



SECURE 2.0 Act Passes

On December 29, 2022, as a part of the government's year-end spending bill, President Biden signed into law the SECURE 2.0 Act of 2022 (SECURE 2.0). SECURE 2.0 builds on the reforms included in the Setting Every Community Up for Retirement Enhancement (SECURE) Act of 2019, the most comprehensive changes to the U.S. private retirement system in over a decade.

On its way to the President's desk, SECURE 2.0 carried support from both major political parties and both houses of Congress. This Act makes it easier for employers to sponsor retirement plans for their employees and easier for employees to save more for retirement.

Key provisions of SECURE 2.0 that affect retirement plans include the following:

- A mandatory increase in the required minimum distribution (RMD) age to 73 for those who attain age 72 between January 1, 2023, and December 31, 2032, and to age 75 for those who reach age 74 after December 31, 2032. The current RMD age is 72 for those who turned 70 1/2 after January 1, 2020.
- Increased catch-up contribution limit to the greater of \$10,000 or 50 percent more than the regular catch-up amount for those ages 60 through 63. This is effective for taxable years beginning after December 31, 2024.
- Requirement that all catch-up contributions made after December 31, 2023, must be made as Roth contributions, with an exception for employees with compensation of \$145,000 or less. The dollar amount is indexed.
- Removal of pre-death RMDs for Roth money held in employer plans, effective for 2024 RMDs.
- Modification of the Saver's Credit to a Saver's Match program. Taxpayers with qualified retirement contributions and who meet certain gross income requirements will be eligible to



receive a government matching contribution of up to \$2,000 to an eligible individual retirement account or retirement plan. Matching amounts will not count toward any annual plan contribution limits. This provision applies to taxable years beginning after December 31, 2026.

- An optional provision for employers to treat student loan repayments as elective deferrals for purposes of matching contributions. This allows participants to self-certify and receive a matching contribution to their retirement plan for qualifying student loan repayments made for plan years beginning after December 31, 2023.
- An optional provision for employers to offer an emergency savings account linked to a defined contribution plan for non-highly compensated employees beginning in 2024. Employers may enroll participants automatically into an emergency savings account at up to 3 percent of salary, up to a total contribution amount of \$2,500. Contributions are made as Roth contributions, and employees participating may take tax-free and penalty-free distributions at least once per calendar month.
- An optional provision to offer an emergency savings distribution option of \$1,000 per year that can be repaid to the plan, beginning in 2024.
- An increased small-balance automatic cash-out amount from \$5,000 to \$7,000, effective for distributions made after December 31, 2023.
- An optional provision for the employer to allow participants the option of receiving matching contributions on a Roth basis, effective immediately.
- A required reduction in the long-term, part-time required years of service from three years to two years. The SECURE Act of 2019 previously required an employer with a 401(k) plan to permit employees with at least 500 hours of service in three consecutive years to participate in the plan. This provision would be extended to ERISA-covered 403(b) plans as well. It will be effective for plan years beginning after December 31, 2024.
- Creation of a new Retirement Savings Lost and Found database within two years to collect information on missing, lost, or nonresponsive participants and beneficiaries and to assist savers in locating their benefits.

Specific to 403(b) qualified retirement plans, SECURE 2.0 includes:

- Expansion of available investments to include collective investment trusts; however, this provision is not yet practicable without additional changes to U.S. securities laws.
- The option for 403(b) plans to join a Pooled Employer Plan (PEP) or a Multiple Employer Plan (MEP) beginning in 2023.
- Expansion of the contribution sources that can be used for a 403(b) hardship withdrawal to match those available to a 401(k) plan, effective for plan years beginning after December 31, 2023.

Specific to new qualified retirement plans, SECURE 2.0 includes:

- The requirement that all new 401(k) and 403(b) plans established after December 31, 2024, offer automatic enrollment and auto-escalation starting at a 3 percent minimum with a maximum increase to 15 percent. Governmental plans and church plans are exempt from this requirement, as are new businesses for the first three years in business and small businesses with fewer than



10 employees.

- Increased start-up plan credits for small employers. It increases existing credit from 50 percent to 100 percent of qualified start-up costs for employers with up to 50 employees for the first three years after a plan is established. This includes an additional employer credit for employers with up to 100 employees based on eligible employer contributions. It also applies to new plans that join an existing plan, such as an MEP or a PEP. It is effective for taxable years beginning after December 31, 2022.
- A new *Starter-K* retirement plan option available to small employers that offers a safe harbor from nondiscrimination and top-heavy testing requirements. Employers are not required to make contributions, and annual contributions would be limited to \$6,000. Employees must be automatically enrolled at 3 percent of pay. This is effective for plan years beginning after December 31, 2023.

Specific to defined benefit retirement plans, SECURE 2.0 includes:

- Direction to the Treasury Department to update the mortality tables used to determine minimum funding rules for valuations, beginning with valuation dates in 2024, within statutory limits.
- Updates to the notice and disclosure requirements with respect to lump-sum distributions.
- Clarification that the projected interest crediting rate for cash balance plans shall not exceed 6 percent.
- An extension of the ability of an employer of an overfunded pension plan to use assets to pay for retiree health and life insurance benefits to December 31, 2032. This permits transfers to pay retiree health and life insurance benefits provided the transfer is no more than 1.75 percent of plan assets and the plan is at least 110 percent funded.

Plan amendments made pursuant to SECURE 2.0 must be made on or before the last day of the first plan year beginning on January 1, 2025 (or 2027 for governmental plans). Plan amendments made pursuant to the SECURE Act of 2019 and the Coronavirus Aid, Relief, and Economic Security Act (CARES) are also updated to match these dates.

Should you have immediate questions, or for more information, please contact your CAPTRUST financial advisor at 1.800.216.0645.

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