barrier to establish a plan

- Dramatic cost reduction by simplifying structure
- Partner may earn a fee for any services provided



Questions?





Thank you.

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