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MEP Fans Applaud an IRS Proposal

Last week, the team at the **IRS** **proposed** a rule (published in the *Federal Registry*) for updating regulations regarding the "one bad apple" problem in multiple employer plans (MEPs). In the defined contribution industry, some MEP fans are cheering.

The proposed rule would provide an exception to the application of the "unified plan rule" for a DC MEP in the event of a failure of employer to satisfy a requirement or provide information necessary to determine compliance with a qualification requirement.

"We view the action from the IRS as a game changer to validate the MEPs," **Terry Power**, president of **The Platinum 401k, Inc.**, tells **401kWire**. "It clears up some concerns some employers and advisors have had getting involved in MEPs."

The proposal would ease the burden on MEPs and force deficient participants to fix their problems or leave for a solo account.

"Keep in mind this rule is going to impact not only open MEPs, but also closed MEPs, including association plans, professional employer organizations (PEOs) and other MEPS," Power continues.

Roberta Watson, partner at **Wagner Law Group**, tells **401kWire**, "There has been a problem with what we call the 'one bad apple.' [The IRS' proposal] has the potential to be extremely helpful; it is designed to allow a correction of one plan without changing the other plans in the mix."

Ary Rosenbaum, partner at the **Rosenbaum Law Firm**, tells **401kWire**, "It's obviously another move in a direction to finally bring back open MEPs. The 'One Bad Apple' rule is something critics would always point out. [The regulation] is a welcomed development because I've always been a big supporter of MEPs; if done correctly, it could save employers money, so this is a positive development."

Pete Swisher, senior vice president and national practice leader at **Pentegra**, tells **401kWire** that the proposed regulation is

helpful, but comes with a downside; "A potential gap is that there are MEPs that are not section 413(c) plans, which is what the regulation is about. There are MEPs out there that are technically not 413(c) plans. It's helpful and could give people comfort, but in being specific, it raises questions about how to handle things that fall outside."

Jason Roberts, CEO of **Pension Resource Institute**, tells **401kWire** that, although this regulation is "a big deal" and is a "necessary step in paving the way in adoption," it is not the biggest deal. Instead, he argues, "This is a great important step, but is it going to cause all of these plan sponsors on the sidelines to jump in? I don't think so; they are looking at synergies, what will I receive, what will I be paying? I don't think this will open the floodgates in and of itself."

When it comes to other progress on MEP regulations, MEP fans, like other DC industry insiders, are [watching](#) to see what happens next with the *SECURE Act*.

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