Legislative Update

April 2023

What You Need to Know About the SECURE 2.0 Act

Craig Greenwald, FSA, EA, MAAA, National Director, Retirement Solutions

The Key Wealth Institute is a team of highly experienced professionals from across wealth management, dedicated to delivering commentary and financial advice. From strategies to industry news, the Key Wealth Institute provides proactive insights to keep you informed.

Just when you thought you had an up-to-date retirement plan solidified, accounting for all the changes of the Setting Every Community Up for Retirement (SECURE) Act of 2019, Congress wrapped up 2022 with the SECURE 2.0 Act.

President Joe Biden signed the 4,000-plus page bill into law on Dec. 29. Its 92 provisions affect consumers, businesses and plan sponsors. Note that this article is provided for summary purposes and does not include all provisions in SECURE 2.0.

SECURE 2.0 builds on the 2019 act by improving access to retirement plans and expanding the paths for contributing to 401(k)s, Roths and IRAs. The new legislation creates opportunities to save for millions of individuals at or near retirement age as well as those just entering the workforce. There are dozens of provisions that benefit specialized groups such as private-sector firefighters, military spouses, surviving spouses, disabled employees, students, domestic employees and victims of domestic abuse.

Some changes start this year, while others are delayed to future years.

Here are some of the highlights of SECURE 2.0:

- Big changes for required minimum distributions (RMDs). The age that you must begin making minimum withdrawals is increased from 72 to 73 immediately and increases again to 75 in 2033. Beginning in 2024, RMDs will no longer be required for Roth accounts in employer retirement plans.

- Catching up more quickly. Beginning in 2025, some employees in their early 60s will be able to make larger catch-up contributions to several kinds of retirement accounts.

- New rules for student loan payments. Beginning in 2024, employers will be able to make matching contributions to workers' retirement accounts based on qualifying student loan payments.

- Rollovers from 529 accounts to Roth IRAs. Effective in 2024, 529 assets that meet certain requirements can be rolled over into a Roth IRA for the beneficiaries.

- Mandatory participation in employee retirement plans. Beginning in 2025, most new 401(k) and 403(b) plans will have to provide automatic enrollment for new employees. Employees can request to opt out and many small companies and government and church plans won't be affected.

- **Expansion of coverage of part-time workers.** Beginning in 2024, the act should increase the number of part-time employees eligible for employer 401(k) or 403(b) plans by reducing the work requirement to two consecutive years of 500 hours of service, down from the prior requirement of three years of 500 hours annually or one year of 1,000 hours.

- **More exceptions for early withdrawals.** Restrictions on distributions before age 59 1/2 will be loosened for many public safety workers, employees affected by disasters and domestic abuse victims, among others. This will provide many more penalty exceptions. However, amounts withdrawn will still be subject to income taxation.

- **An increase in qualified charitable distributions (QCD) amount.** Beginning in 2024, the maximum annual amount allowed for QCDs will be indexed for inflation instead of limited to $100,000. There also will be a one-time opportunity to use a QCD to fund several kinds of split-interest charitable trusts.

- **Emergency savings plans.** Employees who are not highly compensated will be eligible to participate in an Emergency Savings Account that will be linked to an existing employer retirement plan where funds can be withdrawn penalty-free during an emergency.

- **Pooled Employer Plan (PEP)** – A PEP is a retirement plan that allows multiple employers from unrelated industries, regardless of size, to join a single pooled retirement plan. A PEP provides several benefits to the "adopting employer" including reduced cost as well as transferring most of the compliance, administrative and fiduciary responsibilities to a third party. SECURE 1.0 allowed PEPs to be created for 401(k) plan sponsors. Secure 2.0 has opened up PEPs to 403(b) plan sponsors as well.

