

SECURE Act implications for retirement plan sponsors



The Setting Every Community Up for Retirement Enhancement (SECURE) Act is one of the most significant pieces of retirement legislation since the Pension Protection Act of 2006. The act contains 30 provisions designed to help modernize the private retirement system and recognizes the importance of lifetime income as a key driver of overall financial confidence and retirement readiness.

TIAA has taken a leadership role in supporting retirement reform legislation, especially in regards to ensuring Americans have a stream of guaranteed income when they retire. We applaud the passing of this important act, which is one of several under consideration that are intended to address the following gaps in America’s retirement readiness:

- **Access gap:** Not enough Americans have access to an employer-sponsored retirement plan
- **Savings gap:** Americans in general aren’t saving enough for retirement
- **Guarantee gap:** Americans lack access to in-plan products that can guarantee income throughout retirement

Below is a high-level outline of key SECURE Act provisions, their intended impact to plan sponsors and potential considerations for your plan(s). These changes present a good opportunity for you to work with your clients and review their retirement plan objectives and design, and to ensure they are providing their participants access to lifetime income and savings solutions.

Effective dates vary between provisions, with some tight compliance deadlines. TIAA is actively working to meet them and will follow guidance provided by Congress and the regulators responsible for implementing and enforcing the law. We will provide ongoing updates as direction is received from Washington.

Provisions addressing the access gap

Provision	Plan types	Impact	Effective date	Plan sponsor considerations
Provide access to “open” Multiple Employer Plans (MEPs), or pooled employer plans (PEPs)	401(k)	Allows unrelated employers to participate in a MEP that would be treated as a single plan for ERISA and code purposes	<ul style="list-style-type: none"> ▪ Plan years beginning after 12/31/2020 	<ul style="list-style-type: none"> ▪ This is optional for 401(k) plan sponsors. Consider whether joining or sponsoring a PEP may be a good fit for your organization

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Consolidated Form 5500 reporting	401(k) (Note: Interpretation is underway regarding stated requirement for plans to have the same trustee, which is not applicable to 403(b) plans.)	Simplifies reporting requirements by allowing a group of unrelated plans that meet certain criteria to file a single consolidated Form 5500	<ul style="list-style-type: none"> To be implemented no later than 1/1/2022 and will apply to plan years beginning after 12/31/2021 	<ul style="list-style-type: none"> Note that provision will not be implemented until 2022 Consider whether your plan may be able to take advantage of this reporting change in the future
Increase startup credit for small employer plans and implement new credit for small employers that adopt automatic enrollment	401(k)	Provides a financial incentive for small businesses (100 employees or less) to set up retirement plans	<ul style="list-style-type: none"> Tax years beginning after 12/31/2019 	<ul style="list-style-type: none"> Consider this incentive if applicable to an organization if they do not yet offer a retirement plan
Changes to 401(k) Safe Harbor plans	401(k)	Provides greater flexibility and facilitates plan adoption by eliminating the Safe Harbor notice requirement for plans seeking to satisfy the safe harbors by making specified levels of non-elective contributions and permitting plans to be amended to become non-elective Safe Harbor plans.	<ul style="list-style-type: none"> Plan years beginning after 12/31/2019 	<ul style="list-style-type: none"> Consider whether you want to take advantage of non-elective Safe Harbor status Communicate as required
Mandate that employers allow long-term part-time workers to participate in 401(k) plans	401(k)	Addresses an impediment to the ability of part-time workers to save for retirement in 401(k) plans	<ul style="list-style-type: none"> Plan years beginning after 12/31/2020. 12-month periods beginning before 1/1/2021 will be excluded 	<ul style="list-style-type: none"> Update retirement plan documents as needed Ensure providers are prepared to administer Provide participants with a Summary of Material Modifications

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Provision	Plan types	Impact	Effective date	Plan sponsor considerations
Clarification on retirement income account rules for church-related employees	403(b)	Clarifies which individuals or employees of church-related organizations can participate in 403(b)(9) retirement income accounts	<ul style="list-style-type: none"> Plan years beginning before, on or after the date of enactment (12/20/2019) 	<ul style="list-style-type: none"> Review and update retirement plan documents as needed Provide plan participants with a Summary of Material Modifications if needed
Change to plan adoption deadline	All retirement plans	Extends the deadline for employers to adopt a plan for a taxable year to the due date of their tax return	<ul style="list-style-type: none"> Plans adopted for taxable years beginning after 12/31/2019 	<ul style="list-style-type: none"> Consider this option if applicable to your organization and you do not yet offer a retirement plan

