What the SECURE 2.0 Act
means for retirement plan clients

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SECURE 2.0: More of a good thing

SECURE 2.0 is a strong "second act" to help boost retirement savings

Building on the advances made by the Setting Every Community Up for Retirement Enhancement Act (SECURE Act) of 2019, **the SECURE 2.0 Act of 2022** includes more than 90 provisions designed to further reduce the retirement savings gap.

Some provisions took effect immediately, and others won't come to fruition for a year or two or even longer.

To help you serve your clients, this brochure summarizes key provisions for retirement plan professionals and provides our perspective of the potential impacts.

Plan amendments: As long as plans act in accordance with SECURE 2.0 provisions and effective dates, plan amendments pursuant to SECURE 2.0 only need to be made on or before the last day of the first plan year beginning after 2024 (or 2026 for governmental plans).

October 2023 update

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Investments are not FDIC-insured, nor are they deposits of or guaranteed by a bank or any other entity, so they may lose value.

Effective 2023		
Provision	**Summary**	**Our take**
Significant expansion of startup tax credits (taxable years beginning after 2022)	The SECURE 2.0 Act created a substantial new startup plan tax credit based on contributions the employer makes on behalf of participants, and expanded the existing startup tax credit on employer out-of-pocket plan costs. Together, these tax credits may provide a significant benefit for small businesses that are starting a plan. The new employer contribution tax credit reimburses small businesses for a portion of the amount of employer contributions made. For smaller plans (those with 50 or fewer employees*), the tax credit starts at 100% of employer contributions made for each employee earning less than $100,000 a year up to $1,000 and phases down over five years from plan adoption (100%, 100%, 75%, 50%, 25%). The tax credit for larger plans (those with 51–100 employees*) also phases down according to the same schedule but is subject to additional reductions. The existing employer plan cost credit has been increased from 50% to 100% of eligible costs for employers with 50 or fewer employees.* ** Employees who received compensation of $5,000 or more in the preceding year.*	These two tax credits are independent of each other; employers may qualify for one or the other or both. Notably, the new employer contribution tax credit is not subject to the $250 per non-highly compensated employee up to $5,000 maximum credit limit that applies to the existing employer plan cost credit. With an automatic enrollment requirement for startup plans set to start in 2025, employers may also benefit from the auto-enroll tax credit (see the automatic enrollment provision in the "Effective 2025" section below for more details). In addition, employers transitioning from state-administered IRAs with automatic enrollment (auto IRAs) and starting a new plan will qualify for the tax credits. These tax credits could make plan adoption extremely cost-effective.
Relaxed RMD rules (2023)	The age at which required minimum distributions (RMDs) must begin has increased from 72 to 73 and will increase to 75 in 2033. Also, the penalty for not taking an RMD from a qualified plan or IRA has been lowered from 50% of the required amount not taken to 25%. If an untaken RMD from a qualified plan or IRA is corrected in a timely manner, the excise tax has been reduced from 25% to 10%.	These straightforward changes aren't expected to be problematic, similar to the RMD age change in 2020.
Roth option available for employer contributions (2023)	Previously available only as pretax, employers now have the option to allow employees to decide whether to take employer matching and nonelective contributions on a Roth after-tax or pretax basis. The employer may deduct Roth contributions, but employees take Roth contributions as income, and contributions and earnings would be subject to normal Roth rules thereafter. Roth contributions must be fully vested.	It may take some time for recordkeepers and payroll providers to accommodate this option. Whether and how withholding will be applied to employer Roth contributions is unclear. Employers may need to work out how to satisfy any required withholding from other compensation paid to the employee or through other means. While Roth treatment applies to participants who are fully vested, it's not entirely clear whether it could be applied to the vested portion of employer contributions subject to a vesting schedule. IRS guidance on this option is needed and expected.

