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ABA Retirement Funds Program

SECURE 2.0: Key Provisions

SECURE 2.0 includes many provisions related to retirement plans and IRAs that expand participant coverage, help participants preserve income, and simplify plan rules and administrative procedures. Below you will find a summary of the mandatory provisions and the optional provisions applicable to plans within the ABA Retirement Funds Program ("Program"). This summary includes highlights but is not intended to be an exhaustive list. The Program will support all mandatory provisions in accordance with their effective dates. The optional provisions are currently under review as the Program identifies a strategy and timeline. **Please take note of the Plan Administrator Watch-Out items below – these are important to be aware of as you plan for provisions to go into effect over the next few years.** The Program will continue to inform you of all critical items that you will need to act on.

	MANDATORY CHANGES	IMPACTS & EFFECTIVE DATES
Required Minimum Distributions ("RMD") Age Increases	The required age for an RMD beginning date is increased for participants and spousal beneficiaries of a participant that died prior to reaching the RMD beginning date. New RMD ages are: • 73 for an individual who attains age 72 after December 31, 2022, and age 73 before January 1, 2033 • 75 for an individual who attains age 73 after December 31, 2032	It allows participants to keep their savings in their retirement plan for a longer period. Effective date: **Calendar years beginning after December 31, 2022** **There is no change for those who are already receiving RMD payments.** Currently in effect.
RMD Excise Tax Reduction	The Internal Revenue Code imposed a 50% excise tax on RMD's that are not taken in a timely manner. SECURE 2.0 reduces the excise tax from 50% to 25% (and to 10% if the correction is made in a timely manner).	Lower penalties allow participants to preserve more of their retirement income. **Effective for taxable years beginning after December 29, 2022** Currently in effect.
Safe Harbor for Corrections of Employee Elective Deferral Failures	The safe harbor guidance for correction of elective deferral mistakes is slated to expire in 2023. SECURE 2.0 addresses the issue by providing a statutory safe harbor for the correction of a reasonable administrative errors involving automatic contribution or automatic escalation.	To meet the safe harbor, errors must be corrected prior to 9½ months after the end of the plan year in which the error occurred, corrected in a manner that is favorable to the participant, and consistently applied. Effective date: **Errors made after December 31, 2022** Currently in effect.
Clarification of Substantially Equal Periodic Payment Rule	A substantially equal periodic payment is not subject to an IRS 10% premature distribution penalty tax. SECURE 2.0 clarifies that the exception still applies if the amount is rolled over or exchanged for an annuity that satisfies RMD requirements.	Effective date: **Transfers, rollovers, exchanges, and distributions (as applicable) occurring on or after December 31, 2023, and effective for annuity distributions beginning after December 29, 2022**
Roth Catch-up	If a participant's prior year FICA wages from the employer sponsoring the plan exceeded $145,000, then a participant's Age 50+ Catch-up deferrals can only be made as a Roth contribution. The $145,000 threshold is subject to IRS annual cost of living adjustments in $5,000 increments.	Effective date: **Tax years beginning after December 31, 2025**
Roth Plan Distribution Rules	Under current law, RMDs to a plan participant must consider all amounts (both non-Roth and Roth) from that participant's account from an employer-sponsored retirement plan. SECURE 2.0 eliminates this requirement so that the designated Roth account under a plan is not subject to RMD during the participant's lifetime.	Allows participants to preserve retirement account balances. Effective date: **Tax years beginning after December 31, 2023**

Plan Administrator Watch-Out

Plan Administrators will need to monitor participants' FICA wages beginning on January 1, 2025, to determine if a participant exceeds the wage threshold. If they do, Plan Administrators must plan to flag a participant's Catch-up deferrals as Roth contributions for the subsequent calendar year.

