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SECURE 2.0: What plan sponsors need to know

From the Field
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The SECURE 2.0 Act of 2022, commonly known as SECURE 2.0, includes helpful changes to retirement plans—some mandatory and some optional—that should increase coverage and allow participants to save more and longer for retirement. The law allows sponsors to tailor their plans more specifically to the needs of their plan population and also makes important improvements to plan administration. This article is designed to help plan sponsors understand the key provisions of interest and suggests how plan sponsors might approach implementation.

Key highlights

- The SECURE 2.0 Act of 2022 includes mandatory and optional provisions designed to increase retirement plan adoption.
- The law allows employers to tailor their retirement plans more specifically to help meet the needs of their plan population.
- To help plan sponsors navigate and evaluate the options in SECURE 2.0, we have outlined the key provisions of interest and provided a helpful annual task list as a prioritization guide.

Key provisions

Mandatory changes that increase savings or coverage. SECURE 2.0 includes three mandatory provisions that are designed to increase retirement savings and expand coverage and one somewhat optional provision with similar potential impact that is likely to be universally adopted.

1. **RMD delays.** SECURE 2.0 allows individuals to save for retirement longer by delaying the beginning date for required minimum distributions (RMDs) to age 73 starting in 2023 and to age 75 by 2033. This provision better aligns retirement plans with increases in longevity that have occurred since RMDs were first mandated.

2. **Elimination of pre-death RMDs for plan Roth accounts.** Effective in 2024, Roth accounts in plans are no longer subject to pre-death RMDs. This change brings plan Roth accounts into parity with rules governing Roth IRAs and eliminates one significant advantage of maintaining Roth balances in an IRA.

3. **Enhanced long-term part-time eligibility.** Beginning in 2025, SECURE 2.0 will allow even more part-time employees to save for retirement through salary deferrals. The original SECURE Act of 2019 (SECURE 1.0) required 401(k) plans to allow part-time employees with three consecutive years of working at least 500 hours to begin deferring into plans beginning in 2024. SECURE 2.0 enhanced that provision by reducing the long-term requirement to two years and by expanding the requirement to ERISA-governed 403(b) plans. The new provision is effective in 2025, and employers

need not consider years of service, either for eligibility or the special vesting rules of this provision, before 2023 (before 2021 in the case of part-time employees with three years of service joining 401(k) plans in 2024).

4. **Catch-up contribution changes.** SECURE 2.0 added an improvement to catch-up contributions that is not technically mandatory but is likely to be adopted by virtually all plans. Starting in 2025, SECURE 2.0 will allow for higher catch-up contributions (generally $10,000, indexed) for individuals between the ages of 60 and 63. That improvement is paired with an important mandatory provision that affects all catch-up contributions. Starting in 2026, all catch-up contributions will be required to occur on a Roth basis, unless the individual received less than $145,000 in prior-year wages from that employer or its affiliates. While Roth treatment may be beneficial for the ages younger than those eligible for catch-up contributions, this change is not rooted in retirement policy but was included to offset tax revenue lost because of other beneficial provisions in SECURE 2.0. The requirement for Roth treatment of catch-up contributions is likely to have a substantial administrative impact: All 401(k), 403(b), or governmental 457(b) plans offering catch-up contributions will effectively be required to have a Roth feature by 2026.

Optional provisions that increase savings and coverage. SECURE 2.0 adds three features that plan sponsors should consider adopting in order to increase savings and coverage.

1. **Small financial incentives to participate.** Effective immediately, sponsors of 401(k) and 403(b) plans may offer a de minimis financial incentive to encourage participation in plans. This approach may be particularly effective for plans that do not offer automatic enrollment as well as plans that offer automatic enrollment but struggle with a high number of participants opting out. Plan sponsors that believe a program of this sort might motivate recalcitrant employees may want to consider launching a pilot program to assess its effectiveness.

2. **Student loan match.** Beginning in 2024, plan sponsors are able to provide a match in the plan upon receipt of annual certification from an employee that he or she has repaid a student loan for qualified higher education expenses. The amount of student loan repayments eligible for the match is equivalent to the deferral limit reduced by any deferrals the individual made to the plan. SECURE 2.0 allows individuals receiving the student loan match to be tested separately from those deferring into the plan. The law authorizes the Internal Revenue Service (IRS) to issue regulations that allow employers to make student loan matches at different times from traditional matching contributions and to impose reasonable deadlines after the close of a year for employees to claim the match. The provision allowing matching contributions for student loan repayment is intended to improve the retirement savings prospects for those hampered by student loan debt and could be an important tool for employers who prefer not to provide student loan repayment support through direct payments to employees.

