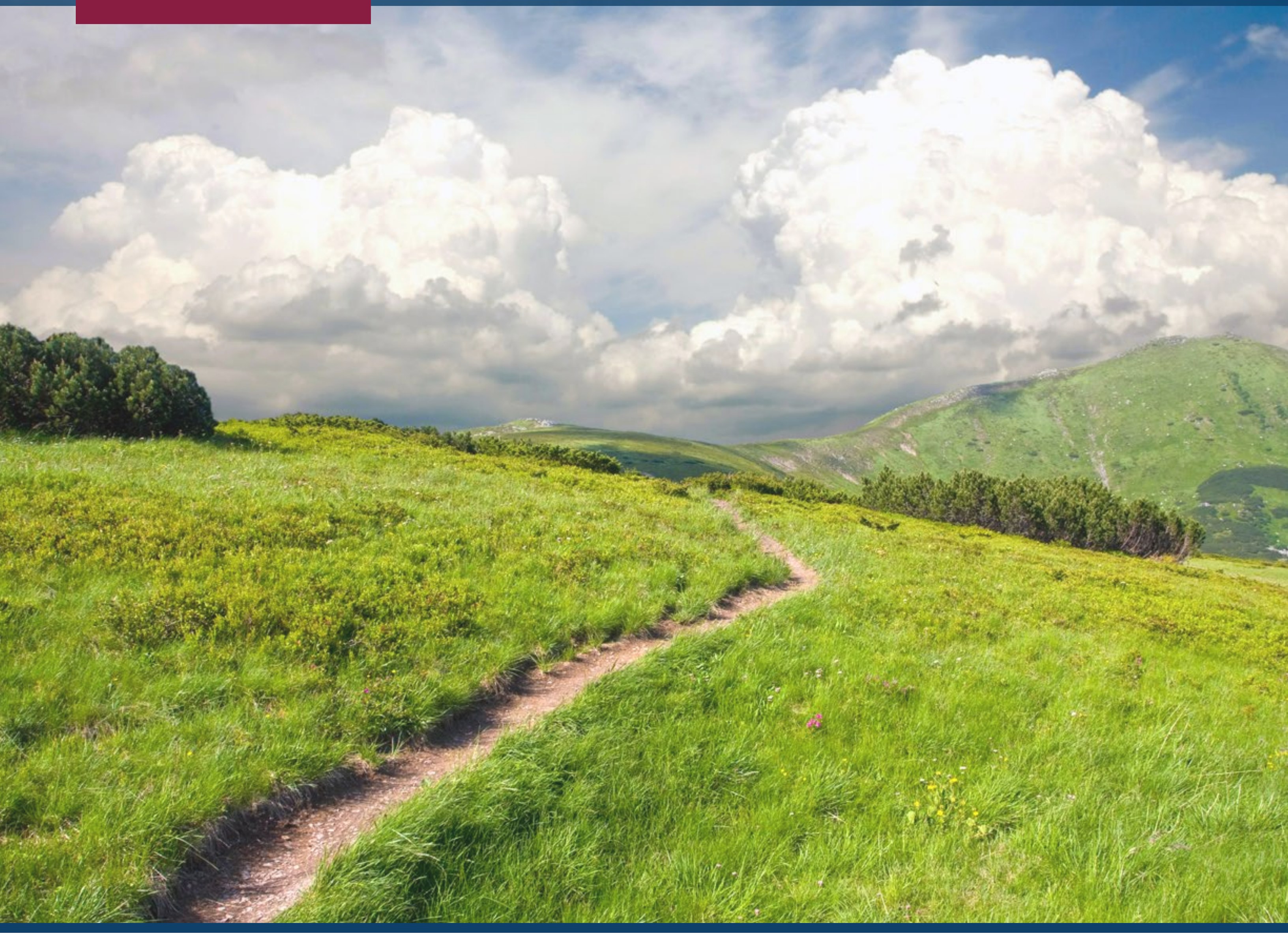
ALLIANT WEALTH ADVISORS
Qualified Plans Division

The SECURE Act

Key Provisions of Interest to 401(k) Plan Sponsors



Enacted in the final days of 2019, the Setting Every Community Up for Retirement Enhancement (SECURE) Act seeks to help Americans enjoy greater financial security in retirement.

Employers need to be aware of what's included in the Act. There are tax incentives to encourage 401(k) sponsors to adopt plan design best practices – or establish a 401(k) plan if they don't currently offer one. The SECURE Act includes other provisions. Some provide greater plan design choice for employers; others affect plan management, both easing requirements and creating new ones. Most provisions of the SECURE Act take effect immediately, although 401(k) sponsors have until the end of the 2022 plan year to adopt conforming amendments to their plan documents. Importantly, employers need be even more mindful of filing and registration deadlines and notification requirements as the Act increases ten-fold certain penalties for noncompliance.

