Retirement Plan News + Information for Employers

INNOVATIVE PLAN STRATEGIES | Q3 2024

Exploring In-Plan Retirement Income Solutions

What's Going On in Washington?

SECURE 2.0 Update: Looking Ahead

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Exploring In-Plan Retirement Income Solutions

TO HELP PREVENT POTENTIAL RETIREMENT DELAYS, CONSIDER RETIREMENT INCOME SOLUTIONS TO BOOST PARTICIPANTS' CONFIDENCE IN THEIR FUTURE FINANCIAL SECURITY.

Both employers and employees have a growing interest in in-plan retirement income solutions. With 66% of participants concerned about creating an income stream in retirement, this shows a signification interest in retirement planning tools that can convert savings into lifetime income.[1]

Offering in-plan retirement income solutions is one way to help participants plan for financial stability in retirement in order to retire on time. Why focus on in-plan retirement income solutions, and why now? Here's what you need to know.

The growing need for retirement income

With the decline of pension plans and the rise of DC plans like 401(k)s, the responsibility to create retirement security has shifted from employers to employees. However, for many participants, saving is a challenge. If they manage to save enough for retirement, participants aren't confident in converting their assets to a steady stream of retirement income they won't outlive. Eighty-seven (87%) of participants expressed a desire for an in-plan retirement income solution to help them achieve their goals.[2] Moreover, today's workforce is aging, requiring solutions that help provide a sustainable retirement income for as long as they live.

[1] Voice of the American Worker 2024. Franklin Templeton. 2024.

[2] Voice of the American Worker 2024. Franklin Templeton. 2024.

In an effort to boost retirement income success, there is an opportunity to support participants with income planning for the decumulation stage. Education is critical to improving retirement readiness: participants need to understand how retirement income solutions work and how to use them appropriately. Employers can leverage plan features like in-plan retirement income solutions to make their retirement benefits more competitive, increase employee engagement, and retain valuable talent. Few organizations currently offer this option, making it an opportunity to stand out as an employer of choice.

Plan design plays a pivotal role

Thoughtful plan design can significantly impact participants' retirement income. Features such as default deferral rates, employer matching contributions, and professionally managed investment solutions all play a pivotal role:

- Default deferral rates often steer participant contributions. Many plans automatically enroll employees at the deferral rate of 3% of their salary, but most employees choose to "set it and forget it" and never increase their contributions beyond that amount. Plans with higher default deferral rate and auto-escalation, where contributions are increased at set intervals until a preset maximum is reached, promote saving more over time. This approach potentially boosts their retirement income.
- Matching contributions can substantially boost participants' retirement savings. Encourage participants to contribute at least enough to receive the full employer match and maximize this benefit.
- Professionally managed investment solutions alleviate the burden of establishing a personal asset allocation strategy, constructing a portfolio of equities and fixed income, and then monitoring and updating it on an ongoing basis. The most common 401(k) default investment solutions are target date funds and managed accounts.

In-plan income considerations

Several retirement income solutions and investment strategies are designed to provide consistent, stable income for retirees. Some common approaches include:

- **Target date funds (TDFs) with in-plan guaranteed income:** An in-plan solution is designed to deliver automatic guaranteed retirement income. TDFs may be appropriate as a Qualified Default Investment Alternative (QDIA).
- **Managed accounts:** These solutions offer professional investment selection and management with the potential for growth and income. Managed accounts provide efficient opportunities that can be customized for specific investor circumstances and allocated to guaranteed income solutions at an appropriate age.
- **Fixed income:** Securities such as bonds offer a steady income stream with potentially competitive yields, liquidity, and flexibility.

Participant withdrawal strategies

Plan designs that allow flexible distribution strategies can help improve financial stability as participants transition from the accumulation to the withdrawal stage. These include systematic withdrawals that create an automated income stream, technology-driven withdrawal solutions that adapt retirement income based on retirees' needs and preferences, and guaranteed income solutions.

"Employees want guidance on retirement income planning, and in-plan income solutions present an opportunity to boost engagement, enhance retention, and improve overall retirement readiness," said Matt Wolniewicz, President of Income America, an in-plan income solution provider.