	MANDATORY CHANGES	IMPACTS & EFFECTIVE DATES
Surviving Spouse Election to be Treated as Employee (for RMDs)	If a participant dies before his or her required beginning date and designated their spouse as the sole beneficiary, then the spouse may elect to defer RMDs until the year in which that spouse attains that year's RMD age and the spouse's RMD will be calculated under the life expectancy table typically available only for a plan participant.	The spouse may elect to defer RMDs to a later date and have RMDs calculated under a potentially more favorable life expectancy table. Effective date: **Calendar years beginning after December 31, 2023**
Automatic Enrollment and Increase for New Plans	Eligible Automatic Contribution Arrangement is required for 401(k) plans established after December 29, 2022. Such plans must automatically enroll eligible participants using an initial 3% minimum and 10% maximum contribution rate. Each year thereafter, that percentage must automatically increase by 1% up to at least 10% (but capped at 15% of compensation). A plan with an eligible automatic contribution arrangement operating under a nondiscrimination safe harbor has a 10% cap on permissible automatic escalation for plan years ending before January 1, 2025. The plan must permit a participant to make withdrawals no later than 90 days after the date of the first contribution. Eligible participants may opt out of the automatic contribution or elect another percentage to be deferred into the plan.	**Exclusions:** This provision does not apply to: (1) 401(k) plans that were adopted on or prior to December 29, 2022; (2) SIMPLE 401(k) plans; (3) new businesses (in existence for less than three years); and (4) small employers (normally employing ten or fewer employees). Effective date: **Plan years beginning after December 31, 2024, for plans established after December 29, 2022**
Coverage for Long-term Part-time Workers	Further reduces the minimum eligibility service requirements from three years (set forth in SECURE Act 1.0) to two years. • Individuals will now be eligible as of the earlier of (1) one year of service, or (2) the completion of a 24-month period consisting of two consecutive 12-month periods with 500 hours of service and attainment of age 21 by the end of the calendar year. • This reduction does not apply to employees subject to collective bargaining or nonresident aliens, and the 12-month period beginning before January 1, 2023, is not taken into account.	Requires part-time workers to be eligible to join retirement plans sooner. Effective date: **Plan years beginning after December 31, 2024**
Paper Benefit Statements	Amends ERISA to require that a defined contribution plan provide at least one paper benefit statement to participants annually and one paper benefit statement every three years to participants in a defined benefit plan, unless a participant in either plan type elects otherwise.	Effective date: **Plan years beginning after December 31, 2025**
Plan Amendments	Plan amendments to satisfy SECURE 2.0 must be adopted no later than the end of the 2025 plan year, unless the Secretary of the Treasury provides for a later date. SECURE 2.0 also extends the plan amendment deadline for Setting Every Community Up for Retirement Enhancement Act of 2019 (SECURE Act 1.0), the Coronavirus Aid, Relief, and Economic Security Act (CARES) Act, and the Taxpayer Certainty and Disaster Tax Relief Act of 2020 to align with the plan amendment deadline noted above.	Plan sponsors must amend their plan documents no later than the dates set forth.

Plan Administrator Watch-Out

If these provisions are not already in place, plans with effective dates after December 29, 2022, will need to ensure amendments to the plan document are made timely once the provision goes into effect.

Plan Administrator Watch-Out

To prepare for the 24-month period lookback, Plan Administrators should be tracking their part-time workers' hours throughout 2023 and 2024.

Plan Administrator Watch-Out

For plans using the Program's plan document, the document will be amended on Plan Administrators' behalf.

Plans using a different plan document will need to ensure amendments are made timely.

	MANDATORY CHANGES	IMPACTS & EFFECTIVE DATES
Saver's Match	Current law provides for a nonrefundable credit for certain individuals who make contributions to individual retirement accounts ("IRAs"), employer retirement plans (such as 401(k) plans), and Achieving a Better Life Experience ("ABLE") accounts*. This rule change repeals and replaces the credit with respect to IRA and retirement plan contributions, changing it from a credit paid in cash as part of a tax refund into a federal matching contribution that must be deposited into a taxpayer's IRA or certain eligible retirement plans. The match is 50% of IRA or retirement plan contributions up to $2,000 per individual. The match phases out between $41,000 and $71,000 in the case of taxpayers filing a joint federal individual income tax return ($20,500 to $35,500 for single taxpayers and married filing separate; $30,750 to $53,250 for head of household filers). NOTE: Saver's Match cannot be withdrawn without incurring penalties, including repayment to the U.S. Treasury Department in some cases where the Saver's Match is withdrawn from an individual retirement account before retirement.	For credits received after the effective date: Provides an incentive for individuals to save for retirement and ensure that the credit provided is invested for retirement. **Effective for taxable years beginning after December 31, 2026** **ABLE accounts are tax-advantaged savings and investment accounts that allow qualifying individuals to accumulate funds without interrupting government benefits eligibility.*

	OPTIONAL CHANGES	IMPACTS & EFFECTIVE DATES
Credit for Small Employer Startup Costs	1. **Start-up credit** – Increases the startup credit for employers with between 1 and 50 employees from 50% to 100% up to $5,000. Note: The increase does not apply to plans of employers with between 51 and 100 employees and that credit remains at 50%. 2. **Employer Contribution Credit** – An additional credit is provided for employer contributions (except in the case of defined benefit plans) equal to 100% in the year in which the plan is established. This credit excludes contributions made for employees earning $100,000 or more in wages. (a) **Credit for employers with 50 or fewer employees:** The amount of the additional credit generally will be a percentage of the amount contributed by the employer on behalf of employees, up to a per-employee cap of $1,000. (see table below) (b) **Credit Phase-in for employers with between 51 and 100 employees:** The credit is reduced by an amount equal to the product of (i) the amount otherwise so determined under this item 2, multiplied by (ii) a percentage equal to 2 percentage points for each employee of the employer for the preceding taxable year in excess of 50 employees.	Provides an additional financial incentive for small employers to offer a retirement plan. **Effective for taxable years beginning after December 31, 2022**

