Action Required - SECURE 2.0 Amendment for Your Retirement Plan

Dear Plan Sponsor:

Your retirement plan document must be amended to comply with the provisions of the SECURE 2.0 Act (SECURE 2.0). See below Frequently Asked Questions (FAQ) providing additional detail on the amendment.

Attached are your plan's documents:

- SECURE 2.0 amendment **for your signature**
- Summary of Material Modifications (SMM) (if we provide you with Summary Plan Descriptions and SMMs)

Action Required

- **Review the document(s) to confirm they align with your plan administration.** You should consult with your legal counsel and/or other advisor(s) to assist with this review to the extent you deem appropriate.
- **Electronically sign field prompting an e-signature within 30 days of receipt of this document package**. A failure to timely sign the amendment could put your plan's tax-qualified status at risk. See FAQ for information on IRS deadline to sign amendment.
- If you need to make any changes to the provisions provided for in the amendment, please contact your Empower representative. **Changes must be requested prior to September 1, 2026.**
- **For plans subject to ERISA, ensure the SMM is timely distributed.** All eligible participants and beneficiaries must receive a copy no later than 210 days after the close of your Plan Year in which any change(s) is/are adopted as required by the Department of Labor (DOL). New plan participants must also receive a copy of the SPD no later than 90 days after joining the plan.
- Keep copies of your updated plan documents in your records.

If you have questions, please contact your Empower representative.

FAQ: SECURE 2.0 Amendment

The information provided is for general informational purposes only and does not address specific situations or fact patterns. Plan sponsors are advised to consult their tax and/or legal advisor for specific guidance as to their Plan(s).

Q: What is the SECURE 2.0 Act and how does it impact retirement plan documents?

A: The SECURE 2.0 Act (SECURE 2.0), enacted into law on December 29, 2022, is comprehensive legislation that includes numerous retirement plan provisions going into effect over multiple years. It builds on provisions from the original SECURE Act (SECURE 1.0) enacted in December 2019 and is aimed at improving retirement savings and coverage.

Q: What are the changes under SECURE 2.0?

A: SECURE 2.0 includes both mandatory and optional changes impacting retirement plans. See below chart for an overview highlighting some key provisions included in the amendment. Prior communications from Empower covered the changes in more detail and offered elections for optional provisions applicable to your plan.

Q: Is a plan document amendment required for SECURE 2.0?

A: Yes. A plan document must be amended for SECURE 2.0. Even if a plan does not implement any optional SECURE 2.0 provisions, an amendment is required for mandatory provisions such as the increase in the required minimum distribution age. The amendment provided for SECURE 2.0 will depend on the type of plan and optional provisions applied to the plan.

Q: When must plans be amended for SECURE 2.0?

A: The IRS deadline to sign a SECURE 2.0 amendment is 12/31/2026 (12/31/2028 for collectively bargained plans, 12/31/2029 for governmental plans). Adopting a SECURE 2.0 amendment in advance of the deadline will assist you in documenting your administration of SECURE 2.0 provisions many of which went into effect in prior years. For example, your plan document will reflect the current required beginning date change for RMDs.

Q: Do plans need a SECURE 2.0 amendment if a SECURE 1.0 amendment was adopted or the plan was otherwise amended (e.g., for a discretionary change)?

A: Yes, the SECURE 2.0 amendment is a separate required amendment. The amendment for SECURE 1.0 was previously provided to plan sponsors.

Q: Is a Summary of Material Modifications (SMM) required for SECURE 2.0?

A: Yes, an SMM communicates changes made by SECURE 2.0 to participants.

- The SMM we provide to you updates your existing SPD to reflect new provisions under SECURE 2.0.
- For plans subject to ERISA, the SMM must be provided to participants by 210 days after the end of the plan year in which the changes are adopted. For a calendar year plan, that would be July 29, 2027, presuming the changes are adopted in 2026.

If you use a custom SPD, it is your obligation to determine whether the provided SMM is sufficient for your needs and revise as necessary prior to distribution. You will need to append the SMM to the SPD you maintain or update the SPD you maintain.

Q: Can we provide an updated SPD instead of the SMM?

A: Yes, you can provide an updated SPD, rather than an SMM, to participants. If your plan is later amended and you receive an updated SPD that reflects the changes in these amendments, it is sufficient to provide that updated SPD.