For your next steps, consider reviewing your current plan design through a retirement income lens and consult with a financial advisor to explore in-plan solutions and investment options that may fit your plan's demographics and objectives.

What's Going On in Washington?

EXPLORING CURRENT ERISA AND DOL AREAS OF INTEREST

In a significant move by the Department of Labor (DOL), new regulations are being rolled out that may impact your ERISA compliance and retirement plan administration. Learn how these changes could influence your retirement plan, discover Washington's initiatives, and prepare your company effectively.

Retirement Security Rule effective date stayed indefinitely

On July 25 and 26, 2024, two different federal courts in Texas ruled that the DOL likely overstepped its authority in redefining what is considered fiduciary investment advice under ERISA and the Internal Revenue Code. The new DOL regulation, the "Retirement Security Rule," was to be effective September 23, 2024, and was meant to replace the DOL's five-part test that has been in place since 1975. The courts stayed the effective date indefinitely while the lawsuits play out. The lawsuits against the DOL were brought by insurance professionals who strongly opposed being held to a fiduciary standard in dealing with plan sponsors and also with plan participants when they would rollover their assets from plans to IRAs.

The two Texas courts found that the Retirement Security Rule and its package of prohibited transaction exemptions violated the Administrative Procedures Act as well as a 2018 5th Circuit opinion that invalidated the DOL's previous attempt to redefine investment advice. Specifically, the courts found that for investment advice to be governed by ERISA's fiduciary duties, there needs to be an expectation of trust and confidence between the investment professional and the client. The DOL's new rule, in violation of this standard, would have brought one-time sales transactions under a fiduciary standard, a consequence the courts found to be improper.

From here, the DOL is likely to appeal the rulings. The November presidential elections will be consequential as to whether any DOL appeal will be allowed. And even if it is allowed, the DOL faces an uphill battle in front of the 5th Circuit and the US Supreme Court, if they would agree to hear this dispute. In the meantime, the 1975 five-part test for fiduciary investment advice remains the law of the land.

IRS Notice 2024-02

Dubbed the “Grab Bag” notice, the IRS released a Q&A style notice to provide additional guidance on 12 of the 90 new provisions added by SECURE 2.0 of 2022.

Notable provisions affecting section 401(k) and section 403(b) retirement plans include:

- expanding automatic enrollment and auto-escalation features
- credit for small employer startup costs
- de minimis financial incentives for contributing to a plan
- terminally ill distributions exception
- changes in accrual rule compliance for cash balance plans
- treatment of employer matching or nonelective contributions as Roth contributions

Notice 2024-02 clarifies the requirements for each provision, including the effective date, limitations, and exceptions.

ERISA class actions - Group Health Plans

Fiduciary governance for health and welfare benefit plans has not always been a focus of plan sponsors, despite ERISA’s fiduciary standards applying equally. However, a recent court case, known as the Lewandowski v. Johnson & Johnson case, highlights alleged breaches of fiduciary duties for high fees paid to service providers.

To provide fee transparency, the Consolidated Appropriations Act of 2021 amended ERISA to require certain service providers to disclose fees to employer-sponsored group health plans, similar to retirement plans. Though the Lewandowski case is still early, it reminds employers to review their ERISA duties and ensure strong processes and procedures.

Cybersecurity

Cybersecurity remains a top priority for DOL. In a recent speech at the National Association of Plan Advisors summit, Employee Benefits Security Administration’s (EBSA) Assistant Secretary, Lisa Gomez emphasized the need for better protection of retirement plan data. Safeguarding assets and participant information is a fiduciary duty under ERISA, requiring compliance with the “prudent expert” standard. This includes staying updated on cybersecurity practices, training personnel, and monitoring operations. EBSA’s guidance, “Cybersecurity Program Best Practices,” highlights the importance of addressing cybersecurity risks in plan administration.

The landscape of retirement plan regulation and ERISA compliance is undergoing significant changes. These updates aim to enhance fiduciary responsibilities, expand exemptions, and clarify requirements affecting retirement plans. While these changes bring forth new challenges, they also offer opportunities for plan sponsors to work alongside a trusted retirement plan advisor to improve and ensure the security and efficacy of retirement savings.