Taxable year beginning after the taxable Year during which plan is established	Applicable Percentage
Year 1	100%
Year 2	75%
Year 3	50%
Year 4	25%
Year 5	0%

	OPTIONAL CHANGES	IMPACTS & EFFECTIVE DATES
Qualified Birth and Adoption Distributions ("QBAD")	A participant who has taken a QBAD may repay that distribution to an eligible retirement plan accepting rollovers during the three-year period beginning on the day after the date on which the QBAD was received.	Establishes time limit for repayment of QBADs for those participants who wish to repay. Effective date: **Retroactive effective date – QBADs made after December 31, 2019**
Self-certification of Hardships and Unforeseen Emergency Withdrawals	A plan administrator may rely on an employee certification that a hardship withdrawal or unforeseen emergency distribution is based upon an immediate and heavy financial need, as described in the Treasury regulations, and that the amount requested is no more than is necessary.	Allows plan sponsors the choice to accept self-certification for hardships and unforeseen emergency distributions. Effective date: **Plan years beginning after December 29, 2022**
Eliminating Unnecessary Plan Requirements for Unenrolled Participants	Provided a participant has received a summary plan description and documents related to eligibility, a defined contribution plan is not required to provide disclosures or notices to employees who are eligible but have not enrolled in the plan, other than an annual reminder notice of eligibility and applicable deadlines, as well as any required documents upon a participant's request.	Evaluate compliance notice and communication practices for efficiency. Effective date: **Plan years beginning after December 31, 2022**
Treatment of Employer Contributions as Roth	An employer may designate matching contributions or nonelective contributions as Roth contributions, provided that the participant is fully vested in such Roth employer contributions. **As drafted, SECURE 2.0 created pending questions regarding the Employer FICA obligations for such contributions.*	Effective date: **Contributions made after December 29, 2022**
Qualified Disaster Distributions and Loans	Permits participants who meet certain criteria to take a distribution up to $22,000 (aggregated across all of a participant's plan accounts, including IRAs) due to a federal disaster declaration. Distributions are not subject to the IRS 10% premature distribution penalty tax and can be amortized as income over a three-year period. Amounts distributed prior to the disaster to purchase a home can be recontributed. The employer is responsible for monitoring the $22,000 limit for each of the plans within its controlled group. Increases the loan limit due to a federal disaster declaration from $50,000 to $100,000 and delays the repayment for up to a year.	Effective date: **Retroactive application to disasters occurring on or after January 26, 2021**
Separate Top-Heavy Testing of Excludable Employees	Currently, separate nondiscrimination testing permits employees under 21 years of with less than 1 year of service to be excluded (the "Excludable Employees") since the Internal Revenue Code does not require them to be eligible for plan participation. Separate nondiscrimination testing incentivizes plan sponsors to include these Excludable Employees in the plan since their deferral rates will have no impact on nondiscrimination tests. The same is not true for Top-Heavy testing. Including the Excludable Employees could cause Top-Heavy Test failures and be expensive for plan sponsors.	SECURE 2.0 eliminates the incentive to exclude these formerly excluded employees from the plan. Effective date: **Plan years beginning after December 31, 2023**

Plan Administrator Watch-Out

These provisions are under review by the ABA Retirement Funds for adoption at a Program level. Please be on the lookout for future communications.

