

Defined Contribution Plan Legislative Update

On December 29, 2022, President Biden signed into law the [Consolidated Appropriations Act, 2023](#), which includes the much anticipated SECURE 2.0 Act of 2022 (SECURE 2.0). SECURE 2.0 is a follow-up law to the [Setting Every Community Up for Retirement Enhancement Act of 2019 \(SECURE Act\)](#) and includes an array of changes that will impact employer retirement plans.

The text itself is quite lengthy (357 pages to be exact) so we have summarized a few of SECURE 2.0's key provisions, broken down by effective date, in the table below. While many provisions are already in effect, there is a grace period for compliance. For the 2023 effective date provisions, amendments to satisfy the new rules must be adopted by plans no later than the end of the 2025 plan year for nongovernmental plans, and the end of the 2027 plan year for governmental plans and collectively bargained plans. SECURE 2.0 also extends the plan amendment deadline for the SECURE Act, the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act"), and the Taxpayer Certainty and Disaster Tax Relief Act of 2020 to align with the plan amendment deadlines noted above.

Green highlighted rows denote required changes for the impacted retirement plans.

2023 EFFECTIVE DATE	
PROVISION	PLANS AFFECTED
Increases the age for taking a required minimum distribution (RMD) to 73 for individuals who reach age 72 on or after January 1, 2023. The required age to take an RMD will increase to 75 for those who reach age 74 on or after January 1, 2033.	DC and DB plans; IRAs
Gives plans the option to allow participants to elect employer matching and nonelective contributions, including those associated with student loan matching programs, on a Roth basis.	DC plans; Governmental 457(b) plans
Allows 403(b) plans to adopt or participate in a Multiple Employer Plan (MEP) or Pooled Employer Plan (PEP).	403(b) plans
Eliminates the "first of the month" requirement for 457(b) plans, making deferral election timing consistent with 401(k) and 403(b) plans.	Governmental 457(b) plans
Allows plan sponsors to rely on participant certifications for purposes of meeting hardship withdrawal conditions.	DC plans

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Allows employers to provide financial incentive, such as low-dollar gift cards, to encourage plan participation so long as these incentives are not paid by plan assets.	DC plans
Allows overfunded pension plans to pay retiree health and life insurance benefits with certain limitations.	DB plans
Allows plans to exclude unenrolled participants from certain notice requirements (with the exception of the initial eligibility and plan notice documentation).	DC plans

2024 EFFECTIVE DATE

PROVISION	PLANS AFFECTED
Requires that catch-up contributions for participants with compensation in excess of \$145,000 be made as Roth contributions. This means defined contribution plans will either need to have a designated Roth feature as part of their respective plan design or prohibit catch-up contributions.	DC plans
Gives plans the option to treat qualified student loan repayments as elective deferrals for purposes of making matching contributions. The goal here is to get employees with student loan debt to contribute to retirement savings earlier in their careers rather than waiting until they pay off their student debt.	DC plans; SIMPLE IRAs; Governmental 457(b) plans
Updates the threshold for small balance account force-outs from \$5,000 to \$7,000.	DC and DB plans
Changes the hardship withdrawal rules for 403(b) plans to allow for distributions from sources other than employee contributions, consistent with the current rule for 401(k) plans.	403(b) plans
Gives plans the option to allow participants to take one penalty-free withdrawal per calendar year for any personal or family emergency expense, capped at the lesser of (i) \$1,000 or (ii) the amount of the participant's vested account in excess of \$1,000.	DC plans; IRAs
Eliminates the pre-death RMD for Roth accounts in employer retirement plans, consistent with the current RMD rules for Roth IRAs.	DC plans
Directs the DOL to establish a searchable database known as the Retirement Savings Lost and Found.	DC and DB plans

2025 EFFECTIVE DATE

PROVISION	PLANS AFFECTED
Implements additional catch-up limits at ages 60, 61, 62, and 63.	DC plans
Requires certain, new 401(k) and 403(b) plans to implement auto enrollment and escalation features.	401(k) and 403(b) plans

A note on Collective Investment Trusts (CITs) in 403(b) plans...

There was a push by the retirement plans community to eliminate the restrictions around CITs for 403(b) plans to allow these plans and their participants to benefit from expanded product offerings and potential cost savings, consistent with the current rules for 401(k) plans. While SECURE 2.0 includes changes to the Tax Code to allow 403(b) plans to invest in CITs, it failed to address the current securities laws that prohibit these types of investments. As such, 403(b) plans are still prohibited from including CITs in their respective plan lineups.

The scope of SECURE 2.0 is wide and while some provisions are straightforward, some do require a bit more interpretation and guidance. As the retirement plans community reviews these new rules and begins the implementation process, Marquette will continue to provide updates to our clients as well as work with plan providers. In the meantime, do not hesitate to reach out to your consultant to discuss these issues or other measures impacting your plan. ▀

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