This is a special edition written by The Wagner Law Group.

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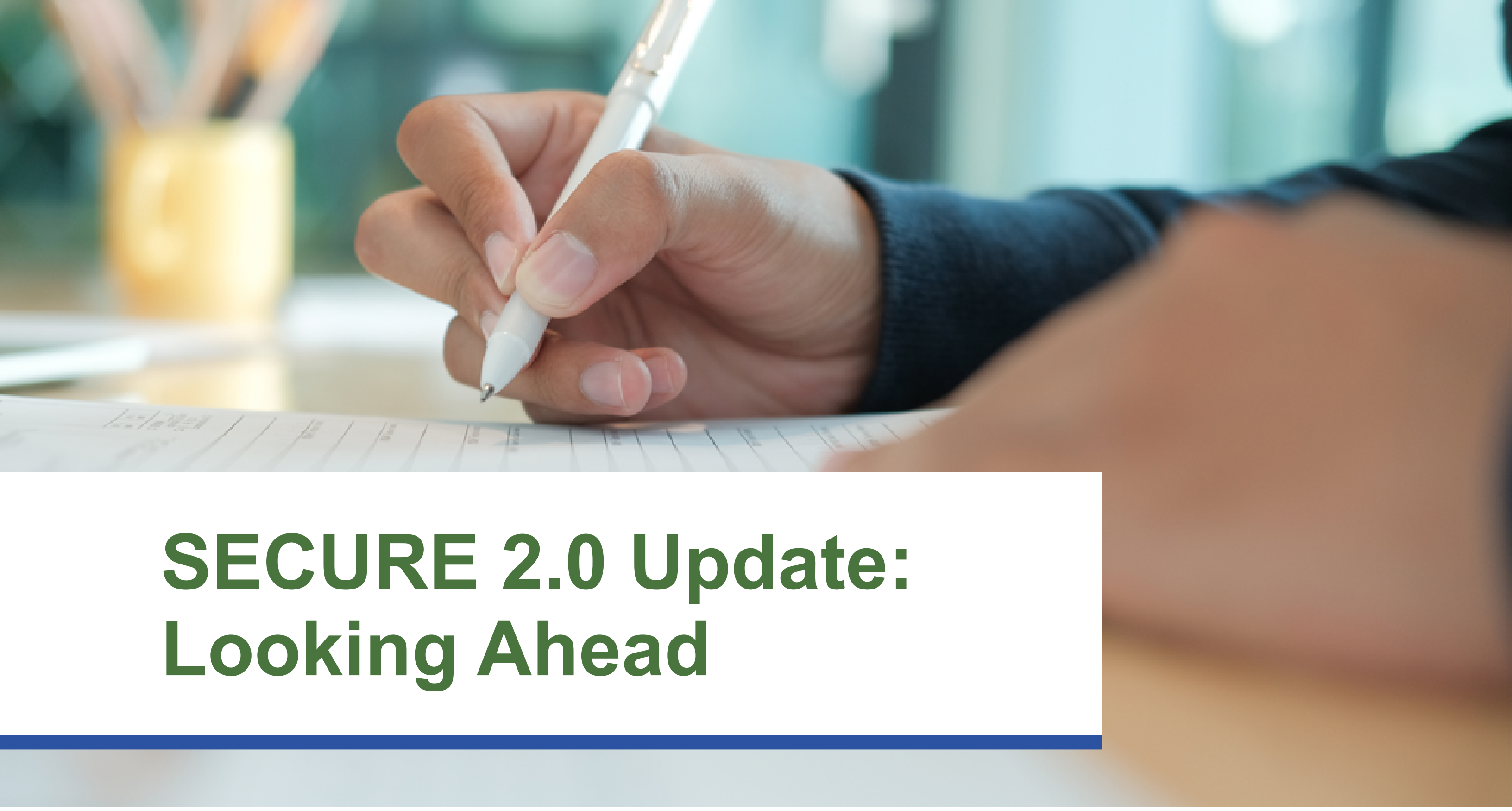

SECURE 2.0 Update: Looking Ahead

RECENT PROVISIONS AND HOW TO BEST ADAPT YOUR 401(K) PLAN.