	OPTIONAL CHANGES	IMPACTS & EFFECTIVE DATES
Student Loan Payments for Matching Purposes	Permits an employer to make matching contributions to a retirement plan with respect to "qualified student loan payments." • Qualified student loan payment is broadly defined as any indebtedness incurred by the employee solely to pay qualified higher education expenses of the employee. • Separate nondiscrimination testing for employees who receive matching contributions on student loan repayments. • A retirement plan sponsor may rely on employee certification of payment. • SECURE 2.0 directs Treasury to publish regulations relating to this provision.	Assists employees who may not be able to save for retirement because they are overwhelmed with student debt and miss out on available employer matching contributions. Effective date: **Plan years beginning after December 31, 2023**
Withdrawal for Emergency Personal Expenses	Provides an exception to the IRS 10% premature distribution penalty tax for certain distributions for emergency expenses, which are unforeseeable or immediate financial needs relating to "personal or family emergency expenses." • Only one distribution is permissible per calendar year of up to $1,000 • Taxpayer has the option to repay the distribution within 3 years. • No further emergency distributions are permissible during the 3-year repayment period unless direct repayment occurs, or aggregate elective deferrals are contributed to the plan in at least the amount that was distributed and not repaid. • Plan administrator may rely on a participant's certification unless the plan administrator has actual knowledge to the contrary.	Reduce the tax penalty for participants taking a distribution for eligible purposes up to certain limitations. Effective date: **Distributions made after December 31, 2023**
Exemption for Certain Automatic Portability	Permits retirement plan recordkeepers and other firms to provide employer plans with automatic portability services. Such services involve the automatic transfer of a participant's default IRA (established in connection with a distribution from a former employer's plan) into the participant's new employer's retirement plan, unless the participant affirmatively elects otherwise. Requirements: (1) must be an active participant in the new employer plan; and (2) the automatic portability provider acknowledges fiduciary status.	Creates a new option for plan sponsors to consider for small balance mandatory distributions with a goal to increase retirement savings by automatically transferring small balance mandatory distributions to a participant's new employer, if applicable. Effective date: **Transactions occurring on or after December 29, 2023**

Plan Administrator Watch-Out

These provisions are under review by the ABA Retirement Funds for adoption at a Program level. Please be on the lookout for future communications.

	OPTIONAL CHANGES	IMPACTS & EFFECTIVE DATES
Emergency Savings Accounts under Defined Contribution Plans	Retirement plans may offer their non-highly compensated employees plan-linked emergency savings accounts. (Once an individual becomes a highly compensated employee (as defined in the Internal Revenue Code), then contributions must stop). • Plans may automatically enroll employees into these accounts at no more than 3% of their salary. • The account is capped at $2,500 (or lower as set by the employer). The $2,500 cap is subject to IRS annual cost of living adjustments in $100 increments. • Once the cap is reached, the additional contributions can be directed to the employee's Roth defined contribution plan (if they have one) or stopped until the balance attributable to contributions falls below the cap. • Contributions are made on a Roth-like basis • Treated as elective deferrals for purposes of retirement matching contributions with an annual matching cap set at the maximum account balance of $2,500 or lower. • Allows at least one withdrawal per calendar month. The first four withdrawals from the account each plan year may not be subject to any fees or charges solely on the basis of such withdrawals. • Exempt from IRS 10% premature withdrawal penalty tax. • At separation from service emergency savings accounts can be distributed or rolled into a Roth source within a plan or IRA.	Provide an alternative source of money for participants when an emergency arises so they do not have to tap into their retirement savings. Effective date: **Plan years beginning after December 31, 2023**
Increase in Small Balance Mandatory Distribution Threshold	The dollar amount which a plan may authorize a distribution of a terminated participant's vested account without the participant's consent increases from $5,000 to $7,000.	Increases the small balance mandatory distribution limit from $5,000 to $7,000 for terminated participant accounts in plans. Effective date: **Distributions made after December 31, 2023**
Penalty-free withdrawal for domestic abuse cases	Permits participants who self-certify they experienced domestic abuse to obtain a withdrawal (the lesser of $10,000, indexed for inflation, or 50% of the participant's account). • The distribution is not subject to the IRS 10% penalty tax on premature distributions. • Additionally, a participant can repay the withdrawn money from the retirement plan over 3 years and will be refunded for income taxes on money that is repaid.	Provide a domestic abuse survivor with access to their retirement account for various reasons, such as escaping an unsafe situation. Effective date: **Distributions made after December 31, 2023**

Plan Administrator Watch-Out

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	OPTIONAL CHANGES	IMPACTS & EFFECTIVE DATES
Increased Catch-up Contribution Limits	Increases age-based catch-up contribution limits to the greater of $10,000 or 50% more than the regular age 50 catch-up amount in 2025 (subject to IRS annual cost of living adjustments in $500 increments) for participants not under a SIMPLE plan who have reached ages 60, 61, 62 and 63. For participants who are between the ages of 60 and 63 and who participate in a SIMPLE 401(k), the age-based catch-up contribution limit is increased to the greater of $2,500 or 50% more than the regular age 50 catch-up amount in 2025 (subject to IRS annual cost of living adjustments in $500 increments). • After age 63, the standard age 50+ catch-up limits will apply	If adopted by plan sponsor, allows participants ages 60, 61, 62 and 63 to make additional catch-up contributions. Effective date: **Taxable years beginning after December 31, 2024**

Plan Administrator Watch-Out

This provision is under review by the ABA Retirement Funds for adoption at a Program level. Please be on the lookout for future communications.

If you would like to review a summary of the full Act, you can download this document.

To review subsequent guidance concerning Roth Catch-Up Contributions, you can download Notice 2023-62.

ABA Retirement Funds

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