

## SECURE 2.0 from the Defined Benefit Perspective

### Introduction

SECURE 2.0 was signed into law on December 29, 2022, as part of the Consolidated Appropriations Act, 2023. Setting Every Community Up for Retirement Enhancement (SECURE “1.0” to distinguish it from the latest legislation) was originally passed in 2019. In the years between the passage of the two laws, legislators have been very busy trying to improve the national retirement landscape for plan participants.

While the vast majority of the SECURE 2.0 provisions affect defined contribution plans, SECURE 2.0 included several provisions specific to defined benefit plans and some that affected both DC and DB plans. For example, the age at which participants must start taking the Required Minimum Distribution applies to both types of plans, as does the increase in the mandatory cash-out limits for lump sums.

The summary tables below are organized by SECURE 2.0 provisions affecting only DB plans (color coded in blue), those affecting both DB and DC plans (color coded in green), and a DC provision which may impact combo DB/DC plans (color coded in yellow). Each table includes the background, the change under SECURE 2.0, the effective date of the change, and the analysis or practitioner considerations including ASC programming impact.

With over 90 retirement plan related provisions included in SECURE 2.0, our summary is not meant to serve as an exhaustive list. In addition, guidance is needed for a number of the changes to help practitioners and plan participants navigate the requirements of SECURE 2.0.

### ASC Resources

ASC has your back! Since the law’s passage, ASC has been actively reviewing the new legislation to determine the impact on our systems – DGEM Plan Documents, DC and DB valuation and compliance testing and administration systems, DGEM 5500, and our CRM products, PensionPal and CATTs.

Refer to [www.asc-net.com/secure-act-2](http://www.asc-net.com/secure-act-2) for future updates and alerts related to SECURE 2.0. The page currently has an ASC Alert released in December 2022 summarizing:

- Key provisions for retirement plans
- ASC’s approach for implementing needed modifications
- ASC product-by-product summary of key provisions and the needed modifications to the product
- A detailed table summarizing SECURE 2.0 provisions and their effective dates

Stay tuned for future announcements of programming changes during our webcasts and news alerts throughout the year.

## Provisions affecting DB Plans

Mortality Improvement Factors (Sec. 335)		
<p><b>Background</b></p> <ul style="list-style-type: none"> <li>• Certain valuation requirements include the use of a base mortality table combined with mortality improvement factors (sometimes referred to as generational projection scales).</li> <li>• The combined effect of using base mortality tables and mortality improvement factors is to have age-adjusted mortality decrements (“generational mortality”).</li> <li>• In general, the Society of Actuaries (SOA) has published generational projection scales and the IRS has cited the SOA scales in their notices.</li> <li>• The most recent set of mortality improvement factors included in an IRS Notice were the MP-2021 factors (published by the SOA).</li> </ul>		
SECURE 2.0 Change	Effective	Analysis
<ul style="list-style-type: none"> <li>• A plan’s mortality improvement factors will be capped at 0.78.</li> <li>• The 0.78 cap is subject to change by regulation in the future.</li> </ul>	<ul style="list-style-type: none"> <li>• Beginning with valuation dates occurring in 2024 and later.</li> </ul>	<ul style="list-style-type: none"> <li>• We expect the IRS to publish mortality improvement factors reflecting the 0.78 cap to mortality improvement rates imposed by SECURE 2.0.</li> <li>• Plans using generational mortality for funding purposes would use those published scales.</li> <li>• If the IRS publishes uncapped mortality improvement rates, programming changes would be required to impose the 0.78 cap on the mortality improvement rates used for funding valuations.</li> <li>• Since the cap requirement will be in effect starting with valuations in 2024, we expect the IRS to publish the mortality improvement factors sometime in late 2023.</li> <li>• ASC will determine next steps once the mortality improvement rates are published.</li> <li>• The SOA would likely continue to publish uncapped mortality improvement rates that might be used for ASC-715 reporting.</li> </ul>