Some provisions of SECURE 2.0 have already taken effect, and more will become effective soon. For plan sponsors, preparation is the key. Starting early allows for a thorough consideration of how SECURE 2.0 provisions may impact enrollment, contributions, and other aspects of your 401(k) plan. This will help you align your plan with regulatory requirements while continuing to meet both employer and employee needs. Here are a few of the provisions that could affect your plan:

Long-term part-time worker eligibility

Effective January 1, 2025, employees who have at least 500 hours of service each year for two consecutive years are eligible to participate in the plan. This adjustment signifies a shift from last year's eligibility criteria, which required three consecutive years of service, thereby reducing the length of service needed for part-time employees to qualify for the employer's retirement plan. Given the complexities involved in implementing this provision, some plans are evaluating the advantages and disadvantages of granting immediate eligibility to all employees.

Automatic enrollment and escalation

New 401(k) or 403(b) plans established after December 29, 2022, must automatically enroll eligible employees, beginning with the first plan year starting January 1, 2025, at a contribution rate between 3% and 10%. The plan must include automatic escalation at a pace of 1% a year until contributions reach 10% to 15%.

This regulation has implications for company mergers and acquisitions that involve multiple retirement plans, as well as those that join multi-employer plans.

If your plan does not currently include automatic enrollment, you may be eligible for a $500 tax credit for the first three years it is adopted.

Super catch-up contributions

Most plan sponsors currently offer employees aged 50 or older the opportunity to make catch-up contributions, which has been set at $7,500 for 2024. A significant update arriving in 2025 is the introduction of super catch-up contributions under SECURE 2.0 legislation. This provision allows plan sponsors the option to enable employees who reach the ages of 60, 61, 62, or 63 within a particular year to make enhanced catch-up contributions. The limit is determined as the greater of:

- $10,000, or
- 150% of the age 50 catch-up contribution limit for 2024.

For successful implementation, plans and recordkeepers are required to precisely track participants' ages, apply the appropriate contribution limits, and communicate clearly about this option to eligible participants.

Roth matching and non-elective contributions

Since 2022, plan sponsors have been presented with the opportunity to allow participants to choose how they receive employer matching or non-elective contributions: as traditional pre-tax contributions or fully vested Roth contributions. This option is designed to give participants enhanced control over the tax treatment of their retirement savings, potentially offering the benefit of tax diversification.

Initially, there was hesitancy among plan sponsors to embrace this provision due to uncertainties surrounding taxation, reporting, and administrative processes. However, recent IRS guidance has clarified several of these issues. In light of the new information, plan sponsors might now want to reevaluate whether incorporating this option aligns with their overall plan objectives.

Force-out provisions and auto portability

The Safe Harbor IRA, a well-established provision, has recently captured significant attention. This provision enables plan sponsors to remove small account balances ranging from $1,000 to $7,000. By taking this step, employers can decrease the number of small, inactive accounts, thus reducing administrative tasks and possibly sidestepping stricter reporting obligations.

Another noteworthy development is the launch of the auto-portability network. This innovative network streamlines the transfer of small account balances when employees switch jobs, promoting the continuous growth of retirement savings, and reducing the likelihood of early withdrawals. These enhancements not only make plan management more straightforward, but they also bolster employees' efforts to build a more robust retirement nest egg.

Student loan payments matching

Employers are allowed to make matching contributions to a retirement plan based on an employee's qualified student loan payments. Essentially, if an employee is paying off a student loan and therefore not contributing to their retirement plan, the employer can still make a match to the plan as if these were retirement plan contributions. This provision aims to help employees saddled with student debt to save for retirement.

This is by no means an exhaustive list. Other key topics deserve consideration, including SIMPLE IRA conversions, incentives for participation, a "Lost and Found" database, new exceptions for early withdrawals, RMDs, and emergency savings accounts linked to retirement plans.

Get ahead of the curve

Together we can proactively explore how SECURE 2.0 provisions might impact your plan, allowing us to plan strategically and you to be well-prepared. If you have any questions, please get in touch.

ABOUT US

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