Provisions addressing the savings gap

Provision	Plan types	Impact	Effective date	Plan sponsor considerations
Increase Safe Harbor cap on automatic enrollment and escalation	403(b), 401(k) Plans that utilize a qualified automatic contribution arrangement (QACA) as a way to automatically enroll employees	Increases the maximum percentage of pay in which a plan can automatically enroll employees or automatically escalate employee deferrals in automatic enrollment/escalation plans	<ul style="list-style-type: none"> Plan years beginning after 12/31/2019 	<ul style="list-style-type: none"> Review retirement plan documents as needed Ensure providers are prepared to administer Provide participants with a Summary of Material Modifications reflecting any plan changes
Increase required minimum distribution age to 72 in retirement plans and IRAs	403(b), 401(k), 457(b), IRAs	Acknowledges increase in life expectancy, allowing retirement savings to grow for longer before distributions are required	<ul style="list-style-type: none"> Distributions made after 12/31/2019 for those who attain age 70½ after 2019 (born after 6/30/1949) 	<ul style="list-style-type: none"> Review retirement plan documents Ensure providers are prepared to administer Ensure participants understand the change

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Provision	Plan types	Impact	Effective date	Plan sponsor considerations
Prohibit plan loans through credit cards	403(b), 401(k)	Preserves retirement savings by ensuring that plan loans are not used for routine or small purchases	<ul style="list-style-type: none"> Applies to loans made after enactment date (12/20/2019) 	<ul style="list-style-type: none"> Adjust retirement plan documents as needed Ensure providers are prepared to administer Ensure participants understand the change
Allow penalty-free withdrawals from retirement plan or IRA for births or adoptions	403(b), 401(k), 457(b), IRAs	Creates a new, optional distributable event for births or adoptions; exempts such distributions from the 10% excise penalty tax and allows the distribution to be repaid to the plan	<ul style="list-style-type: none"> Distributions made after 12/31/2019 Regulatory guidance is needed before implementation 	<ul style="list-style-type: none"> Update retirement plan documents as needed Ensure providers are prepared to administer Ensure participants understand the change and their responsibilities
Changes to treatment of foster care Difficulty of Care Payments	403(b), 401(k), IRAs	Allows Difficulty of Care payments to be considered in the determination of IRA and defined contribution plan contributions, at the discretion of the plan sponsor	<ul style="list-style-type: none"> Plan years beginning after 12/31/2015 	<ul style="list-style-type: none"> Adjust retirement plan documents as needed Ensure your providers are prepared to administer Ensure participants understand the change
Changes to testing requirements for closed defined benefit plans	401(k), 403(b)	Protects the ability of older, longer-term employees to continue defined benefit plan accruals by allowing certain closed defined benefit plans to be aggregated and tested on a benefits basis with one or more defined contribution plans	<ul style="list-style-type: none"> Changes generally take effect on date of enactment (12/20/2019) 	<ul style="list-style-type: none"> Consider whether this relief may apply to your plan

Provisions addressing the guarantee gap

Provision	Plan Types	Impact	Effective Date	Plan sponsor considerations
Improve current annuity provider selection Safe Harbor	403(b), 401(k)	Makes it easier for plan sponsors to meet their fiduciary requirement to assess the financial capability of annuity providers of guaranteed income benefits by allowing reliance on insurer representations of their financial capability	<ul style="list-style-type: none"> Effective immediately 	<ul style="list-style-type: none"> Ensure you understand where to find written representation re: financial capabilities of current and prospective annuity providers Keep in mind that the Safe Harbor does not require the fiduciary to select the lowest-cost contract, and allows fiduciaries to take features and benefits into consideration along with the cost of the contract
Require lifetime income disclosures on defined contribution benefit statements	403(b), 401(k)	Illustrates how retirement account balances translate into a guaranteed monthly income stream	<ul style="list-style-type: none"> Applies to statements provided more than 12 months after DOL issues interim final rules, model disclosure and assumptions 	<ul style="list-style-type: none"> Ensure providers are prepared to provide estimated monthly retirement income annually Ensure participants understand the change
Enhance portability of in-plan lifetime income investments	403(b), 401(k), 457(b), IRAs	Allows participants to take a tax-deferred distribution of an annuity from their employer's plan should the employer decide to remove the annuity from the plan's investment menu	<ul style="list-style-type: none"> Plan years beginning after 12/31/2019 	<ul style="list-style-type: none"> Adjust retirement plan documents as needed Ensure providers are prepared to administer

Please note that this list above is provided for information only. TIAA does not and cannot provide legal or tax advice. We recommend that all clients consult their own ERISA/tax legal counsel for such advice.

Additional provisions added to the spending bill that plan sponsors should be aware of are:

- Increased penalties for failure to file Form 5500, annual registration statement, notification of change of status and withholding notices. These apply to returns, statements and notifications that are required to be filed and to notices that are required to be provided after 12/31/2019
- Allowance for governmental 457(b) plans to provide for in-service distributions as early as age 59 ½, rather than age 70 ½.
- Extension of employer credit for paid family and medical leave

Should you have any questions, please contact your TIAA consultant relations director.



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