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SECURE 2.0: Five Optional Provisions for Plan Sponsors to Consider

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SECURE 2.0, the most sweeping and encompassing act affecting the retirement plan industry since the Pension Protection Act of 2006, includes optional provisions that Plan Sponsors can elect to add to their plan's offerings. Optional provisions that have piqued interest for Plan Sponsors include qualified disaster relief, matching on student loan payments, treatment of employer contributions as Roth, domestic abuse victim withdrawals and self-certifications for hardships. It is important for Plan Sponsors to understand what each provision means, the overall interest in the industry and how it should be implemented if adopted by the plan.

Qualified Disaster Relief: What is it?

Section 331 of SECURE 2.0 provides new special disaster relief rules if the Plan Sponsor elects to offer this provision as part of the retirement plan.[1] For a participant to be eligible, they must either have their principal residence in the area where the disaster took place or have suffered an economic loss as part of the disaster. Additionally, a participant is only able to use this provision if a major disaster is declared by the President of the United States. The provision in Section 331 of SECURE 2.0 includes the following relief(s) for eligible participants:

- **Expanded distribution and tax relief**: Expanded distribution options and favorable tax treatment for up to $22,000 of qualified disaster recovery distributions from eligible retirement plans (certain employer-sponsored retirement plans, such as section 401(k) and 403(b) plans, and IRAs) to qualified individuals, as well as special rollover and repayment rules with respect to such distributions.

- **Relief to repay distributions taken for principal residence purchase/construction**: The ability for an individual to repay a first-time homebuyer distribution from an IRA or a hardship withdrawal from a section 401(k) or 403(b) plan if the distribution was used to purchase or construct a principal residence in a qualified disaster area but was not used because of the qualified disaster.

[1]Source: IRS Disaster relief frequently asked questions: Retirement plans and IRAs under the SECURE 2.0 Act of 2022 | Internal Revenue Service

- **Plan loan relief**: Increased limit on the amount a qualified individual may borrow from the individual's account under an eligible retirement plan (not including an IRA). An employer may also provide qualified individuals up to an additional year to repay their plan loans.

Qualified Disaster Relief: Industry Trends

Fiducient Advisors reached out to various recordkeepers to gauge the interest and adoption of the Qualified Disaster Relief provision. Below is the information gathered from the recordkeepers.

- Empower: As of November 1, 2024, 8% of Empower clients have adopted this provision.
- Fidelity: Sent out a client survey and as of June 30, 2024, approximately 50% of clients indicated they plan to add this provision.
- T. Rowe Price: Qualified disaster relief is currently not offered on the platform and they have seen minimal interest from clients.
- Schwab: Sent out a client survey and as of December 31, 2023, 10% of clients indicated they plan to add this provision.
- TIAA: Sent out a client survey in April 2024 and based on 305 responses, 50% of clients indicated they were either likely to or going to adopt the provision.

Student Loan Matching: What is it?

Section 110 of Secure 2.0 allows for Plan Sponsors of qualified plans to match contributions based on employee's student loan payments instead of their elected contributions. Some participants with student loans have elected not to contribute to their retirement plan because of the need to pay off these loans, while also saving for significant purchases such as a house. The goal of this provision is to allow the participant to continue to pay off their student loan, while also benefitting from saving for retirement through employer contributions to the retirement plan. The IRS issued a notice, 2024-63, which provides guidance on this ruling. Below is a summary of some key points in the guidance[2]:

- **Student Loan Payment Qualification Standard:** A payment made by the employee (must be the person on the loan or a cosigner) during the year to pay off education loans for themselves, a spouse or a dependent.

- **Contribution Limits:** The maximum dollar amount allowed to be considered for matching contributions must be the lesser amount of either the annual deferral limit for that year or the compensation that year for the employee. The contributions must be from a student loan payment during the plan year.

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[2]Source: NFP: IRS Issues SECURE 2.0 Guidance on Student Loan Matching

- **Certification Requirements for Student Loans:** Plan Sponsors are allowed to require certifications for each student loan or they can permit one annual certification. These certifications must specify student loan payment amount, date of payment, proof of payment, proof that the loan is for education and that the loan is in the name of the employee.

- **The Ability for Plan Sponsors to Maintain Reasonable Procedures:** The guidance allows for Plan Sponsors to enact reasonable procedures as part of the implementation of this procedure. These reasonable procedures may include having a single claim deadline for the year or having multiple deadlines during the year if the deadline(s) can be considered reasonable. The guidance states that having a once-a-year deadline three months after the end of the plan year would be considered reasonable.

- **Non-Discrimination Testing:** Plan Sponsors are allowed to apply separate ADP (Actual Deferral Percentage) tests for employees in the student loan program and employees not in the student loan program.

Student Loan Matching: Industry Trends

Fiducient Advisors reached out to various recordkeepers to gauge the interest and adoption of the Student Loan Matching provision. Below is the information gathered from the recordkeepers.

- Empower: As of November 1, 2024, less than 1% of Empower clients adopted this provision.
- T. Rowe Price: As of December 31, 2024, 3% of T. Rowe Price clients added this feature.
- Schwab: Sent out a client survey in December 2023. As of December 12, 2023, 0% of clients indicated they were going to add this provision, with 30% responding "maybe."
- TIAA: Sent out a client survey in April 2024 and based on 305 responses, 25% of clients indicated their likelihood or intention to adopt the provision.

Treatment of Employer Contributions as Roth: What is it?

