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SECURE 2.0 Act: Did You Know?

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Presenters

Aaron Siekmann,
President
The Siekmann Company
(614) 873-5200
aaron@siekmannco.com

Michael Doshier
Senior Retirement Strategist
T. Rowe Price
michael.doshier@troweprice.com

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Announcement

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SECURE 2.0 is Finally Here

WHAT?

The SECURE Act of 2022 was signed into law on Dec. 29, 2022.

The Act contains around 90 provisions and represents a continuation of the original SECURE Act of 2019.

WHY?

Expand coverage

Increase retirement savings

Support income preservation

Simplify/clarify existing plan rules

HOW?

The Act was passed as part of the $1.7T Consolidated Appropriations Act of 2023 (P.L. 117-328).

WHEN?

Effective dates vary by provision ranging from as early as Jan. 1, 2023, through taxable years beginning after Dec. 31, 2026.

Our Key Observations on SECURE 2.0

It's technical.

Many of the provisions seek to clarify plan rules and simplify administration.

Emphasis on Roth.

Most plans will have to offer Roth contributions because of the new requirement that participants earning over a specified amount and age 50+ make catch-up contributions on a Roth basis.[1]

Also allows plans to offer participants choice of receiving employer contributions on a Roth basis.

Recognizes the success of auto plan design features.

Requires auto enrollment and auto escalation for all 401(k) and 403(b) plans established on/after date of enactment.[2]

Existing plans are not impacted, but the provision suggests auto plan design features are effective and considered a best practice.

Continued support for retirement income.

Includes technical provisions to address some of the administrative barriers potentially limiting QLAC implementation.[3]

Also delays RMDs[4] and increases catch-up limits to allow individuals the opportunity to continue to save and invest for retirement.[5]

[1] All catch-up contributions to qualified retirement plans are subject to Roth tax treatment. An exception is provided for employees with wages of $145,000 or less (indexed) in the prior year.
[2] Requires auto-enrollment and auto-escalation for all 401(k) and 403(b) plans (with certain exceptions for collective bargaining plans, church plans, and governmental plans, as well as plans established on or before Dec. 29, 2022). The initial automatic enrollment amount is at least 3% but not more than 10%. Each year thereafter, that amount is increased by 1% until it reaches at least 10%, but not more than 15%.
[3] Repeals the 25% limit and allows up to $200,000 (indexed) to be used from an account balance to purchase a qualifying longevity annuity contract (QLAC).
[4] Increases the required minimum distribution age (RMD) to 73 starting on Jan 1. 2023, and to 75 starting on Jan 1. 2033.
[5] Increases catch-up limits to the greater of $10,000 ($5,000 for SIMPLE plans) or 50% more than the regular catch-up amount in 2025 for individuals who have attained ages 60, 61, 62, and 63. The increased amounts are indexed for inflation after 2025.

A Thematic Tour of SECURE 2.0 Highlights

The SECURE 2.0 Act of 2022

Investment Provisions

Hot Topics

Retirement Income

Supporting Diversity, Equity & Inclusion in Retirement Savings

What might be next?

Investment Related Provisions (ex. Retirement Income)

A disappointment for 403(b) plans and playing catch-up with target date investments.

- 403(b) plans and collective investment trusts (CITs) *(Section 128)*
  - Unfortunately, the provision is not complete as it does not include the needed securities law provisions.

➡ Additional legislation will be required to allow 403(b) plans to use CITs.

- Performance benchmarks for asset allocation funds *(Section 318)*
  - Currently the DOL's participant disclosure regulation requires each DIA's historical investment performance to be compared to an appropriate broad-based securities market index.
  - Directs the DOL to update the fee and investment disclosure regulations within two years after the date of enactment[1] so that investments that use a mix of asset classes, such as target date investments, can be benchmarked against a blend of broad-based securities market indices.

➡ Allows plan sponsors to provide more meaningful benchmark comparisons to participants when providing ERISA 404a-5 fee and investment disclosures.

DOL = Department of Labor. DIA = designated investment alternative.
[1] Date of enactment for SECURE 2.0 is December 29, 2022.

Hot Topics for Plan Sponsors

A path to implementation for student loan matching and emergency savings.

- Student loan matching *(Section 110)*
  - Permits an employer to make matching contributions under a 401(k) plan, 403(b) plan, governmental 457(b) plan, or SIMPLE IRA with respect to "qualified student loan payments."

➡ Many plan sponsors have been waiting for further guidance before implementing this type of program. Offering a 'student loan match' is commonly viewed as a useful tool in attracting and retaining talent.

- Emergency savings withdrawals and accounts
  - Provides an exception to the early withdrawal penalty for distributions up to $1,000 annually used for emergency expenses. A taxpayer has the option to repay the distribution within three years. *(Section 115)*
  - Emergency savings accounts linked to individual account plans[1] *(Section 127)*

➡ For plan sponsors that believe the retirement plan should provide a safety net for addressing emergency expenses, these provisions offer new options.

[1] Provides employers the option to offer to their non-highly compensated employees' pension-linked emergency savings accounts. Contributions are treated as Roth and are prohibited once the account balance meets or exceeds $2,500 (indexed). Auto-enrollment and match are permitted, subject to conditions.

