**OPERATIONAL CHECKLIST FOR SECURE 2.0**

**INSTRUCTIONS**

In December 2022, Congress passed SECURE 2.0. For most employers, the deadline to amend for SECURE 2.0 is December 31, 2026 [see Notice 2024-2, Q&A I-1], and it is possible that the IRS will delay the deadline further. Therefore, with the lengthy delay between the adoption and effective date of these important changes, and the date that they will be memorialized in an interim amendment, it becomes important to keep track of an employer’s operational choices. Those choices will need to be reflected in the interim amendment, which, in turn, will need to be retroactively effective to the date those choices were implemented.

With that in mind we have prepared the attached operational checklist to facilitate keeping a record of the various operational choices an employer has made with regard to SECURE 2.0. Its use is entirely optional. If it is used, we recommend that it be kept with the plan document to assist in completing the ultimate interim amendment.

The checklist is based on options that we anticipate will be made available in our interim SECURE 2.0 amendment for ongoing plans and is limited to laws that are in effect before 2025. At present, we anticipate releasing that amendment late in 2025, taking into account all then-available guidance. The checklist does not address mandatory provisions or other sections of the law for which we do not anticipate providing an election in our ongoing plan amendment. It does include selections related to the LTPT proposed regulations and reflects the guidance in Notice 2024-2.

We hope you find this checklist helpful in recording the choices that have been made.

***Name of Plan: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_***

**OPERATIONAL CHECKLIST FOR SECURE 2.0**

1 **Roth Employer Contributions**. **(***SECURE 2.0 §604 allows defined contribution plans to allow employees to have their matching and/or nonelective contributions treated as Roth. The employee will pay tax on those contributions, but they will not be subject to FICA except for a governmental 457(b) plan (and, even then, only if the employer is subject to FICA). This option is limited to vested amounts. See Code §402A(a)(2) and Notice 2024-2, §L.)*

(a) [ ] Roth Employer Contributions are not available. *Skip to election 2.*

(b) [ ] Roth Employer Contributions may be elected for contributions made after \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. (*Enter date after December 29, 2022.*)

(c) [ ] Roth Employer Contributions may be elected only with respect to the following contributions*:* [Check all that apply]

(1) [ ] ADP safe harbor contributions (nonelective or matching)

(2) [ ] ACP safe harbor matching contributions

(3) [ ] Matching Contributions (other than ADP/ACP safe harbor contributions)

(4) [ ] Nonelective Contributions (other than ADP safe harbor contributions)

(5) [ ] Describe: *(must be definitely determinable and not*

*subject to discretion, e.g., “prevailing wage contributions”)*

(d) [ ] Describe additional limitations: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

*(must be definitely determinable and not subject to discretion)*

2 **RMDs.**

(a) [ ] Check if the Plan made RMD distributions in 2023 to participants born in 1951. *(SECURE 2.0 §107 increased the age at which most participants would need to begin required minimum distributions age 73, if the participants were born after 1950. This means employees born in 1951 were not required to receive RMDs in 2023. However, many plans were unable to adjust their systems to SECURE 2.0 and began RMDs for these individuals. Such a plan will want to check box 2(a) to indicate that they are delaying the effective date of this change. See Code §401(a)(9)(C)(v).)*

(b) [ ] Check if the Plan allows surviving spouses to be treated as though they were the employee. *(SECURE 2.0 §327 allows a plan to permit surviving spouses to elect to be treated as though they were the employee for purposes of the RMD rules. The spouse will therefore be able to use the uniform lifetime table and have slower RMDs. A plan that permits such an election will want to check box 2(b). See Code §401(a)(9)(B)(iv).)*

3 **Military Spouse Provisions**. *(SECURE 2.0 §112 allows small plans to receive up to a $500 credit relating to military spouse participants. To qualify for the credit, the plan cannot impose an eligibility requirement for the spouses of more than 2 months, must provide that the spouses are fully vested, and must provide the same employer contributions that the plan provides to participants with two years of service. See Code §45AA.)*

(a) [ ] The Plan does not implement special eligibility, contribution, and vesting rules for military spouses to qualify for a credit of up to $500.

(b) [ ] The Plan implements the military spouse rules effective . (*Enter date after December 31, 2022.*)

4 **Match Student Loan Payments**. *(SECURE 2.0 §110 allows a plan to match student loan repayments as though they were deferrals. If the plan selects this option, the rate of match and vesting must be the same as for deferrals. New Code §401(m)(13) has numerous rules that must be satisfied if the plan selects this option. As of this writing, the IRS has not provided any guidance with regard to this provision.)*

(a) [ ] The Plan will not match student loan repayments as though they were elective deferrals.