Q: I have a governmental plan. Do I have to distribute the SMM?

A: Governmental employers are not required to provide an SPD or SMMs under federal requirements. However, you may have previously been provided with an optional Summary of Plan Provisions or Summary Plan Description with your plan document.

- If you previously provided a summary to plan participants, you should provide the SMM to current participants and distribute both the summary and the SMM to new participants.
- If you have never received or provided a summary, you are not required to provide an SMM to participants.

SECURE 2.0 Key Amendment Provisions

Following is a summary of key provisions in the SECURE 2.0 plan amendment.

SECURE 2.0 Provision	Effective Date	Plans Affected	Explanation
Mandatory automatic enrollment (SECURE 2.0 Section 101)	Plan years after 12/31/2024	401(k), 403(b)	Requires new plans to include automatic enrollment and automatic increase provisions with the option for the participant to opt out. Applies to new plans established on or after December 29, 2022, unless a statutory exemption applies.
Age increase for Required Minimum Distributions (RMDs) (SECURE 2.0 Section 107)	Applies to distributions required to be made after December 31, 2022	401(a), 401(k), 403(b), 457(b)	Increases the age used for an individual’s Required Beginning Date for RMDs first to age 73 and later to age 75.
Higher catch-up limit for participants ages 60-63 (SECURE 2.0 Section 109)	Taxable years beginning after December 31, 2024	401(k), 403(b), Govt 457(b)	Increases Catch-Up Limit for participants age 60–63.
Student loan match (SECURE 2.0 Section 110)	Plan years after 12/31/2023	401(k), 403(b), 457(b), Govt 457(b)	Permits plans to treat student loan payments as elective deferrals for purposes of matching contributions.
Emergency expense withdrawals (SECURE 2.0 Section 115)	Distributions made after 12/31/2023	401(a), 401(k), 403(b), Govt 457(b)	Allows participants to take an emergency personal expense withdrawal, which is exempt from the 10% early distribution penalty. The distribution is up to the lesser of $1,000 or vested account balance minus $1,000.
Long-Term Part-Time (LTPT) Employees (SECURE 2.0 Section 125)	Plan years after 12/31/2024	401(k), 403(b) covered by ERISA	Requires plans to allow LTPT employees (those working ≥ 500 hours in each of two consecutive years) to make elective deferrals.
Increase in maximum mandatory distribution threshold (SECURE 2.0 Section 304)	After 12/31/2023	401(a), 401(k), 403(b), Govt 457(b)	Allows plans to increase the mandatory cashout/auto-rollover threshold to $7,000.
Eliminate the “first day of the month” requirement (SECURE	After 12/31/2022	Govt 457(b)	Allows deferral election changes to be effective immediately by policy, rather than on the first of the month.

2.0 Section 306)			
Top-heavy nonelective rule (SECURE 2.0 Section 310)	Plan years after 12/31/2023	401(a), 401(k)	Permits exclusion of Otherwise Excludable Employees (OEEs) from getting top-heavy minimum contributions
Self-certification of hardships (SECURE 2.0 Section 312)	12/29/2022	401(k), 403(b), Govt 457(b)	Permits reliance on self-certification for hardships/457(b) unforeseeable emergencies (with limited exceptions).
Domestic Abuse Distributions (SECURE 2.0 Section 314)	After 12/31/2023	401(a), 401(k), 403(b), Govt 457(b)	Allows plans to permit a participant that self-certifies that the participant experienced domestic abuse to take a distribution within one year of an incident of abuse.
403(b) plan hardship withdrawals (SECURE 2.0 Section 602)	Plan years after 12/31/2023	403(b)	Permits hardship withdrawals to include not only employee contributions but also employer contributions such as employer matching, non-elective contributions, and related earnings.
Catch-ups made as Roth contributions (SECURE 2.0 Section 603)	Tax years after 12/31/2025	401(k), 403(b), Govt 457(b)	Catch-ups must be made as Roth contributions for participants whose FICA compensation exceeded $145,000 in the prior calendar year.

This summary does not include all changes in the plan amendment. Please carefully review the documents to ensure all plan terms accurately reflect the administration of your plan. These materials do not constitute tax or legal advice upon which any party can rely. Plan sponsors are encouraged to consult their own legal or tax advisors for questions on their specific situation.