Flexibility and Penalty Free Withdrawals

Flexibility for participants and more withdrawal opportunities

- *Domestic abuse and terminal Illness*
  - Participants who were victims of domestic abuse can take a penalty free withdrawal from their retirement plan up to the lesser of $10,000 or 50% of their vested account balance.
  - Participants who have been diagnosed with a terminal illness in which their life expectancy is 84 months or less have the opportunity for penalty free withdrawals.
  - ➡ 401(k) plans can rely on employee self certifications for hardship distributions effective in 2023
  - Federally declared disaster distributions of up to $22,000 per disaster will be available penalty free.
  - Small immediate financial incentives can be provided for contributing to the plan such as gift cards and other small rewards
  - ➡ Annual notice requirements will be loosened for Plan Sponsors who have eligible participants that are not contributing to the plan

Retirement Income Related Provisions

Continued support for lifetime income and pushing back RMDs.

- Annuity provisions
  - Remove required minimum distribution barriers of life annuities[1] *(Section 201)*
  - Repeals the 25% limit and allows up to $200,000 (indexed) to be used from an account balance to purchase a QLAC[1] *(Section 202)*
  - Elimination of penalty on partial annuitization[2] *(Section 204)*

  ➡ While implementation of in-plan retirement income products is still likely to be gradual, we are observing more plan sponsors moving from information-gathering to a decision-making stage relative to retirement income.

- Increases the RMD age to 73 starting on Jan.1, 2023, and to 75 starting on Jan. 1, 2033 *(Section 107)*

- Eliminated pre-death RMDs from Roth accounts in employer plans *(Section 325)*

  ➡ Pushing back or eliminating RMDs (Roth only) could support greater retiree assets remaining in the plan— a trend we are already seeing on the T. Rowe Price recordkeeping platform.

[1] Eliminates certain barriers to the availability of life annuities in qualified plans and IRAs that arise under current law due to an actuarial test in the RMD regulations.
[2] If a tax-preferred retirement account also holds an annuity, current law requires that the account be bifurcated between the portion of the account holding the annuity and the rest of the account for purposes of applying the RMD rules. This treatment may result in higher RMDs than would have been required if the account did not hold an annuity. Section 204 permits the account owner to elect to aggregate distributions from both portions of the account for purposes of determining RMDs.

Taking a DEI Lens to Supporting Retirement Savings

Recognition that different cohorts of retirement savers face varying obstacles.

- Reduces to two years (from three years) the requirement to allow long-term, part-time workers to participate in employers' 401(k) plans and extends these rules to ERISA-covered 403(b) plans. *(Section 125)*

  ➡ This provision improves coverage for all part-time workers and will support coverage for women who are more likely to be part-time workers.[1]

- Requires auto-enrollment and auto-escalation for all 401(k) and 403(b) plans.[2] The initial automatic enrollment amount is at least 3% but not more than 10%. Each year thereafter, that amount is increased by 1% until it reaches at least 10%, but not more than 15%. *(Section 101)*

- Requires the DOL to create and administer a national online searchable lost and found database for Americans' retirement plans no later than two years after the date of enactment. Also requires plan administrators to provide annual reporting of disposition of balances for vested and terminated participants. *(Section 303)*

  ➡ Automatic plan design features are likely to support racial and ethnic minorities and women, who face different barriers to saving for retirement compared to white workers.[3]

[1] 2020 Current Population Survey, U.S. Bureau of Labor Statistics. Percent distribution of workers employer full- and part-time by sex, 2020 annual averages. Women represented 63% of part-time workers and men represented 37% of part-time workers certain
[2] With exceptions for collective bargaining plans, church plans, and governmental plans, as well as plans established on or before December 29, 2022.
[3] T. Rowe Price, 2023 US Retirement Market Outlook: Three Themes Shaping the Retirement Landscape

By passing the SECURE 2.0 Act, Congress has taken a meaningful step for the retirement security of all Americans. At a time when individuals and businesses are facing competing financial pressures, we are pleased to see legislation that enhances retirement savings opportunities for millions of Americans. We recognize that more can and should be done and we look forward to continuing to work with Sen. Cardin and others in the future.

— Dee Sawyer, Head of Retirement Plan Services and U.S. Intermediaries

T. Rowe Price, press release 12/23/2022

What Might be Next?

We can reasonably expect that some **technical corrections** will be required.

There will be continued effort to make the required changes to securities laws that would allow CITs to be used in 403(b) plans.

ESG has captured the attention of the DOL, SEC and state legislatures. It may also emerge as a theme for future federal legislation.

We anticipate continued interest from congress in **non-traditional investments,** such as private equity, crypto and lifetime income products

When the SECURE Act of 2019 became law there was already broad conversation in the retirement industry of what would come next (SECURE 2.0.) In contrast, there are **no current expectations for a "SECURE 3.0."**

"Hill Week" – Given T. Rowe Price's 85 years in investment management and over 40 years in plan administration, we are well positioned to provide real-world feedback to retirement policymakers and learn from their views and perspectives. We are excited to share the insights we gain from these meetings to help inform your objectives and what to expect from future retirement policy developments. *Look for publication in Q3 2023.*

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As of 3/14/23

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Questions?

T.RowePrice

siekmannco
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Contact Information

Aaron Siekmann,
President
The Siekmann Company
(614) 873-5200
aaron@siekmannco.com

Michael Doshier
Senior Retirement Strategist
T. Rowe Price
michael.doshier@troweprice.com

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