3. **Saver's match.** SECURE 2.0 introduces an innovative program designed to improve upon the existing Saver's Credit and creates a new federally funded match for low-income workers. Starting in 2027, individuals earning less than specified amounts will be eligible to receive the match into an IRA or plan that has agreed to accept such amounts. Up to $2,000 of deferral is eligible for the match, which will be treated as a pretax contribution. The lowest earners (married taxpayers filing jointly that earn less than $41,000, indexed) will be eligible for a match of 50%. The percentage will phase out as earnings increase and is eliminated at specified income limits ($71,000, indexed, for married taxpayers filing jointly). The match will also be reduced if the individual (or his or her spouse) has taken certain types of distributions during the prior two years. This innovative program could be important for employers with a significant portion of lower-wage workers.

Optional provisions that allow plan sponsors to meet participant needs. SECURE 2.0 offers a host of provisions that may allow plans to serve as financial safety valves for participants or otherwise tailor plans to participant needs.

1. **Formalized disaster distributions.** SECURE 2.0 provides penalty relief for early withdrawals and formal relief from other tax rules for disaster distributions. This provision saves Congress from what had become almost annual legislation addressing disasters by specific geographic areas or time periods. SECURE 2.0 makes this relief permanent so that plans are automatically allowed to provide financial support to those impacted by federally declared disasters. It allows penalty-free disaster distributions of up to $22,000, indexed, for those meeting eligibility criteria, as well as loans of up to $100,000. Disaster distributions can be repaid within three years, and eligible impacted individuals are allowed extended deadlines for loan repayment. The provision is effective for disasters occurring on or after January 26, 2021, and may prove to be an important financial safety valve as federally declared disasters occur more frequently. As with any new early distribution option, plan sponsors will want to ensure that the benefits outweigh the risks of jeopardizing future retirement income.

2. **Emergencies.** SECURE 2.0 provides two paths for plan sponsors wanting to assist their population with emergencies, both of which are effective in 2024.

- Emergency withdrawals. The simplest path allows sponsors to grant a penalty-free emergency withdrawal of up to $1,000 to individuals once every three years. The amount can be repaid within three years, and, if repaid, the individual is entitled to take another emergency withdrawal before the full three years from when the first withdrawal occurred have elapsed.

- Pension-linked emergency savings accounts (PLESA). This more nuanced approach allows sponsors to create a separate account within the plan for emergency savings. Under this structure, individuals other than highly compensated employees can contribute annually up to $2,500 or any lower limit designated by the plan (or, if less, the amount required to restore the account balance to $2,500 or the plan limit). That amount must be contributed on a Roth basis and invested in a short-term investment. Funds can be withdrawn from the account penalty-free for any reason as often as once per month. If the plan provides a match for deferrals, the emergency savings contribution must be matched at the same rate, and the match must be funded into the traditional plan matching contribution account, not the PLESA. Employers can automatically enroll individuals in PLESAs for up to 3% of compensation, provided they allow an opt-out option. If the plan is ERISA governed, employers are entitled to preemption from state wage laws for automatic PLESA contribution programs. Employers that offer such a feature in their plan will be required to provide a detailed annual notice of the account's features and rules. If the PLESA is not used at the time an individual terminates, it can either be converted to Roth within the plan (if the plan allows for Roth contributions), distributed, or rolled over to a Roth account.

Each of these emergency savings approaches has unique advantages and drawbacks. Whether to implement any form of emergency savings program within a plan will require employers to decide whether the benefit outweighs potential jeopardy to future retirement savings for impacted individuals and whether the need for emergency savings can be addressed in some other way. For those employers convinced that an in-plan solution is appropriate but who want only one in-plan emergency savings solution, it will be important to weigh the simplicity of the straight $1,000 withdrawal provision against the added cushion provided by a potentially larger in-plan emergency savings account. Sponsors should carefully evaluate any potential changes as new distribution rights may be considered protected benefits.