Section 604 of SECURE 2.0 gives Plan Sponsors the ability to allow employees to designate matching or nonelective contributions as a Roth contribution.[3] Historically, all employer contributions (company match, nonelective/core contributions or any other contribution) must be contributed as traditional pre-tax. This provision would allow for the employees to elect to have employer money contributed as Roth (post-tax). To designate a matching contribution as Roth, an employee must be fully vested at the time of the contribution for the source they are electing to have the deferral made as Roth. This applies to both company matching contributions and nonelective contributions. If an employee is partially vested for company match contributions, they would not be able to elect a Roth contribution for

[3]Source: IRS: Internal Revenue Bulletin: 2024-02 | Internal Revenue Service

the company match. One of the differences from regular Roth employee contributions is that matching or nonelective Roth contributions must be reported on Form 1099-R for the year they are made to a participant's account. In addition, a Roth matching or nonelective contribution is included in the participant's gross income during the taxable year that the contribution is placed in the participant's account. This is true even if the matching or nonelective contribution was made on the last day of the prior taxable year for the employer.

Treatment of Employer Contributions as Roth: Industry Trends

Fiducient Advisors reached out to various recordkeepers to gauge the interest and adoption of the Treatment of Employer Contributions as Roth provision. Below is the information gathered from the recordkeepers.

- T. Rowe Price: As of December 31, 2024, 11% of T. Rowe Price clients adopted this provision.
- Schwab: Sent out a client survey in December 2023. As of December 31, 2023, 4% of clients indicated they plan to add this provision.
- TIAA: Sent out a client survey in April 2024 and based on 305 responses, 19% of clients indicated they were either likely to or going to adopt the provision.

Distributions for Domestic Abuse Victims: What is it?

Section 314 of Secure 2.0 allows for qualified plans to offer penalty free withdrawals for plan participants who are victims of domestic abuse.[4] Participants who have experienced domestic abuse within the past year are permitted to withdraw the lesser of $10,000 or 50% of their account penalty free. The participant will then have the opportunity to repay the withdrawn amount over the course of three years. There are no restrictions on the ability for a participant to take future distributions if they need to do so. The IRS issued a notice which also stated that if a plan does not offer domestic abuse distributions, participants would still be able to treat the distribution as a domestic abuse distribution on their federal income tax return. However, the participant would need to demonstrate that the distribution qualifies as a domestic abuse distribution.

Distributions for Domestic Abuse Victims: Industry Trends

Fiducient Advisors reached out to various recordkeepers to gauge the interest and adoption of the Distributions for Domestic Abuse Victims provision. Below is the information gathered from the recordkeepers.

- Empower: As of November 1, 2024, 10% of Empower clients adopted this provision.
- Fidelity: Sent out a client survey in June 2024 and as of June 30, 2024, approximately 40% of clients indicated they were going to add this provision.
- T. Rowe Price: As of December 31, 2024, 12% of T. Rowe Price clients adopted this provision.

[4]Source: Morgan Lewis: Guidance on Distributions for Emergency Personal Expense and Domestic Abuse Victims – ML BeneBits

- Schwab: Sent out a client survey in December 2023. As of December 31, 2023, 6% of clients indicated they were going to add this provision.
- TIAA: Sent out a client survey in April 2024 and based on 305 responses, approximately 60% of clients indicated they were either likely to or going to adopt the provision.

Self-Certification of Hardships: What is it?

Section 312 of SECURE 2.0 allows for Plan Sponsors to add the self-certification of hardships for plan participants.[5] Plan participants would have the ability to self-certify that the distribution meets the requirements for a hardship distribution. The purpose of this provision is to remove administrative barriers from those who need the distribution in a timely manner. The participant must certify that the distribution satisfies at least one of the following safe harbor standards for a hardship distribution:

- Purchase of Principal Residence
- Medical Expenses
- Prevention of Eviction or Foreclosure from Principal Residence
- Repair of Damage to Principal Residence
- Tuition and Fees for Post-secondary Education
- Burial or Funeral Expenses
- FEMA Declared Disaster

Self-Certification of Hardships: Industry Trends

Fiducient Advisors reached out to various recordkeepers to gauge the interest and adoption of the Self Certification of Hardships provision. Below is the information gathered from the recordkeepers.

- Fidelity: Sent out a client survey in June 2024 and as of June 30, 2024, approximately 55% of clients indicated they were going to add this provision.
- T. Rowe Price: As of December 31, 2024, 13% of T. Rowe Price clients have adopted this provision.
- TIAA: Sent out a client survey in April 2024 and based on 305 responses, approximately 50% of clients indicated they were either likely to or going to adopt the provision.

The SECURE 2.0 Act introduces optional provisions that enhance retirement plan offerings by addressing specific participant needs. Qualified disaster relief provides tax-favored access to funds during crises, while student loan matching helps employees balance loan repayment and retirement savings. The option to treat employer contributions as Roth contributions offers tax benefits and flexibility. Distributions for domestic abuse victims ensure penalty-free

[5]Source: Vanguard [SECURE 2.0 Act optional provision guide: Self certification]

access to funds for those in vulnerable situations, and self-certification of hardships simplifies fund access during emergencies. It is important for Plan Sponsors to continue to monitor these new provisions and decide which, if any, they would like to adopt in the ever-evolving retirement plan landscape. Please contact the professionals at Fiducient Advisors to further discuss any of these optional provisions of SECURE 2.0.

About the Author

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As a Senior Consulting Analyst, Dan focuses on quarterly performance reporting and monitoring, vendor searches, fund menu design and plan diagnostics for all types of defined contribution clients. He joined Fiduciary Investment Advisors in 2017, which combined with Fiducient Advisors in 2020. He earned his MBA and BA at the University of Connecticut, and enjoys spending time with his family, traveling and golf.