SECURE Act 2.0
More changes to encourage retirement savings

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Retirement security continues to be a priority for policymakers. The SECURE Act 2.0 will expand workers' access to retirement savings and increase opportunities to save.

Executive summary

Retirement security continues to be a priority for policymakers. Legislation that expands workers' access to retirement savings plans and increases opportunities to save is underway. Passed at the end of 2019, the *Setting Every Community Up for Retirement Enhancement Act* (the SECURE Act) changed numerous retirement plan rules in order to encourage more employers to establish retirement plans and help individuals save more. Within months of passing these comprehensive retirement plan changes, legislators swiftly enacted temporary changes to allow savers to tap into their retirement assets for relief from financial strains caused by the COVID-19 pandemic. The financial hardships brought on by the pandemic — from increased unemployment and health expenses to earlier-than-planned-for retirement — validate the importance of saving for both short-term emergency needs and retirement. Legislators have not lost sight of the initiative begun in 2019 and are taking action to build on the changes and momentum that started with the SECURE Act.

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SECURE Act

Most of the SECURE Act changes became effective on January 1, 2020. Some changes are mandatory for all plans, while others are optional plan features. Here are some of the ways the SECURE Act expanded incentives for employers to adopt retirement plans and for individuals to save more for retirement.[1]

- **Increased the required minimum distribution (RMD)** starting age from 70½ to 72
- **Created a new type of multiple employer plan**, called a Pooled Employer Plan
- **Simplified the Safe Harbor 401(k) notice requirement** and extended the adoption deadline
- **Increased plan start-up tax credits** for small businesses (50 or fewer employees)
- **Added a tax credit** for plans that add an automatic enrollment feature (100 or fewer employees)
- **Increased the cap on automatic deferral increases** from 10% to 15% of compensation for qualified automatic contribution arrangements
- **Created a fiduciary safe harbor** for selecting a lifetime income provider
- **Required lifetime income disclosures** to be provided to participants annually
- **Changed eligibility rules** to require coverage for part-time employees who have been employed for three consecutive years (first year of eligibility will be 2024)

SECURE Act 2.0 proposal

Late in 2020, House Ways and Means Committee Chairman Richard Neal (D-MA) and ranking member Kevin Brady (R-TX) introduced the *Securing a Strong Retirement Act of 2020*.[2] This proposal, referred to as the SECURE Act 2.0, seeks to expand retirement plan coverage further, enhance workers' ability to save for retirement, and simplify retirement rules for plan sponsors. With the 2020 election, the ongoing pandemic, and other priorities vying for attention, Congress was not able to move the SECURE Act 2.0 forward in 2020. But legislators continued discussions and analysis of many of its provisions with an eye toward future legislation.

SECURE ACT 2.0 moves forward in 2021

On May 3, 2021, the Joint Committee on Taxation released a description of the provisions of a 2021 version of the SECURE Act. 2.0., and on May 5, 2021, the House Ways and Means Committee met to reconsider and markup the updated bill.[2] The Committee voted unanimously to present the bill to the House for consideration and vote. There is much to be accomplished before SECURE Act 2.0 could become law, but it is moving forward in the 117th Congress with broad support from both parties and industry stakeholders.

2021 SECURE Act 2.0 proposed changes[3]

Expand plan coverage	■ Require new 401(k) plans to automatically enroll employees when they become eligible for the plan with a default deferral rate of at least 3% of compensation and auto escalation of 1% until a 10% rate is reached (maximum of 15%) ■ Reduce the number of years that long-term, part-time employees must work to be eligible for the plan from 3 years to 2 years ■ Allow employers to provide small financial incentives to employees who join and contribute to a retirement plan ■ Increase the small business plan start-up tax credit from 50% to 100% of start-up costs (up to $5,000) ■ Create a tax credit for small business employers who provide less restrictive eligibility and employer contribution requirements for military spouses
Encourage employer contributions	■ Create a tax credit for a percentage of a small business's plan contributions on behalf of employees for the first 4 years, up to a per-employee cap of $1,000
Help participants save more & retain savings longer	■ Increase the catch-up contribution limit, from $6,500 to $10,000, for participants ages 62, 63, and 64 ■ Allow employers to treat student loan payments as deferrals for purposes of employer matching contributions ■ Increase the RMD starting age from 72 to 75 over a 10-year period ■ Reduce the excise tax for failing to take an RMD from 50% to 25% for retirement plan participants and down to 10% if the failure is corrected promptly
Simplify operational corrections	■ Expand the IRS Employee Plans Compliance Resolution System (EPCRS) to allow more types of errors to be self-corrected (e.g., loan errors) ■ Provide a 9½ month safe harbor period for employers to self-correct failures related to automatic enrollment and automatic escalation of employee deferrals
Address missing participant issues	■ Increase the mandatory distribution threshold for missing participants from $5,000 to $6,000 ■ Create a retirement savings lost and found database to be managed by the Pension Benefit Guaranty Corporation (PBGC) ■ Require plans to transfer missing participant accounts under $1,000 to the PBGC's Office of the Lost and Found
Add new contribution provisions	■ Allow plan participants to designate employer matching contributions as Roth contributions ■ Require all catch-up contributions to be made as Roth contributions

Get ready for restatement

Every six years, pre-approved plan documents for defined contributions plans, such as 401(k) plans and profit-sharing plans, must be updated to incorporate law changes. The current six-year cycle requires plan sponsors to execute new plan documents by July 31, 2022.[4] Third-party administrators, recordkeepers, and document vendors will drive the next steps to help plan sponsors make sure their plan documents are restated before the deadline. Plan sponsors should watch for communications from their document provider regarding the restatement process and timeline.

The document restatement process is a good time to consider adjusting plan features. Plan sponsors may want to work with their financial advisors to explore whether they want to adjust the plan design to improve overall plan performance or need to realign the plan with their business objectives. For example, adding an automatic enrollment feature could increase plan participation, while an adjusted matching formula could increase employee contributions. The decision to change plan features may require a board resolution or business-owner approval, as well as an evaluation of costs associated with new features. This is also an opportunity to develop an education strategy to ensure plan participants understand their retirement plan benefits and the importance of saving.

1. 116th Congress, *Further Consolidated Appropriations Act, 2020, Division O – Setting Every Community Up for Retirement Enhancement (SECURE) Act of 2019*, December 20, 2019, https://www.govinfo.gov/content/pkg/PLAW-116publ94/pdf/PLAW-116publ94.pdf

2. Joint Committee on Taxation, Description of H.R. 2954, *The "Securing a Strong Retirement Act of 2021*" JCX-21-21, May 3, 2021, www.jct.gov

3. 117th Congress, H.R. 2954, *Securing a Strong Retirement Act of 2021*, May 4, 2021, https://gop-waysandmeans.house.gov/wp-content/uploads/2021/05/BILLS-117hr2954ih.pdf

4. IRS, Announcement 2020-7, *Third Six-Year Cycle Pre-Approved Defined Contribution Plans: Issuance of Opinion Letters; Plan Adoption Deadline; and Opening of Determination Letter Program*, June 1, 2020, https://www.irs.gov/pub/irs-drop/a-20-07.pdf

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