Effective 2023 (continued)		
Provision	**Summary**	**Our take**
Roth SIMPLE and SEP IRAs (taxable years beginning after 2022)	Employers are now able to offer Roth SIMPLE and SEP IRAs alongside traditional SIMPLE and SEP IRAs. The Roth option is available for both employer and employee contributions.	Similar to the Roth option for defined contribution plan employer contributions, whether and how withholding will be applied to employer Roth contributions is unclear. SECURE 2.0 removed the existing law provision that stipulated that SIMPLE and SEP contributions (Roth or pretax) do not reduce an employee's Roth IRA limit. It is unclear whether this was intended and could be fixed via a technical correction or other IRA guidance.
Fewer required notices for unenrolled employees (plan years beginning after 2022)	Eligible but nonparticipating employees are no longer required to receive certain plan notices, such as notifications about a change to available plan investment options. However, they must be sent an annual notice (subject to certain content requirements) of the participants eligibility to participate in the plan and have already received the summary plan description, in connection with initial eligibility under the plan, and any other notices related to eligibility under the plan.	Some employers and recordkeepers may prefer to not change their notification process. It may be easier to continue sending notices to all eligible employees rather than develop a new process and notice to comply with the change.
Self-certification for hardship withdrawals (2023)	Rather than require participants to provide evidence of a hardship, participants can self-certify that they have had an event that constitutes a hardship.	This change follows a trend to allow employers to rely on participants' self-certification for certain early withdrawals. Intended to make hardship withdrawals more accessible to participants and less burdensome for employers, it remains to be seen whether this change causes a significant increase in hardship withdrawals.
Greater MEP and PEP allowances (2023 and earlier)	403(b) plans can participate in multiple employer plans (MEPs) and pooled employer plans (PEPs), starting with plan years beginning after 2022. Employers starting a plan who join a MEP or PEP may qualify for startup tax credits, regardless of how long the MEP or PEP has existed, effective retroactively for taxable years starting after 2019. However, employers starting a plan who join a MEP or PEP may also be subject to startup requirements such as automatic enrollment and escalation.	SECURE 2.0 aims to improve the ease and availability of MEPs and PEPs, which are designed to help small businesses share retirement plan administrative costs and burdens.

Effective 2024 (updates in blue)		
Provision	**Summary**	**Our take**
New "starter" 401(k)/403(b) plan (plan years beginning after 2023)	A new "starter" deferral-only 401(k) or 403(b) plan is available to employers who do not sponsor a retirement plan and may appeal to small businesses that might otherwise have concerns about the cost and complexity of starting and administering a plan. These deferral-only starter plans are not subject to nondiscrimination testing but must contain an automatic enrollment feature at a deferral rate of 3–15% of compensation, subject to IRA contribution limits.	It's unclear how attractive starter plans will be. While these starter plans may offer a low-cost plan option with limited administrative requirements, they have lower contribution limits than traditional 401(k) plans and even SIMPLE plans. They're also subject to ERISA reporting and disclosure requirements, including Form 5500. Also, since starter plans don't allow employer contributions, they don't qualify for the new employer contribution tax credit.
SIMPLE plan enhancements (taxable years beginning after 2023)	The SIMPLE plan contribution and catch-up limits (adjusted for inflation; $15,500 and $3,500 for 2023) are increased 10% for employers with 25 or fewer employees. Employers with 26–100 employees qualify for the higher limits only if they provide a dollar-for-dollar matching contribution up to 4% of compensation or a 3% nonelective employer contribution (up from regular requirements of 3% and 2%, respectively). Also, employers with SIMPLE plans have the option of making nonelective contributions above the currently required contributions (nonelective or matching) to each employee in a uniform manner, up to the lesser of $5,000 or 10% of compensation.	SIMPLE plans may be more attractive than ever, with the option of Roth employer contributions (see 2023 provision) and potentially higher contribution limits. State legislation requiring businesses of a certain size to maintain a state-run auto IRA plan for employees if they offer no other plan continues to gain traction. Given the restrictions and complexity of many state programs, some business owners may want to consider alternatives, such as a SIMPLE plan.
SIMPLE to 401(k) conversions allowed mid-year (plan years beginning after 2023)	Employers will be able to replace SIMPLE plans with safe harbor 401(k) plans at any time of the year. Currently, SIMPLE plans can only be converted or closed at the end of each calendar year. Employee contributions in the year a conversion takes place are subject to a combined limit based on the annual SIMPLE and 401(k) contribution limits prorated for the amount of time each plan type was used during the year.	Because SIMPLEs and safe harbor 401(k)s both require employer contributions, participants won't lose that benefit in a mid-year change. In addition, unlike employee contributions, employer contributions are not subject to a prorated annual limit during the year of transition. Not having to wait for a year-end may encourage more employers to move from SIMPLEs and take advantage of the higher contribution limits of 401(k)s.
Emergency Roth savings accounts (2024)	Employers have the option to add an emergency savings account to their plan to provide non-highly compensated employees (NHCEs) easy access to emergency funds. Automatic enrollment of up to 3% of salary can be established, and the employee contributions, which are Roth after-tax, are subject to matching. Once the account balance reaches $2,500 (indexed for inflation) or a lower amount determined by the employer, no further contributions are allowed until the balance falls below the limit. Assets must be invested in cash, an interest-bearing deposit account or an investment product designed to preserve principal, such as a stable value investment. Employers must follow specified notice and disclosure requirements. Employees are allowed to withdraw up to the full account balance at least once per calendar month. The first four withdrawals in the plan year cannot be subject to fees. At separation from service, employees may take their emergency savings accounts as cash or roll them into the plan's designated Roth account (if available) or a Roth IRA.	Employers may elect to automatically enroll NHCEs into emergency savings accounts. Since these contributions must be made on a Roth basis, employers may want to consider shifting their automatic enrollment arrangements to Roth more generally. Employer matching contributions must be made on emergency savings contributions to the same extent as regular elective deferrals. This may present an opportunity for abuse where employees contribute only to receive the match and then quickly withdraw their contributions. The legislation directs the Treasury Department to issue guidance with respect to rules for preventing such abuse. The industry will likely need additional time to build out the administrative capabilities to support this provision.

