Retirement Insights

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Summary of Key Provisions of SECURE 2.0

Author

Jeri Savage
Retirement Lead Strategist

Congress passed an omnibus funding bill in December 2022 that, among its many provisions, included "The SECURE 2.0 Act of 2022," commonly referred to as SECURE 2.0.[1] This legislation, which builds on top of the Setting Every Community Up for Retirement Enhancement Act of 2019 (SECURE 1.0) consolidates three separate bills — the House's Securing a Strong Retirement Act (SSRA), the Senate's Enhancing American Retirement Now (EARN) Act and Retirement Improvement and Savings Enhancement to Supplement Healthy Investments for the Nest Egg (RISE and SHINE) Act.

The new law includes over 90 different provisions on a variety of retirement-related issues. Below includes the provisions we feel are of most interest.

Provisions Related to Participation and Access

Automatic Features: SECURE 2.0 calls for automatic enrollment and automatic escalation for new 401(k) and 403(b) plans established in 2025 or later. Automatic enrollment would begin at a deferral of at least 3% of compensation, to no higher than 10%, unless a participant opts out. The deferral amount would then escalate at 1% per year up to a minimum of 10% and maximum of 15%. Plans established prior to enactment of SECURE 2.0 are exempt from this requirement as are certain new businesses, small businesses, church plans and governmental plans.

Long-Term Part-Time Employees: SECURE 2.0 builds on part-time employee eligibility provisions introduced in SECURE 1.0 and reduces the service period for eligibility, allowing for access after two consecutive years of service, versus three years in the original legislation. This will be effective in 2025.

Catch-Up Contributions: Effective in 2025, for those aged 60 to 63, SECURE 2.0 increases the catch-up contribution maximum to the greater of $10,000 or 150% of the regular catch-up amount for those aged 50+. Although participants were previously allowed to match catch-up contributions on a pre-tax or Roth after-tax basis, under SECURE 2.0, participants with compensation exceeding $145,000 will only be allowed to make catch-up contributions on a Roth after-tax basis effective in 2024. Plans that do not currently provide a designated Roth contribution feature must be amended to include and account for designated Roth contributions to the extent that they have employees with income that exceeds the annual limitation (indexed for inflation after 2025).

Saver's Matching Contribution: Lower income taxpayers are currently offered a non-refundable tax credit if they make contributions to a retirement plan. SECURE 2.0 builds on this and provides that the federal government will make a pre-tax matching contribution to an IRA or other eligible retirement plan in lieu of a tax credit (up to a $2,000 maximum per year with certain income thresholds). This will be effective in 2027.

[1] Text - H.R.2617 - 117th Congress (2021-2022): Consolidated Appropriations Act, 2023. Congress.gov. Library of Congress.

Provisions Related to Retirement Income and Distributions

Certification for Hardship Withdrawals: In general, participants will now be allowed to self-certify for hardship distributions. This was effective immediately.

Hardship Withdrawals: Participants will be allowed to withdraw up to $22,000 to pay for expenses related to a natural disaster (retroactive for disasters after January 25, 2021), which would be taxed as gross income over three years without additional penalty. Additionally, amounts distributed prior to the disaster to purchase a home can be recontributed, and an employer may provide for a larger amount to be borrowed from a plan by affected individuals and for additional time for repayment of plan loans owed by affected individuals.

Penalty-Free Early Plan Distributions: In addition to disaster distributions and emergency withdrawals (highlighted under emergency savings below), exceptions to the 10% additional tax for early distributions (pre-59 ½) will now also apply to: (1) participants who are terminally ill, (2) the payment of long-term care insurance premiums and (3) participants who are victims of domestic abuse. (1) and (2) are effective now and (3) will be effective in 2024.

Required Minimum Distributions: SECURE 2.0 increases the RMD age from 72 to age 73 in 2023 and then 75 in 2033. SECURE 2.0 also reduces the penalty if an individual fails to take an RMD, exempts Roth contributions from the RMD rules starting in 2024, and removes RMD barriers for life annuities, among other provisions.