Notice of Lump Sum Windows (Sec. 342)		
<p><b>Background</b></p> <ul style="list-style-type: none"> <li>• Participants making benefit elections during a plan’s lump sum window are faced with a daunting task of choosing between annuity benefit options and lump sums.</li> <li>• Layer on to the scenario the added stress of a lump sum window which operates on a short time frame for decision-making, and participants may be left making decisions that work against their retirement interests in the long run.</li> <li>• The appeal of taking a single lump sum distribution in lieu of a monthly annuity is high and without the right information, participants may not understand that the “true value” of a single lump sum could be less than the value of an annuity benefit.</li> </ul>		
SECURE 2.0 Change	Effective	Analysis
<ul style="list-style-type: none"> <li>• A new Section 113 is added to ERISA which provides new notice and disclosure requirements to participants for plans offering a lump sum window.</li> <li>• The general requirements are geared to: <ul style="list-style-type: none"> <li>○ Providing participants with plain language information notifying them of the window,</li> <li>○ Providing details meant to assist participants in assessing the decision to elect a lump sum during the lump sum window timeframe, and</li> <li>○ Imposing deadlines to provide notices to participants, the DOL, and the PBGC.</li> </ul> </li> <li>• The law instructs the Secretary of Labor to issue a model notice.</li> </ul>	<ul style="list-style-type: none"> <li>• The DOL and IRS must issue guidance (including a Model Notice) no later than 12/29/2023.</li> <li>• The new reporting requirements will go into effect within one year of the date guidance is released.</li> </ul>	<ul style="list-style-type: none"> <li>• Once guidance is released, plan sponsors and administrators who plan to offer a lump sum window in the future should anticipate reviewing the updated disclosure requirements.</li> <li>• ASC programming changes will be evaluated once guidance is released.</li> <li>• ASC’s DB Valuation System’s participant termination and optional forms programming should already include the benefit amounts and related factors that may be needed for the new disclosures.</li> </ul>

Annual Funding Notice (Sec. 343)		
<p><b>Background</b></p> <ul style="list-style-type: none"> <li>DB plans subject to Title IV of ERISA have been subject to Annual Funding Notice (AFN) requirements since the implementation of the Pension Protection Act of 2006 (PPA).</li> <li>The AFN is provided in lieu of the Summary of Annual Reports (SAR) to plan participants and includes funding levels as well as other information intended to provide participants with a better understanding of the liabilities and funding levels of the plan.</li> </ul>		
SECURE 2.0 Change	Effective	Analysis
<ul style="list-style-type: none"> <li>Adopts several clarifying changes to the required notice.</li> <li>Notable edits include: <ul style="list-style-type: none"> <li>Replacing ‘funding target attainment percentage’ with ‘percentage of plan liabilities funded’,</li> <li>Adding a disclosure of the average return on assets for the plan year and preceding 2 plan years, and</li> <li>Adding a statement if assets are determined to be sufficient to pay vested benefits not guaranteed by the PBGC.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>The modifications to the AFN must be made for plan years beginning on or after 1/1/2024.</li> <li>The AFN for plan years beginning on or after 1/1/2024 would be due no later than 120 days after the end of the plan year. For a calendar year 2024 plan, the AFN would be due no later than 4/30/2025.</li> </ul>	<ul style="list-style-type: none"> <li>ASC’s DGEM 5500 will make available the updated AFN in time for the first reporting year required to reflect the updates.</li> </ul>