Effective 2024 (continued)		
Provision	**Summary**	**Our take**
Emergency withdrawals (2024)	Eligible retirement plans may permit participants to take one distribution up to $1,000 each calendar year that is self-certified by the participant for "unforeseeable or immediate financial needs relating to necessary personal or family emergency expenses." Such withdrawals are not subject to the federal 10% penalty for early withdrawals. Participants have the option to repay emergency withdrawals within three years. Once an emergency withdrawal is made, another cannot be made within three years unless the amount withdrawn is fully repaid or the total contributions to the plan or IRA during the three-year repayment period exceed the amount of the original emergency distribution.	Intended to allow participants greater access to their savings, given the withdrawal limit, it remains to be seen how impactful this provision is.
Automatic IRA portability (2024)	Certain small retirement plan account balances for terminated employees can be automatically rolled into a default IRA. Employer plans will have the option of automatically transferring a participant's default IRA from a previous employer into the participant's current employer plan unless directed otherwise by the participant.	A growing number of recordkeepers are sharing data to support this program and offering plan sponsors access to this service.
Student loan payment match (plan years beginning after 2023)	Employers with 401(k), 403(b) or SIMPLE plans have the option to make matching contributions on workers' qualified student loan payments. Matching contributions are also allowed with governmental 457(b) plans.	Informal IRS guidance previously permitted student loan matching contributions but did not solve potential nondiscrimination testing issues. SECURE 2.0, however, permits separate testing of participants receiving student loan matching contributions.
Tax- and penalty-free rollovers from 529 plans to Roth IRAs (distributions after 2023)	To help alleviate fears about having to pay taxes and penalties to access leftover assets in 529 accounts, 529 plan assets can be rolled over directly into a Roth IRA for the beneficiary of the 529 plan, within certain limitations, including: • Rollovers are limited to a maximum of $35,000 per beneficiary over their lifetime. • The 529 account must be at least 15 years old with the same named beneficiary during that period. It appears that the 15-year count restarts if the beneficiary changes. • The amount to be rolled over must have been in the account for at least five years. • The Roth account must be in the name of the 529 plan beneficiary. • Rollover contributions must be within Roth IRA annual contribution limits ($6,500 in 2023) and are reduced by any "regular" traditional or Roth IRA contributions made for the beneficiary in that year. • The beneficiary will be required to have earned income of some kind to qualify for a rollover. However, the income limitations for regular Roth IRA contributions do not apply to 529-to-Roth rollovers.	This provision may make 529 plans more attractive by addressing concerns about having to pay taxes and penalties to access leftover assets in 529 accounts. However, the provision does include a number of limitations designed to ensure that the Roth IRA rollovers are for the benefit of the beneficiaries and not the 529 account owners. This may provide the opportunity for young adults, such as recent college graduates, to extend tax-free growth and get an early start on saving for retirement.

