How the White House’s Proposals Affect Plan Sponsors and Advisors

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Ordering Up Retirement Changes: How Trump’s Proposals Affect Plan Sponsors and Advisors

President Trump’s most recent executive order creates the potential for significant changes in how private sector retirement plans operate.

Here’s a guide to the three main provisions of the order and what they mean for plan sponsors and advisors.

Provision 1: Allowing “Open” Multi-Employer Plans

What’s Happening: The first part of Trump’s order asks the Departments of Labor and the Treasury to incentivize more small businesses to offer retirement plans, possibly by making it easier for them to offer a joint 401(k) plan, also known as a multiple employer plan or MEP. Currently, only businesses that are related in some way—part of the same trade association, for example—can form MEPs. The departments could change the rules to allow businesses with no relationship to one another to offer them. They could also potentially change a rule that disqualifies an entire plan if one member breaks federal rules.

Things for Plan Sponsors to Think About Lack of money, time and expertise: these are three reasons that small businesses often shy away from offering a defined contribution (DC) retirement plan. Only 53% of people who work at companies with 100 employees or less have access to a workplace retirement plan, compared to 89% of those at companies with 500 employees or more. Theoretically, it would be cheaper and easier for small companies to offer a 401(k) if they could pool their resources and bargaining power to save money on administrative tasks, recordkeeping and investment fees.

Additionally, the sponsor of the MEP, not the employer, would be the fiduciary responsible for plan administration and investments. However, while joining an open MEP might allow companies to lighten their fiduciary responsibilities, it likely would not free them entirely. While an outside firm might take fiduciary responsibility for selecting and monitoring the investments offered under the plan, member firms might still retain a fiduciary role in choosing the MEP provider.

Things for Financial Advisors to Think About If open MEPs become easier to join, questions arise as to whether and how financial advisors might be impacted. For example, fewer individual plans may reduce the opportunities for financial advisors to advise plan sponsors. However, financial advisors may have more opportunity to advise individual participants. Financial advisors could also advise MEP sponsors on investing MEP assets. Advisors might also consider the pros and cons of bundling clients into their own branded MEP to take advantage of the consolidated assets and build relationships that might encourage plan sponsors and/or participants to hire them in other capacities.

Provision 2: Simplifying Notice and Disclosure Requirements

What’s Happening: The president’s executive order also aims to encourage plan sponsorship by easing regulatory burdens. The order asks the Labor and Treasury secretaries to consider making the disclosures required under ERISA and IRS rules easier to understand and cheaper to administer. One possible option: allowing plans to provide disclosures and notices exclusively by electronic means.

Things for Plan Sponsors to Think About: It’s easier and cheaper to send information via email or post it on a website. But sponsors also must think carefully about who their participants are and whether electronic delivery will serve them. Do employees and retirees in the plan have access to email? Should they have the option to choose snail mail? How likely are they to proactively check disclosures on a website? Are there considerations for employees who have left the company but still have 401(k) accounts?

*Things for Financial Advisors to Think About:*It's a plan sponsor's fiduciary obligation to keep plan participants informed about changes in its retirement plan, but it's an advisor's job to keep the sponsor informed. Advisors will have to think about how their roles may change and how they can add value as disclosure and notice rules get streamlined. Beyond the minimum legal requirements, what is crucial information and what isn't?

Provision 3: Getting Rid of Required Minimum Distributions

What's Happening: Currently, retirees must start drawing down assets in their 401(k) and IRA plans when they turn 70½ or when they retire, whichever comes later. The life expectancy tables that determine the amount of the required distribution were last changed in 2002, but the average American's life expectancy has risen from 76.9 years to 78.7 years since then, according to Federal Reserve data. Trump asked the Labor and Treasury departments to consider changes that would allow people to keep their money in DC plans longer to reflect these changes in longevity.

*Things for Plan Sponsors to Think About:*It remains unclear whether employees will keep their assets in an employer's plan longer if distribution rules change. If they do, sponsors may need to plan for some additional administrative tasks, including tracking a growing number of retirees. Firms will also have to update their paperwork to reflect the rule changes.

*Things for Financial Advisors to Think About:*Advisors who counsel individual retirement plan participants will have to help clients rethink their individual decumulation strategies, starting with tax planning. Most retirement account distributions are taxed, so advisors must weigh those costs against the participant's expenses, other sources of income and overall tax burden. Being able to hold money in a retirement account tax free for longer also has implications for inheritance planning.

Thinking Ahead

These points are all worth considering now, even though no changes from the executive order will occur before 2019, when the Labor and Treasury departments are due to wrap up their study of the issues and publish their findings. Congressional action on any one of several competing retirement bills could speed up that timeline, however. Now is a good time to get familiar with the possibilities.