Cash Balance Cap on Interest Crediting Rate for Accrual Rules Testing (Sec. 348)		
<p><b>Background</b></p> <ul style="list-style-type: none"> <li>DB plans are subject to various compliance requirements, including demonstrating that accrual rules under IRC 411(b) are satisfied.</li> <li>The 411(b) accrual rules include the 3-percent method, 133% rule, and fractional rule.</li> <li>The use of variable interest rates was given regulatory clarity for accrual testing with the issuance of final 1.411(b)(5)-1 regulations in 2010.</li> <li>Practitioners have in effect been testing cash balance plan compliance with accrual rules based on testing with current plan year’s interest crediting rate.</li> </ul>		
SECURE 2.0 Change	Effective	Analysis
<ul style="list-style-type: none"> <li>Adds to the 411(b) accrual rule requirements for cash balance plans with variable interest crediting rates.</li> <li>The new language states that the interest crediting rate treated as in effect and as the projected interest crediting rate shall be a reasonable projection of the variable interest crediting rate, but subject to a cap of 6%.</li> </ul>	<ul style="list-style-type: none"> <li>This change goes into effect for plan years beginning after 12/29/2022.</li> </ul>	<ul style="list-style-type: none"> <li>Cash balance plan sponsors and administrators with variable interest crediting rates should review the assumptions used for accrual rules testing.</li> <li>Users should reflect the 6% cap, as appropriate, for compliance testing purposes.</li> <li>SECURE 2.0 does not mention the 6% cap as applying to other compliance testing requirements (e.g., 401(a)(26), 410(b), or 401(a)(4)) or funding purposes.</li> <li>Accrual Testing is generally completed outside of ASC’s Valuation and Combo Testing System, therefore, no additional programming is planned.</li> </ul>

PBGC Variable Rate Premium (Sec. 349)		
<p><b>Background</b></p> <ul style="list-style-type: none"> <li>For PBGC-covered DB plans, the Flat Rate Premium, MAP-21 Cap, and Variable Rate Premium rates are subject to annual indexing.</li> <li>The increases due to indexing have caused total premium amounts to increase significantly for underfunded plans.</li> </ul>		
SECURE 2.0 Change	Effective	Analysis
<ul style="list-style-type: none"> <li>The Variable Rate Premium will no longer be subject to inflationary indexing and will remain at the 2023 level of \$52 per \$1,000 of unfunded vested benefits.</li> <li>Future legislation is required to make a change to this rate.</li> </ul>	<ul style="list-style-type: none"> <li>This change goes into effect as of 12/29/2022.</li> </ul>	<ul style="list-style-type: none"> <li>ASC’s DB Valuation system will reflect updates to the Flat Rate Premium and MAP-21 rates since these rates will continue to be subject to inflationary increases.</li> <li>The applicable Variable Rate Premium rate will remain level at \$52 per \$1,000 of underfunding until future legislative changes are enacted.</li> </ul>



## Selected Provisions affecting Both DB and DC Plans

Required Minimum Distributions (RMDs) (Sec. 107)		
<b>Background</b> <ul style="list-style-type: none"> <li>The RMD increased from age 70 ½ to 72 under the SECURE 1.0 legislation in 2019.</li> </ul>		
SECURE 2.0 Change	Effective	Analysis
<ul style="list-style-type: none"> <li>Increase the age for RMDs to 73 for those turning 72 after 12/31/2022, and age 75 for those turning 74 after 12/31/2032.</li> </ul>	<ul style="list-style-type: none"> <li>This change applies to distributions required to be made after 12/31/2022 with respect to individuals who attain age 72 after that date.</li> </ul>	<ul style="list-style-type: none"> <li>Practitioners will need to update their internal procedures with the new requirements.</li> <li>ASC's DB and DC systems will expand existing RMD reports to reflect the new RMD ages as the change in age requirements become effective.</li> </ul>

Increased Involuntary Cash-out Limit (Sec. 304)		
<b>Background</b> <ul style="list-style-type: none"> <li>The involuntary cash-out limit has been \$5,000 for many years.</li> </ul>		
SECURE 2.0 Change	Effective	Analysis
<ul style="list-style-type: none"> <li>The cash-out limit is increased to \$7,000 for distributions.</li> </ul>	<ul style="list-style-type: none"> <li>This change goes into effect for distributions occurring after 12/31/2023.</li> </ul>	<ul style="list-style-type: none"> <li>For DB plans, this SECURE 2.0 provision can be handled through the ASC DB Valuation System's reporting for benefit statements.</li> <li>In ASC's DB Valuation System Participant Termination Optional Forms program, users can enter an amount in the Involuntary Cashout Limit field that prints on the PBGC Notice of Plan Benefits.</li> <li>Practitioners should plan to incorporate the involuntary cash-out limit change in participant election forms and related distribution paperwork.</li> </ul>

