THE ENTERPRISE IRON FINANCIAL INDUSTRY SOLUTIONS, INC.
IRON CHRONICLES

Delivering impactful Business, Technology & Workforce Solutions since 2002.

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From The Corner Office

Happy Spring & Welcome to Conference Season!

We are proud to maintain a strong presence in the Retirement Services industry through our participation and contributions to various industry associations and leadership groups. Last week, we were a sponsor of the PSCA National Conference, where we had a chance to engage with many colleagues and are active members of the Thought Leadership Council.

Where will EI be next? Stay informed on our upcoming events – we hope to SEE you soon!

This issue of The Iron Chronicles features timely articles by three of our industry experts. Mark Kalafsky continues his Agile Series with **Agile Project Tools: Focus on JIRA.** Next, Denise Gumlak and Peter Lohri, AIFA tackle pooled employer plans in, **To PEP or not to PEP…that is the Question?**

Show your support for our newsletter by forwarding it to a colleague. Comments and topic suggestions are always welcome. To learn more about Enterprise Iron, visit **www.enterpriseiron.com**.

*PS – the restatement period is open for pre-approved Defined Contribution plans. **Our Plan Restatement & Operational Consultants** are available to support your team and keep your organization compliant.*

Best Regards,

John R. Crocker
Co-Founder & EVP

UPCOMING EVENTS

DCIIA/SPARK PUBLIC POLICY EVENT
May 4th – 6th
PRISM ANNUAL CONFERENCE
May 10th – 12th
BROADRIDGE Fi360 SOLUTIONS ANNUAL CONFERENCE
May 17th – 20th

Agile Project Tools: Focus on Jira

By Mark Kalafsky

When I first started running projects utilizing an Agile methodology, the projects were fairly simple and straightforward. Many of them used Agile to prove that this methodology could work. These projects were relatively easy to manage without sophisticated tools, and Agile-specific oversight did not require vast tracking. Team member's communication was mostly verbal, as the projects' size and scope were small and self-contained.

Then reality set in, and I ran a large and complex project, which required teams in different time zones, lots of business input and interactions, and an aggressive delivery schedule. Just as significantly, no tools that supported the Agile methodology right out of the box existed. Fortunately, the project was completed on time.

However, the two things I remember most were that my MS Project plan looked like the Watson and Crick DNA Double Helix Discovery Document (you will have an incredible headache trying to follow along). Additionally, my Requirements Document/Bug Tracking Excel file had many refer backs and sheets to the point where Excel could not efficiently handle the intricacies.

Over time, I got better at using the tools I selected to manage Waterfall-based projects – Project and Excel and learned to adapt them for Agile. But it was clumsy, and the qualities inherent with an Agile project were not built-in. I chugged along with this software in my toolset, all the while hoping to find a solution that had Agile project management built into its core. I reviewed several tools over the years, and many provided some assistance, but the Holy Grail was still out there.

Then, viola, I heard about JIRA. The first thing I remember thinking when I listened to the name JIRA was – "what a silly name." I later came to know that Jira is a Japanese nickname for Godzilla, and I was intrigued. Godzilla was a favorite monster when I was a young child. (For those who remember the tracking tool Bugzilla, I believe they come from the same place).

Long story short, JIRA has grown from small error tracking software to a suite of integrated tools that support the entire project life cycle of an Agile-based development effort. I will spare sharing the toolset's growing pains but want to share how JIRA can help organizations manage even the most complex of Agile projects.

JIRA contains several different toolsets integrated by Atlassian, the developer of the software. The company has roots in Australia and provides a significant level of support to customers – from answering configuration questions to working with power users who want to stretch the toolset's capabilities. The tool runs either in the Cloud (for forward-thinking organizations) or locally on a server inside the firewall. The two primary components of JIRA are JIRA Core and JIRA Software.

JIRA Core

Atlassian describes Core as the suite's workflow center that tracks all of the project's workflows from a business perspective. The features include:

- **Business Project Templates:** Predefined workflows that help manage tasks and are customizable to fit company standards and project requirements.
- **Issue Details:** The comments, important dates, and any attachments are captured and managed centrally.
- **Notifications:** To manage and automatically inform the task owners and critical team members of upcoming delivery dates, statuses, assignments, and any feedback needed. It is a fantastic time-saver and productivity enhancer.
- **Search Capability:** A search function can scan the entire project for any number of predetermined or customized items (e.g. Please identify and communicate all tasks that are due this week and also include any task that is in arrears).
- **Dashboards:** The ability to configure out-of-the-box, custom reports and dashboards to help stakeholders determine project status, acceleration rates, and possible risk areas. These are amazingly easy to develop, even complex one-off reports.

JIRA Software

JIRA Software is the Agile-based portion of the software suite that takes Core and tailors it for use by Agile teams. While this article focuses on the project management portion of JIRA, their Software component has been developed to automatically track and measure relevant information about the project. Thereby, it automatically provides the requisite data a Project Manager (PM) needs to collect, analyze and utilize older PM software suites.

