

Client Action Bulletin

MAY 2022

SECURE 2.0 surprises for plan sponsors and TPAs: Accelerated long-term, part-timer savings plan eligibility

[Charles J. Clark](#), Principal | [Karina Guerrero](#), Director of HR Rewards, Operations and Systems

SUMMARY

The House approved H.R. 2954 in a landslide bipartisan vote, 414-5 on March 29. This bill of proposed changes to U.S. tax-qualified retirement plans, which builds on the Setting Every Community Up for Retirement Security (SECURE) Act of 2019, is commonly known as SECURE 2.0, and is headed to the Senate “soon” for markup and consolidation.

Section 116 of the bill accelerates to two years (from three years) the number of years a plan sponsor must track long-term, part-time (LTPT) employees* for eligibility to start paycheck deferrals to the employer savings plan.

If this bill becomes pension law (and early handicapping suggests it could be enacted in 2022) plan sponsors and governance boards will be up to their eyeballs in alligators to assess the impact of this mandatory eligibility change for their retirement programs (and, in general, their menus of benefit programs) as they emerge from the complexities of two years of pandemic-related disruption in business operations and workforce management.

DISCUSSION

This Client Action Bulletin is an encore to, and picks up on, an article published in February 2020, SECURE Act surprises for plan sponsors and TPAs. That article states:

Let’s define “surprise” as actions that an employer must take, or may take, but more importantly, that involve complex changes to human resources (HR) administration systems and savings plan calculation engines.

First, we need to return to the SECURE Act (which for those readers interested is not a stand-alone law, but rather Division O of the Consolidated Appropriations Act, 2020). In plan years beginning after December 31, 2020, an employer must keep track of hours worked by employees who are “part-time” and work at least 500 hours during the year (in accordance with their savings plan provisions).

If a part-time employee works at least 500 hours for three consecutive years after December 31, 2020, the employer must permit these LTPT employees to defer a portion of their compensation to the 401(k) savings plan. Given that we are now in 2022, employers who expected to be affected by SECURE have already made technical changes to their HR systems for this tracking, which began on January 1, 2021. Thus, at the end of 2023, they are ready to administer this new law for voluntary savings plan deferrals in 2024.

* Section 116 of HR 2954 refers to “Certain Part-Time Employees.” The term “long-term, part-time” is not a statutory definition, but is the most common way to refer to this employee cohort.

Under Section 116 of SECURE 2.0 the end of the initial tracking period accelerates to a mere eight months from now (December 31, 2022), at which time LTPT employees must be offered the opportunity to defer a portion of their pay into the savings plan. Plan sponsors will likely have to be prepared with the relevant system changes and communications months before a Waterford Crystal Ball drops in Times Square at the stroke of midnight, ringing in 2023. An affected plan sponsor will likely also need to coordinate with its payroll administrator.

As an alternative, a plan sponsor may wish to change the eligibility for any employee to make savings plan deferrals “sooner” and without regard to employment status that is not full-time employee (FTE). That could mean that for any part-time or “seasonal,” or perhaps for anyone for whom FICA payroll tax is withheld, eligibility could be immediate or some other abbreviated period (e.g., three months after the first paycheck). This change is clearly an important decision for the plan administration committee, in its role of fiduciaries to the plan.

A few other items to consider.

The employer is not required to match the LTPT employee’s savings plan deferrals or provide any other employer contribution ... so far!

Unless, of course, LTPT employees start to accumulate at least 1,000 hours of service, which under the terms of a savings plan could mandate employer match.

We don’t know what the Senate will change, but let’s be prepared.

The IRS has yet to issue any proposed guidance for the SECURE Act, which was signed on December 19, 2019. There could be good faith compliance until the IRS issues such guidance. Perhaps some kind of good faith reliance could be part of SECURE 2.0 for LTPT.

SECURE 2.0’s proposed two-year measurement date could be deferred to end on December 31, 2023 (in the Senate reconciliation bill), which would not topple the plan administration systems that are already anticipating that measurement date for SECURE.

ACTION

While some may scoff at the idea that “long-term” for a period of two consecutive years of working for an employer is in fact a “long” time, plan sponsors are likely going to start discussing this to head off any administrative actions that would cause them to lose more sleep than they already are with the continuation of the 2022 Great Resignation.

For additional information about possible impact of SECURE 2.0 legislation, please contact your Milliman consultant.



Milliman is among the world’s largest providers of actuarial and related products and services. The firm has consulting practices in life insurance and financial services, property & casualty insurance, healthcare, and employee benefits. Founded in 1947, Milliman is an independent firm with offices in major cities around the globe.

[milliman.com](https://www.milliman.com)

**For more information, please
contact your Milliman consultant.**

Milliman Client Action Bulletin contains general information that is not intended to constitute the rendering of legal, tax, investment, or accounting advice. Application to specific circumstances should rely on further professional guidance.