PROVISION	DESCRIPTION
Tax Incentives to Encourage Best Practices	
Automatic Enrollment Tax Credit	Small employers whose plans are without automatic enrollment may adopt this plan design feature beginning January 1, 2020, and receive a $500 per year tax credit for three years after implementation. Small employers are defined as those with 100 or fewer employees receiving compensation of $5,000 or more.
New 401(k) Plan	Tax incentives increase for small employers establishing a 401(k) plan beginning January 1, 2020. The new higher tax credit is the greater of $500 **OR** the lesser of $250 times the number of non-highly-compensated employees eligible to participate in the plan or $5,000. Small employers are defined as those with 100 or fewer employees receiving compensation of $5,000 or more.
New Options, Reduced Requirements, Employer Protections	
Higher Automatic Enrollment Safe Harbor Levels	Employers may automatically escalate participant deferrals to 15 percent after their first year in a Safe Harbor automatic enrollment plan. First year automatic enrollment deferrals of 10 percent are permitted.
Election of Safe Harbor 401(k) Status	Employers may adopt a non-elective Safe Harbor provision, with a 3 percent contribution, any time prior to 30 days before the end of the plan year. A non-elective Safe Harbor provision, with a 4 percent contribution, may be implemented during the final 30 days of the plan year and into the subsequent plan year.
Eased Notification Requirement for Safe Harbor Non-elective 401(k) Plans	Employers need no longer distribute an annual Safe Harbor notice to participants in a non-elective Safe Harbor plan. Annual notices are still required for Safe Harbor matching plans.
Plan Adoption Flexibility	Employers may adopt a 401(k) plan effective as of the last day of the tax year prior to the due date of their tax return (including extensions).
Fiduciary Safe Harbor for Lifetime Income Provider Selection	Employers offering a guaranteed income contract in their 401(k) plan are now protected from liability in their selection should the insurer be unable to fulfill future financial obligations, if they follow the ERISA 404(e) "prudence" safe harbor.
New Requirements	
Eligibility for Long-Term Part-Time Employees	Employers must allow part-time employees who work at least 500 hours per year for three consecutive years to participate in the 401(k) plan but need not include them in non-discrimination testing. Plan years before January 1, 2021 shall not be taken into account to determine eligibility.
Required Minimum Distribution Age Increased to 72	The age at which Required Minimum Distributions must be made to eligible participants has been raised to 72, for individuals who attain age 70 1/2 after December 31, 2019. Other changes impact RMDs for beneficiaries of deceased participants.
Penalty-free Withdrawals in Connection with Birth or Adoption	The 10 percent early withdrawal penalty is waived for distributions of childbirth and adoption expenses up to $5,000. The withdrawals may be re-paid.

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New Requirements, continued	
Qualified Disaster Distributions	The 10 percent penalty is waived for early withdrawals up to $100,000 to sustain economic loss to a principal residence in a federally-declared disaster area occurring between January 1, 2018 and within 60 days after the enactment of the Taxpayer Certainty and Disaster Relief Act of 2019.* Withdrawals must be made within 180 days after the bill's enactment. They may be included in income spread evenly over a three-year period, or they may be repaid within three years. Also, the maximum plan loan for such an economic loss may be increased to $100,000 with the loan repayment period extended. *This provision was not included in the SECURE Act but in the Taxpayer Certainty and Disaster Relief Act, which was passed at the same time as the SECURE Act.
Plans Loans through Credit Cards	Plan loans through credit cards or similar arrangements are now prohibited.
Participant Lifetime Income Statements	Participant benefits statements must provide a lifetime income illustration at least annually, after the release of DOL guidance.
Lifetime Income Portability	Assets held in a lifetime income investment option, when such an investment option is no longer available, may be transferred without penalty.
Increased Penalties for Noncompliance	
Form 5500	Employers must file this annual plan form with the IRS by the last day of the seventh month after the plan year ends or two-and-a-half months later with extension. The IRS daily late penalty increases to $250, with a penalty maximum of $150,000 (from $25 and $15,000).
Registration Form 8955-SSA	Employers subject to vesting schedules must register information about separated participants with deferred vesting benefits at the time the Form 5500 is filed. The IRS daily late penalty increases to $10 per participant, with a penalty maximum for any plan year of $50,000 (from $1 and $5,000).
Operation Change Form 8822-B	Employers must notify the IRS of changes related to plan responsible parties or plan sponsor address within 60 days of their occurrence. The IRS daily late penalty increases to $10, with a penalty maximum of $10,000 (from $1 and $1,000).
402(f) Withholding Notices	Employers must provide participants seeking a distribution with a notice explaining the benefits of rolling over the distribution to a qualified retirement account and the tax consequences and potential early withdrawal penalties for not rolling over the distribution. The notice must be provided no less than 30 days and no more than 180 days before the distribution is to be made, although the participant may waive the 30-day period. Penalties for failure to provide the notice increase to $100 per participant, with an annual $50,000 maximum (up from $10 and $5,000)
On the Horizon	
Multiple/Pooled Employer 401(k) Plans	Unrelated employers may join a pooled employer plan, subject to certain conditions, beginning January 1, 2021. Regulatory guidance from the Department of Labor and the IRS is awaited.

**This document is not intended to be a comprehensive list of all provisions contained in the SECURE Act nor is it intended to contain complete regulatory details for each provision. Employers should consult with a knowledgeable professional to understand all aspects of each provision and determine whether the provision might benefit or relate to their 401(k) plan's operation.*

Alliant Wealth Advisors offers a complete 401(k) plan, helping employers select service providers and providing guidance in all areas of plan design and management. Alliant eases plan administration, reduces fiduciary risk and drives plan participants to better retirement outcomes. Alliant plans include low-fee institutional funds, professional investment management, and individualized guidance for plan participants.

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