JIRA Software supports any Agile development and project management. Examples of functionality that I've found to be advantageous include:

- Ability to plan project work, eliminate backlogs, and plan for upcoming sprints.
- Ability to create, capture and manage Scrum Boards.
- Resource and Time estimators determine risk and match resources with tasks based on desired criteria.
- Reporting with charts and dashboards, including burndown and velocity determinations.

Summary

JIRA allows the Project Manager (PM) to manage projects rather than spending excessive time collecting mundane data then formatting and reporting on that data. This work is all done for you, and it meets Agile requirements. The PM is free to analyze the data and determine where the backlogs are, where the risks are, and collaborate with the team to deliver the project as effectively and timely as possible.

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There are lots of competitors to JIRA these days. But I always remember what I learned early on when IBM ruled the Information Technology world, "No one ever lost out by choosing IBM." I feel the same way about JIRA. There are many other choices, but you cannot go wrong with JIRA as your toolset of choice when running an Agile-based shop.

In closing, Atlassian provides an incredible amount of material about JIRA on its website. There are informative and easy-to-understand tutorials lots of folks are using to learn the basics of managing projects with JIRA. They are free and, as noted, located on the Atlassian website, which allows for easy downloads of the software so you can see for yourself what JIRA is all about.

I think you will soon agree – it's the best!

To PEP or not to PEP…that is the Question?

By Denise Gumlak and Peter Lohri, AIFA

The Setting Every Community Up for Retirement Enhancement (SECURE) Act amended the Employee Retirement Income Security Act (ERISA) and the Internal Revenue Code to establish a new type of Multiple Employer Plan (MEP). Now, Pooled Employer Plans (PEPs) have the potential to transform the retirement plan landscape and provide millions more Americans with a way to save for retirement.

According to a 2018 study by the Bureaus of Labor Statistics, approximately 38 million private-sector employees in the United States do not have access to a retirement savings plan through their employer. About 85% of workers at private-sector establishments with 100 or more employees were offered a retirement plan. In contrast, only 53% of workers with fewer than 100 employees had access to such plans.[1]

Anyone following industry news has seen an uptick in information sharing around PEPs. This article shares insights around PEPs, including key features, the importance consultants and advisors will play in the successful adoption of these programs, and compliance and operational readiness providers will need to consider.

Highlighted below are the key features of PEPs, which must be administered by Pooled Plan Providers (PPPs) and took effect January 1, 2021:

- **Single Plan:** Plans that satisfy PEP requirements are characterized as open MEPs and are treated as a single plan to satisfy ERISA requirements.
- **Non-Industry Related Groups:** While MEPs require participating employers to be related by industry or association (such as trade group), PEPs, on the other hand, do not, thus eliminating the nexus rule.
- **Economies of Scale:** Potential to reduce fiduciary liability, simplified administration for employers, and increase savings due to resource pooling.
- **401(k) Plans Only:** Plan types are currently limited to 401(k) plan structures, so 403(b) and 457 plans are excluded from participating in a PEP at present.
- **Removal of "One Bad Apple" Rule:** The SECURE act replaces the "one bad apple" rule with a procedure allowing PEPs to separate the asset of a non-compliant employer, allowing the plan to retain tax-qualified status.
- **Fiduciary Protection:** A professional third-party, or PPP, required to register with the Secretary of Labor before beginning operations, will serve as the designated plan administrator, and the named 3(16) fiduciary.
- **Tax Credit:** To offset startup costs, the SECURE ACT provides up to $5,000 in tax credits annually, with an additional three-year $500 tax credit with automatic enrollment.
- **Company Match & Contributions:** Employers who participate still have control over these limits.
- **Plan Assets:** Plan assets are held in a commingled trust, meaning there is no segregation of assets by the employer.

The Role of the PPP

Compared to a single employer plan, Pooled Employer Plan outsourcing benefits are rather significant. The legal obligations of the plan sponsor can now be shifted to a professional Pooled Plan Provider — adding a substantial layer of fiduciary protection not previously available, as the PPP essentially becomes the new plan sponsor.

Initially, we anticipate seeing the more common models where the PPP is filled by a third-party administrator (TPA) or recordkeeper, with investment selection and monitoring supported by a 3(38) fiduciary.

It is important to note that Registered Investment Advisor (RIA) and broker-dealers may also serve as the PPP. However, there are several issues that advisory firms should understand before deciding to commit to this role.

Most significant is the fact that by providing investment services to the plan and managing assets for an AUM fee while serving as the PPP, there is potential for creating a prohibited transaction, as the Internal Revenue Code Section 4975(c) (1) disallows a plan fiduciary from dealing with the income or assets of a plan for their own interest or from receiving compensation from the plan in connection with transactions involving income or assets of the plan.[3]

Enterprise Iron anticipates that RIAs and broker-dealers take a more "wait and see" approach before fully jumping in as PPPs. Not uncommon to single-employer plans, the TPA or Recordkeeper will take on these administrative duties:

- **Form 5500:** Participating employers do not have to file separate 5500's — meaning only one 5500 filing for the entire plan, not each employer.
- **Non-Discrimination Testing:** While the PPP or registered party will perform non-discrimination testing, it is important to note that testing is applied separately to each adopting employer for their employees and plan contributions (not across the PEP in aggregate).
- **Annual Audit Requirements:** Unless the PEP fits within the new audit exemption rule (no more than 1,000 participants and no employer with more than 100), the PEP is subject to an audit[2].
- **Plan Document/Restatement & Participant Notices:** The PPP will take on this role for the PEP.
- **Hardship Distributions, Loans & Rollovers:** Anticipated to potentially be more streamlined under a PEP, technically allowing employers to remove themselves from the actual approval process.