3. **Long-term care premium payment.** Beginning in 2026, plans can allow penalty-free distributions of up to the lesser of $2,500 or 10% of a participant's vested balance for the payment of eligible long-term care insurance premiums. SECURE 2.0 contains specific requirements for insurance eligibility, and the plan must receive the premium invoice.

4. **Other financial safety-valve distributions.** SECURE 2.0 allows a number of new penalty-free distributions:

- Increased hardship availability for 403(b) participants. Effective in 2024, participants in 403(b) plans can access the same sources for hardship distributions as 401(k) participants can, namely qualified nonelective contributions (QNECs), employer matching contributions, and earnings on these accounts as well as earnings on deferrals.

- Terminally ill individuals. Effective immediately, plans can allow distributions of any amount to individuals who have been certified by a doctor to have an illness that is likely to be terminal within seven years.

- Victims of domestic abuse. Effective in 2024, plans can allow distributions of up to the lesser of $10,000 or 50% of the vested balance to individuals who certify that they or a family member living with them is a victim of domestic abuse.

For each of these provisions, sponsors will want to evaluate the cost of reducing retirement savings against the benefit that participants might receive from earlier access to funds and whether the needs could be met in some other way. Sponsors will also want to consider whether allowing this flexibility for earlier withdrawals is important for attracting and retaining qualified workers. Finally, sponsors should consider whether any of these early distribution options are protected benefits.

5. **Matching and nonelective contributions as Roth.** Effective immediately, employers can offer their participants the ability to treat 100% vested matching or nonelective contributions as Roth contributions. Like the provision on catch-up contributions, this provision is a revenue raiser, designed to offset the costs of other improvements. The provision raises a number of unanswered questions, including the extent to which these contributions would also be subject to FICA taxes. Employers considering this provision should evaluate how popular their plan's current Roth feature (if any) is and whether there is a population that seeks to avoid the income limits on Roth contributions to IRAs that would welcome increased access to Roth savings. Employers may also want to consider whether there are comparable plan features that already accomplish similar results, such as in-plan Roth conversions.

Provisions intended to reduce operational complexity.
Perhaps the most underappreciated news of SECURE 2.0 is the extent to which it reduces operational complexity (and penalties for certain failures). These provisions are numerous and technical, but here are a few highlights:

1. **Elimination of first-day-of-month rule**. Effective in 2023, governmental 457(b) plans can allow individuals to defer or change deferrals at any time before the compensation is paid.

2. **Self-certification for hardships.** Also effective in 2023, Congress provided statutory approval to a widespread industry practice to allow self-certification of hardships or unforeseeable emergencies.

3. **Overpayment relief.** Plan fiduciaries have formal flexibility to decline to seek repayment from participants who have received an inadvertent overpayment, and those overpayments can be treated as eligible rollover distributions. If plan fiduciaries do seek repayment, SECURE 2.0 establishes certain procedural safeguards to curb overzealous efforts to recover funds for the plan.

4. **Expanded error correction.** Plan sponsors are allowed to self-correct a broad range of inadvertent errors under the Employee Plans Compliance Resolution System (EPCRS). Rather than being limited to self-correction of insignificant or recent errors, SECURE 2.0 allows self-correction of any inadvertent error using IRS-approved correction methods, provided that the correction occurs within a reasonable time. This provision does not apply to errors first discovered by the IRS. SECURE 2.0 provides authority to allow loan errors to be corrected through EPCRS. Although the change appears to be effective immediately, SECURE 2.0 requires the IRS to change EPCRS within two years of enactment and directs the IRS to include correction methods and general principles of correction for inadvertent errors eligible for self-correction.

5. **Increased cash-out limits.** SECURE 2.0 increases the amount that can be distributed without participant consent to a default IRA. Effective in 2024, the limit increases from $5,000 to $7,000. While this may seem contrary to provisions that allow increased savings, this provision is paired with a new statutory-prohibited transaction exemption that protects auto-portability programs. Auto-portability allows transfer to a default IRA and subsequent automatic transfer to an individual's new employer unless the individual opts out of that transfer. The exemption includes important safeguards for participants. Plan sponsors will want to evaluate whether plan administration is simplified if there is a higher cash-out limit and whether an auto-portability program might benefit small-balance participants.

6. **Disclosure improvements.** SECURE 2.0 demonstrates that Congress understands the confusion created by wordy duplicative disclosures required by the Department of Labor (DOL) and the IRS and makes important changes.