Here's a timeline for when these and other provisions of SECURE 2.0 take effect:

Effective in 2023

- The age for required minimum distributions increases from 72 to 73.
- Ability for SIMPLE IRAs to accept Roth contributions and employers to offer employees the ability to treat employee and employer SEP contributions as Roth (in whole or in part).
- Public safety officers can exclude up to $3,000 of retirement benefits to pay for health insurance.
- Employers and plan providers can offer "de minimis financial incentives" like gift cards for employees to sign up for a plan.
- The penalty for failure to take RMDs will be reduced from 50% to 25% and will be further reduced to 10% if the failure is corrected promptly.
- Defined contribution plans can provide participants with the option of receiving matching contribution on a Roth basis.
- New rules apply for annuities in employer-sponsored plans, including an increase to a maximum of $200,000 that can be used to purchase qualified longevity annuity contracts (QLACs) and the elimination of certain IRS barriers to the distribution of annuity benefits.
- Taxpayers will be able to use a qualified charitable distribution of up to $50,000 each to make a one-time distribution to a charitable split-interest trust, but there are numerous restrictions, so check with your financial advisors.
- Non-highly compensated employees will be able to contribute up to $2,500 annually to an "Emergency Savings Account" linked to an existing employer retirement plan that they can access for emergency use without penalty.

Effective in 2024

- Limits on catch-up contributions to Traditional and Roth IRAs will automatically begin to adjust for inflation in increments of $100.
- Catch-up contributions to qualified retirement plans for high-income taxpayers are subject to Roth tax treatment. No pre-death RMD requirement for Roth-related retirement accounts.
- Employers can begin treating student loan debt payments by employees as an elective salary deferral for matching contribution purposes and contribute the allowed amount to their retirement savings accounts.
- The maximum allowable qualified charitable distribution will be indexed for inflation.
  An exception for penalty-free distribution from a retirement account for some emergency expenses kicks in, but only one exception per year of not more than $1,000.
- Domestic abuse survivors will be able to withdraw up to $10,000 from a retirement account without an early-distribution penalty.
- Retirement plans known as Starter 401(k)s will be available for small businesses to offer employees at a 3 to 15 percent of compensation deferral rate.

- Beneficiaries of certain 529 savings plans for education expenses can begin transferring unused funds, up to a lifetime maximum of $35,000, into their Roth IRA if the 529 account has been active for at least 15 years.
- Contribution and catch-up limits will be raised for SIMPLE IRA plans, available only to companies with 100 or fewer people. Companies with 25 or fewer employees can increase the limits by 10% when workers reach age 50. Companies with 26 to 100 employees will have to meet certain conditions to provide the increases.

Effective in 2025

- Companies that have been in existence for three or more years with 10 or more employees must begin automatic enrollment for new employees in the company-sponsored retirement plans. Contributions must be at a rate of at least 3% compensation, which will increase annually. Retirement plans started after Dec. 29, 2022, must increase their contribution percentages by at least 1% annually, up to at least 10% but no more than 15%.
- Coverage will be improved for part-time employees. Reduces the three-years of service rule to two years service of at least 500 hours of service to participate in a company's retirement plans.
- Catch-up contribution limits for retirement plans will be increased for employees in 401(k) or 403(b) plans who are aged 60 to 63. That limit will be increased from $6,500 to the greater of $10,000 or 150% of the catch up amount.

Effective in 2027

- Lower-income employees will be eligible for a federal Saver's Match contribution of up to $1,000 (50% of their contributions up to a max of $2,000) to their retirement savings accounts. The benefit is phased out at higher income levels and full-time students won't be eligible. This is an update from the government's current Saver's Credit program.

Effective in 2033

- The RMD age is increased to 75.

Many of these provisions are greatly detailed and contain numerous exceptions, income limits or other requirements. Please contact your relationship manager on how this might impact your retirement program.

About the Author

Craig Greenwald is a Senior Vice President and the National Director of Retirement Solutions at KeyBank. In this role, Craig is responsible for leading our client experience and new client acquisition strategy for pension funds and retirement solutions. Craig has over 25 years of experience with deep expertise in defined benefit pension programs, defined contribution retirement programs, retiree medical benefits, reinsurance, and captive insurance arrangements.

Craig has had the opportunity to work with clients in several industries including energy, utilities, healthcare, transportation, education, banking, manufacturing, retail, non-profit, and public sector. Craig is a credentialed retirement actuary as a Fellow of the Society of Actuaries (FSA), Enrolled Actuary (EA), and Member of the American Academy of Actuaries (MAAA).

Source: https://www.finance.senate.gov/imo/media/doc/Secure 2.0_Section by Section Summary 12-19-22 FINAL.pdf