Advisors & Consultants to Drive Interest & Adoption

We anticipate plan consultants and advisors will play a key role in adoption, being on the front line with clients. While many view smaller plans to be the natural "initial" target, some experts contend mid-size plans may also consider this structure due to potential economies of scale, increased purchasing power, and the ability to offload some fiduciary responsibilities in comparison to single-employer plans.

That said, advisor and consultants will want to understand the different options available in the marketplace as they inform and educate their clients around viable options that best serve each client's unique goals and objectives, including:

- **Group Consensus:** Will employers be comfortable delegating administration and abide by others' direction?
- **Investment Selection & Monitoring:** What level of comfort will employers have related to investment control — one plan translates to one investment lineup across the PEP.
- **Standardization:** To keep costs down, most PPPs will likely offer a standard product offering at the onset. This begs the question, will there be a premium for non-standard services (i.e., reporting, participant communications, etc.), or will the model be modularized, allowing for a degree of flexibility and customization for each employer at a price to "buy up" for a degree of customization?
- **Not a Free Ride:** While an attractive way to establish or offer a 401(k) plan at a reasonable cost, employers

will still be responsible for monitoring plan operations and determining if fees charged to employee accounts are fair.

- **Price Points:** There are multiple layers of involvement, including 3(16) fiduciary, 3(38) fiduciaries in charge of investments, recordkeeper, and independent trustee, could potentially drive up total costs, initially, as preferred models evolve and standardize. First-to-market providers with aggressive pricing may be in a "winner-take-all" position.
- **Exit Strategy:** It will be necessary for clients to quickly understand the cost to promptly leave the plan and have their portion of the plan spun off as either an individual plan or transferred to an alternative MEP or PEP.
- **ERISA Class Action Lawsuits:** While most ERISA lawsuits have been focused on larger plans, with the rollout of PEPs, we could see litigation moving down-market to smaller plans, leaving PEPs as a potential area of exposure.

Challenges for Those Considering Becoming a PPP

While some might assume, providers active in the MEPs space have a natural advantage, this might very well be the case. Regardless, unlike a single employer plan, PEPs create challenges for those who have not otherwise been active in the MEP space and are looking to build a product offering:

- **Accuracy & Timing of the Data:** Accuracy and timing of the data will be key as employers will be responsible for timely funding of employee and employer contributions. Employers must also promptly provide the correct participant data to the PPP and other service providers, as removing the "one bad apple" rule allows the PPP to separate non-compliant employers.
- **Data Feeds & Information Sharing:** PEPs likely translate to multiple channels and methods of exchanging information between employers, PEP providers, and participants (e.g., coordinating payroll, census, and remittance data directly from employers and across multiple third-party providers or distributing required statements, notices and disclosures while allowing participants to "opt-in" to e-delivery vs. paper).
- **Plan Reporting:** While one plan, the data will need to be bifurcated between employers for reporting purposes. Plus, each employer may very well have different reporting requirements, including standard, ad hoc, and potential custom reporting requirements based on the employer's size.
- **Plan Rules:** One plan, but each employer determines employee contributions and employer match components, which exist in the recordkeeping system for each employer (meaning they're not consistent across all employers).
- **Compliance Testing:** Discrimination testing must be applied to each adopting employer for their employees and plan contributions separately. In this sense, discrimination testing is more complex compared to single-employer plans.
- **Conversion & De-conversion:** With the potential of adding existing plans to or spinning off non-compliant plans, a well-defined conversion and de-conversion process will be essential to any provider's operations strategy.

Conclusion

In conclusion, to PEPs or not to PEPs… still remains the question as we enter Q2, 2021. While PEPs have the potential to transform the retirement industry and provide millions more Americans with a savings vehicle for retirement, we anticipate 2021 will be a year of discovery with the potential for broader adoption in these plan structures in 2022 and beyond.

Whether you're a Plan Sponsor, Recordkeeper, Custodian, Trustee, Registered Investment Advisor, Asset Manager, TPA, or a Retirement Plan Consultant, Enterprise Iron can help. We have extensive retirement experience and fully understand the entire ecosystem and key constituents involved in servicing retirement plans.

Our business, technology, and workforce solutions teams are ready to help clients evolve their PEPs strategies!

[1] Fact Sheet: Final Rule on Association Retirement Plans (ARPs), U.S. Bureau of Labor Statistics, July 29, 2019
[2] SECURE Act Pooled Employer Plan Q&As, NAPA
[3] The New Pooled Employer 401(k) Plan and the Hazards of Advisor-Led PEPs, Jeffery Levine, Kitces.com, December 30, 2020