- Eligible, nonparticipating employee disclosure. SECURE 2.0 eliminates annual notices to eligible, nonparticipating employees. After being provided one full set of initial disclosures—such as the summary plan description, the fee and investment disclosure, and the automatic enrollment and safe harbor notices—an employee is not required to receive the same notices in subsequent years, provided the employee is given an annual reminder that they are eligible to participate in the plan and a reminder of the key benefits and rights under the plan (with a focus on employer contributions and vesting provisions).

- Elimination of duplicative notices. By 2025, SECURE 2.0 requires the IRS and the DOL to issue rules allowing the combination of ERISA automatic contribution and qualified default investment alternative notices with IRS-required safe harbor notices.

- Participant fee disclosure improvement and report. SECURE 2.0 overrules the DOL requirement that target date funds be accompanied by a broad-based securities index as a benchmark in the participant fee and investment disclosure and requires the DOL, within two years, to issue rules allowing custom indexes to be used that more closely align with target date asset allocation. SECURE 2.0 also requires the DOL to study and report to Congress on the efficacy of the participant fee disclosures mandated by the DOL in the 404a-5 regulations.

- Effectiveness of Section 402(f) notices. SECURE 2.0 directs the Government Accountability Office to review the effectiveness of Section 402(f) notices and to make recommendations to Congress within 18 months of enactment to facilitate better understanding by participants of their distribution options and the corresponding tax consequences.

The bad news: Some additional burdens (and one potential trap). While SECURE 2.0 is generally positive for retirement plans and participants, there are a handful of provisions that will impose burdens on plan sponsors. The requirement that all catch-up contributions be Roth starting in 2026 has already been discussed. Here are two other challenging provisions and one potential trap for the unwary.

1. **Annual paper statement.** Starting in 2026, all defined contribution plans must provide one paper statement annually. Defined benefit plans must provide one paper statement every three years. In an improvement from earlier drafts, SECURE 2.0 does not create a brand new set of disclosures that must accompany the paper statement. In other positive changes from earlier drafts, SECURE 2.0 also allows individuals who have consented to electronic delivery of statements or who meet current DOL rules for electronic delivery because they are "wired for work" to continue to receive electronic statements.

2. **New annual reporting for balances of terminated and vested individuals.** SECURE 2.0 requires the DOL to establish an online, searchable lost and found registry within two years. The database must allow individuals to locate retirement benefits to which they are entitled. As soon as regulations are adopted, plan sponsors will be required to provide additional reporting that will facilitate the registry. Today, plan sponsors provide one report of individuals who have terminated during the prior year with vested balances. In the future, plan sponsors will be required to report annually on the disposition of those balances.

3. **Automatic enrollment and automatic escalation for new plans.** One of the signature provisions of SECURE 2.0 is the requirement that most new plans include automatic enrollment and automatic escalation. Although the mandate is not effective until 2025 and does not directly impact employers that already sponsor plans, the mandate includes a potential trap for existing plan sponsors subject to the requirement. (The requirement does not apply to church, governmental, or collectively bargained plans or to plans of small or new employers.) The rule exempts plans "in existence" on December 29, 2022. It is unclear whether common plan activities, such as merger or restatement, will call into question a plan's ability to be grandfathered. Sponsors that are hesitant to offer automatic enrollment will need to be careful to assess the impact of common plan activities on their grandfathered status.

Amendment deadlines

SECURE 2.0 allows generous remedial amendment periods. As long as plans are operated in accordance with the provisions as of the effective date of the statute (or for optional provisions, the effective date specified in the plan), plan sponsors can take until the last day of plan years beginning after January 1, 2025, to formally amend the plan. Collectively bargained and governmental plans are given an additional two years. As anticipated, SECURE 2.0 also pushes the remedial amendment period for SECURE 1.0 to the same time frame.

What to do?

As plan sponsors navigate the law, we believe that plan sponsors will be best served by categorizing the provisions of SECURE 2.0 as we have done in this article and asking the following questions:

- Is my plan ready for mandatory requirements that are effective this year?
- Are any of the optional provisions designed to increase savings or coverage that are available this year right for my plan?
- Are any of the optional provisions that allow plans to be tailored to help meet participant needs right for my plan?
- Can my plan benefit from any administrative simplification that is available this year?