Effective 2025		
Required automatic enrollment and escalation (plan years beginning after 2024)	Unless employees opt out, new 401(k) and 403(b) plans must automatically enroll participants in the plan with a beginning salary deferral of 3%–10%. Deferrals must increase 1% per year up to 10%–15%. Exemptions apply, including small businesses (10 or fewer employees), new businesses (less than three years old), and church and governmental plans. Plans established before December 29, 2022, are not subject to this provision.	While not required until 2025, employers starting a plan in 2023 may want to consider including automatic enrollment at plan inception to avoid having to make changes later. Smaller employers (with 100 or fewer employees with at least $5,000 in compensation in the previous year) who add or, in the case of startup plans, include an automatic enrollment feature as part of the plan may receive, if certain requirements are met, a tax credit of $500 a year for three years. When deciding the rates and types of employer contributions (e.g., nonelective vs. matching), employers should consider the impact that this provision might have on their choices.
Wider plan eligibility for part-time workers (2025)	SECURE 2.0 builds on the 401(k) plan eligibility requirements for long-term part-time employees established by the Setting Every Community Up for Retirement Enhancement Act of 2019 ("SECURE 1.0") by: (1) lowering the number of consecutive years in which employees need at least 500 hours of service to become eligible from three years to two years and; (2) clarifying that pre-2021 service is disregarded for vesting purposes just as it is disregarded for eligibility purposes. SECURE 2.0 also extends the rules to 403(b) plans subject to ERISA. However, for purposes of applying the rules to 403(b) plans, service before 2023 is disregarded.	This provision doesn't supersede SECURE 1.0's eligibility rules for 401(k) plans, so workers may qualify for plan eligibility under the three-year rule as soon as 2024 or the two-year rule in 2025.
Increased catch-up contributions (taxable years beginning after 2024)	The catch-up contribution maximum for employees age 50+ is $7,500 for 2023 ($3,500 for SIMPLE plans) and adjusted for inflation annually. Beginning in 2025, employees age 60–63 will have a higher catch-up limit – 50% more than the regular catch-up limit or $10,000 (indexed for inflation), whichever is greater.	Keep in mind that employees age 64 and over don't qualify for the higher catch-up limit. So participants may have to decrease their contributions when they reach age 64.
Retirement savings lost and found (2025)	To help individuals find information about previous employers to claim earned benefits, a searchable retirement savings database will be created by the Department of Labor.	This is broader than helping missing participants locate their former plans. It will help overcome problems created by mergers and name changes, and help participants locate small-sum cash-out IRAs.
DOL to allow blended benchmarks for asset allocation funds (2025)	The Department of Labor's (DOL's) participant disclosure regulation requires a comparison of investment returns to an appropriate broad-based securities market index, even for investments that include a mix of asset classes (asset allocation funds, such as target date funds). To allow better comparisons, asset allocation funds can be benchmarked against an appropriate blend of broad-based indexes.	This change overrides the DOL's position prohibiting the use of blended benchmarks. However, because this provision only affects participant disclosure, changes may not be impactful.

Effective 2026 and later (updates in blue)		
Required Roth treatment for catch-up contributions (taxable years beginning after 2025)	Catch-up contributions to qualified retirement plans for higher earners are required to be Roth after-tax contributions, even if regular contributions are pretax. Participants with compensation below $145,000 (to be adjusted for inflation) are exempt and can elect pretax or Roth catch-up contributions (if available).	The IRS issued guidance delaying this provision from 2024 until 2026. The guidance also clarified that catch-up contributions can continue despite SECURE 2.0's inadvertent removal of the existing catch-up law provision. In addition, the IRS previewed further guidance it intends to issue, which is expected to permit an employer to treat higher earners' pretax catch-up elections as elections to make catch-up contributions on a Roth basis and clarify that the new rule will not apply to employers with no FICA wages in the previous year (for example, partners and other self-employed individuals). Additional guidance is needed to address open issues, such as whether recharacterizing high earners' pretax contributions as catch-up contributions to correct nondiscrimination testing will continue to be allowed.
Saver's tax credit becomes a government match (taxable years beginning after 2026)	The saver's tax credit (up to $1,000 per individual) for lower income workers changes from a credit paid in cash as part of a tax refund to a federal matching contribution deposited into a retirement plan account or IRA. Also, the credit rate changes from a tiered range of 10%–50% of retirement plan and IRA contributions to an across-the-board 50%. The match will be subject to taxes and an income-based phase-out.	The match is subject to special early withdrawal penalties, which may prevent participants from getting the match and then quickly withdrawing the money. Although an attractive benefit for employers to promote to employees, many logistical details need to be determined.

What's not changing

Topic	Summary	Our take
CITs not yet available to 403(b) plans	Surprisingly, Congress did not clear the path for 403(b) plans to be able to invest in group trusts such as collective investment trusts (CITs). Until securities laws are amended, 403(b) plan investments will continue to be limited to annuities and mutual funds.	Efforts are underway to change securities laws, but it may take some time.
"Backdoor" Roth conversions not addressed	Roth conversion rules were not changed to address the loophole of high earners, who are not eligible to open a Roth IRA but can open a traditional IRA and then convert it to a Roth IRA.	Although included in earlier proposals, "backdoor" Roths weren't addressed in SECURE 2.0. It wouldn't be a surprise to see efforts to close this loophole start up again in the future.

Information as of September 2023. Other details, rules and exceptions may apply. This material does not constitute legal or tax advice. For more information, consult your financial professional, legal or tax advisor.

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