Extended Deadline for Discretionary Amendments Increasing Benefits (Sec. 316)		
<b>Background</b> <ul style="list-style-type: none"> <li>Retroactive amendments increasing benefits were permitted in only limited and specific circumstances.</li> <li>For example, it would be permissible to retroactively increase benefits as part of an 11(g) corrective amendment to ensure that the plan was in compliance with IRC 401(a)(26) meaningful benefit requirements.</li> </ul>		
SECURE 2.0 Change	Effective	Analysis
<ul style="list-style-type: none"> <li>An employer is permitted to adopt a retroactive plan amendment increasing benefits as late as the employer's tax filing deadline (including extension) if the amendment takes effect as of any date within the previous plan year.</li> <li>The employer has the option to treat the amendment as if it had been adopted as of the last day of the plan year in which the amendment is effective.</li> </ul>	<ul style="list-style-type: none"> <li>This change is effective for plan years beginning after 12/31/2023.</li> </ul>	<ul style="list-style-type: none"> <li>Practitioners and plan sponsors should be aware of the updated deadline requirements if a retroactive amendment to increase plan benefits is under consideration.</li> <li>Additional guidance may help provide clarity on the extent that this new provision impacts or interacts with other Code sections.</li> </ul>

Paper Statements (Sec. 338)		
<b>Background</b> <ul style="list-style-type: none"> <li>The delivery of participant benefit statements has largely shifted from paper to electronic delivery.</li> </ul>		
SECURE 2.0 Change	Effective	Analysis
<ul style="list-style-type: none"> <li>DC participants must receive at least one paper benefit statement per year.</li> <li>DB participants must receive a paper benefit statement every three years.</li> <li>The new paper delivery requirement applies unless a participant affirmatively elects to receive electronic delivery of statements.</li> </ul>	<ul style="list-style-type: none"> <li>Applies for plan years beginning after 12/31/2025.</li> </ul>	<ul style="list-style-type: none"> <li>Plan sponsors and administrators will need to anticipate the periodic delivery of paper statements to plan participants and/or put in place a system that allows participants to affirmatively elect electronic delivery of statements instead.</li> </ul>

## Provisions affecting DC Plans Which May Impact DB Plans

Separate Top-heavy Minimum Requirements for Excludable and Non-excludable Employees (Sec. 310)		
<b>Background</b> <ul style="list-style-type: none"> <li>The ability to exclude employees who have not yet met minimum age and service requirements has been available for other compliance purposes.</li> </ul>		
SECURE 2.0 Change	Effective	Analysis
<ul style="list-style-type: none"> <li>For purposes of determining if the top-heavy minimum has been satisfied for a DC plan, plan sponsors may exclude employees who have not yet met the statutory minimum age and service eligibility requirements for participation (21 years of age and 1 year of service).</li> </ul>	<ul style="list-style-type: none"> <li>This provision is effective for plan years beginning after 12/31/2023.</li> </ul>	<ul style="list-style-type: none"> <li>While the top-heavy determination and DB top-heavy minimum benefits are unaffected, DC top-heavy minimum contribution tests would be updated for this new DC option.</li> <li>DB practitioners performing top-heavy minimum benefit testing on a DB plan that relies upon DC allocations for compliance with IRC 416(c) will need to be aware that the DC plan may not be providing top-heavy contributions to participants that have not met the statutory 21 and 1 year of service eligibility requirement.</li> <li>Additional guidance is needed for plan sponsors to administer DB/DC combo plans and the potential conflict in the interaction of the SECURE 2.0 changes for DC plan top-heavy minimum requirements with existing DB plan top-heavy minimum requirements which did not change.</li> </ul>

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