Some of the changes are not restricted to any given year. For example, the enhancements to EPCRS should be used whenever the situation allows. Further, while a sponsor may choose not to implement an optional provision in the first year possible, they may want to consider that provision in future years. Nonetheless, the staggered implementation deadlines of SECURE 2.0 provide a guide to prioritization for sponsors that want to evaluate SECURE 2.0 options at the earliest opportunity.

The following chart sets out the specific provisions that sponsors of calendar year plans will want to consider over the coming years. Although the chart suggests topics by year based on effective date of SECURE 2.0 provisions, sponsors will generally want to do advance planning for the coming year in the back half of any of the years listed below, if not earlier.

SECURE 2.0 yearly task list for plan sponsors

	Provisions in effect
Mandatory provisions	RMDs begin at age 73.
Options to increase savings	Consider de minimis financial incentives to help boost plan participation.
Options to meet participant **needs**	– Consider whether to provide participants the option to receive match or nonelective as a Roth contribution. – Consider implementing permanent disaster distribution provisions. – Consider allowing early distributions for terminally ill participants.
Simplify administration	– Consider replacing repetitive annual notices for eligible nonparticipating employees with annual reminders of the right to participate. – If applicable, adopt self-certification for hardship distributions. – For governmental 457(b) plans, implement and communicate deferral election flexibility.

2024	
Implement mandatory provisions	– For 401(k) plans, ensure that the plan is ready to accept deferrals from part-time employees with at least 500 hours in three consecutive years of service since January 1, 2021 (as required by SECURE 1.0), and adjust vesting rules for these individuals. – Implement and communicate changes to RMD processes to eliminate pre-death RMDs from Roth accounts in plans.
Consider options to increase savings	Consider whether to implement a student loan match in your plan.
Consider options to meet participant needs	– For 403(b) plans, consider expanding sources that are eligible to be withdrawn for hardships. – Consider whether to implement the $1,000 emergency savings withdrawal and/or a PLESA. – Evaluate whether to allow early withdrawals of up to $10,000 or 10% of vested balance for domestic abuse victims.
Simplify administration	– Consider implementing increased cash-out limits for default IRA distributions. – Evaluate implementing auto-portability.
Plan for coming year	*See below.*

2025	
Implement mandatory provisions	– For 401(k) and 403(b) plans, ensure that the plan is ready to accept deferrals from part-time employees with at least 500 hours of service in two consecutive years. – For nongovernmental or noncollectively bargained plans, ensure that the plan is amended for SECURE 1.0 and SECURE 2.0 by the end of 2025. – For ERISA-governed plans, provide additional reporting to the DOL concerning the disposition of balances attributed to terminated participants. (Note: Requires issuance of regulations that may occur earlier than 2025.)
Consider options to increase savings	For 401(k), 403(b), and governmental 457(b) plans, consider implementing higher catch-up contribution limits for individuals between the ages of 60 and 63.
Consider options to meet participant needs	*There are no provisions newly effective in 2025.*
Simplify administration	*Eliminate certain duplicative plan notices. (Note: Requires issuance of regulations.)*
Plan for coming year	*See below.*

2026	
Implement mandatory provisions	– For ERISA-covered plans, provide a paper benefit statement at least once annually (unless an exception applies). – Ensure that catch-up contributions are made on a Roth basis, unless a participant has prior-year wages of $145,000 or less, indexed. If your plan has catch-up contributions but no Roth feature, ensure that participants can make salary deferrals on a Roth basis.
Consider options to increase savings	*There are no provisions newly effective in 2026.*
Consider options to meet participant needs	Consider allowing participants to use retirement funds up to $2,500 annually to pay for eligible long-term care insurance.
Simplify administration	*Eliminate certain duplicative plan notices. (Note: Requires issuance of regulations.)*
Plan for coming year	*See below.*

2027	
Implement mandatory provisions	For governmental or collectively bargained plans, ensure that the plan is amended for SECURE 1.0 and SECURE 2.0 by the end of 2027.
Consider options to increase savings	Consider allowing your plan to accept Saver's Match funding from the federal government.
Consider options to meet participant needs	*There are no provisions newly effective in 2027.*
Simplify administration	*There are no provisions newly effective in 2027.*
Plan for coming year	Celebrate successful implementation of SECURE 2.0, and set a calendar reminder for 2032 regarding the change in RMD age to 75 in 2033.

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