Qualifying Longevity Annuity Contracts (QLACs): Before SECURE 2.0, only the lesser of 25% of a retirement account or $145,000 could be allocated to a QLAC. SECURE 2.0 repeals the 25% threshold and increases the dollar limit to $200,000. This will be effective by mid-2025.

Increased Mandatory Cash out Limit: SECURE 2.0 increases the mandatory cash out limit from $5,000 to $7,000. Employers may transfer former employees' accounts into an IRA without employee consent if the account balance falls between $1,000 and $7,000, effective for distributions after December 31, 2023.

Provisions Related to Overall Financial Wellness

Emergency Savings: SECURE 2.0 allows for two different ways for DC participants to create and access emergency savings.

The first provision calls for the creation of a new separate emergency savings vehicle where participants can enroll in a post-tax emergency savings account (ESA). Employers can establish ESAs within a DC plan in which non-highly compensated employees can contribute and may automatically enroll employees at a contribution rate of no more than 3% of their salary annually. The ESA balance is capped at $2,500 annually (subject to annual inflation adjustments) or a lesser amount established by the plan sponsor and contributions will be treated as Roth contributions. Participants must be allowed to take at least one withdrawal per month and the first four withdrawals per year cannot be subject to fees. This is effective in 2024.

The second provision makes it easier for participants to withdraw monies from their retirement savings ($1,000 per calendar year) without being subject to an early withdrawal penalty. Participants would need to repay the amount in three years and would not be able to withdraw again until the amount is repaid. This is effective in 2024.

Student Loans: Starting in 2024, employers can make matching contributions to a DC plan on qualified student loan payments (applicable to any loan taken for higher education expenses). The contributions will be treated as elective contributions for nondiscrimination testing and safe harbor rules and plan sponsors can rely on an annual participant certification.

403(b) Plan Considerations

Use of Collective Investment Trusts (CITs): SECURE 2.0 amends the Internal Revenue Code to explicitly allow for 403(b) plans to participate in CITs; however, the legislation does not address current securities law considerations which prohibit such investments, and Congress was not able to reach agreement on changes to those laws, so further action is necessary before this can be implemented.

Newly created 403(b) plans must follow the same automatic enrollment and automatic escalation provisions in SECURE 2.0 and the legislation allows 403(b) plans to participate in multiple and pooled employer plans, effective for 2023, and standardization of hardship withdrawal rules, effective for 2024.

Other Topics

Retirement Savings Lost and Found Database: The DOL will create an online database of plans for employees and employers to find missing retirement accounts. Plans will have a reporting obligation to the DOL once created. The DOL must have the database established by December 29, 2024, and effective for plan years after January 1, 2025.

Requirement to Provide Paper Statements: Effective for plan years beginning on or after January 1, 2026, plans will need to provide a paper statement to participants at least once annually, unless a participant makes an alternative arrangement.

College-Savings Account Rollover: SECURE 2.0 allows certain assets in 529 qualified tuition accounts to be rolled over to a Roth IRA maintained for the benefit of the beneficiary. The account must be in place for at least 15 years and the rolled over amount cannot exceed 408 limits for the year and an aggregate amount cannot exceed $35,000. This will be effective in 2024.

Potential Takeaways and Next Steps

The SECURE Act of 2019 stressed increased participation and access to retirement plans, provided certain retirement income provisions, as well as the creation of pooled employer plans, among many notable retirement provisions.

As we look at SECURE 2.0, there is a continued theme to expand retirement access for individuals and to help them save more in the retirement system. Many provisions within SECURE 2.0 also focus on flexibility and a recognition that participants may need to withdraw retirement monies or take distributions under certain scenarios.

With so many provisions and effective dates ranging from now to the years to come, SECURE 2.0 highlights the complex nature of retirement decisions and how challenging the retirement landscape can be. While MFS® feels that this comprehensive retirement legislation is a positive, we recognize that providing participants with the right tools, resources and advice for their individual circumstances will be critical as they navigate the retirement landscape going forward.