(b) [ ] The Plan will match student loan repayments made after . (*Enter date after December 31, 2023.*)

5 **Top-heavy**. *(SECURE 2.0 §310 allows a plan to avoid making top-heavy minimum contributions to otherwise excludable employees (employees with less than one YOS or who haven’t attained age 21). Code §416(c)(2)(C).)*

(a) [ ] The plan will not make top-heavy minimum contributions to otherwise excludable employees effective as of

. *(Enter date no earlier than the first day of the 2024 plan year)*

(b) [ ] If the plan is top-heavy, the plan will make top-heavy minimum contributions to otherwise excludable employees.

6 **Increase in Cash-Out Limit**. *(SECURE 2.0 §304 allows a plan to increase the cash-out limit to $7,000. This can impact mandatory distributions (which would be subject to default rollover requirements), the requirement to provide QJSAs and QPSAs, and the ability to elect distribution options other than lump sums. See Code §411(a)(11)(A).)*

(a) [ ] The cash-out limit will not be changed. *Skip to election 7.*

(b) [ ] The cash-out limit is increased to $7,000 effective:

(1) [ ] for distributions after December 31, 2023

(2) [ ] for distributions on or after the first day of the first plan year beginning in 2024

(3) [ ] for distributions made after . (*Enter date after December 31, 2023.*)

(c) [ ] The increase in the cash-out limit applies to *(Select (1) or all that apply of (2) – (4):*

(1) [ ] All distribution provisions specified below

(2) [ ] Mandatory distributions

(3) [ ] QJSA/QPSA thresholds

(4) [ ] Availability of distribution options (such as installments) other than lump sums

(d) [ ] Describe additional modifications: (*e.g., lower limit; must be definitely determinable and not subject to discretion*): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

7 **Emergency Personal Expense Distributions (EPEDs)**. *(SECURE 2.0 §115 allows a plan to provide penalty-free emergency personal expense distributions (EPEDs) of up to $1,000. Participants can take no more than one such distribution per year. A recipient can repay it within three years and if so, it is treated as a rollover. Hardship distribution restrictions do not apply to EPEDs. See Code §72(t)(2)(I).)*

(a) [ ] The plan will not make EPEDs. *Skip to election 8.*

(b) [ ] Participants can receive EPEDs effective . (*Enter date after December 31, 2023.*)

(c) [ ] EPEDs are available only for contributions in which the Participant is fully vested.

(d) [ ] EPEDs may be elected only with respect to the following contributions*:* [Check all that apply]

(1) [ ] Elective Deferrals

(2) [ ] Safe harbor contributions

(3) [ ] Employer matching contributions

(4) [ ] Employer nonelective contributions

(5) [ ] QNECs and QMACs

(6) [ ] Rollover contributions

(7) [ ] After-tax employee contributions

(8) [ ] Transferred accounts

(9) [ ] Describe: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ *(must be definitely determinable and not*

*subject to discretion)*

(e) [ ] EPEDs are not available if the Participant has severed employment.

(f) [ ] The minimum amount of an EPED is \_\_\_\_\_. (*Enter an amount equal to or less than $1,000*)

(g) [ ] A Participant who has received an EPED may not receive another EPED from the Plan during the immediately following three calendar years.

(h) [ ] Describe additional limitations *(must be definitely determinable and not subject to discretion):*

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

8 **Domestic Abuse Victim Distributions (DAVDs)**. *(SECURE 2.0 §314 allows a plan to provide penalty-free domestic abuse victim distributions (DVADs) of up to the lesser of $10,000 or 50% of a participant’s account balance. DVADs are not available if the plan is subject to the qualified joint and survivor annuity rules, such as a defined benefit plan. The plan can rely on the participant’s statement that the participant has suffered domestic abuse during the prior 12 months. A participant can repay the distribution within 3 years and if so, it is treated as a rollover. See Code §72(t)(2)(K).)*

(a) [ ] The plan will not make DAVDs. *Skip to election 9.*

(b) [ ] Participants can receive DAVDs effective \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. (*Enter date after December 31, 2023.*)

(c) [ ] DAVDs are available only for contributions in which the Participant is fully vested.

(d) [ ] DAVDs may be elected only with respect to the following contributions*:* [Check all that apply]

(1) [ ] Pre-Tax Elective Deferrals

(2) [ ] Roth Elective Deferrals

(3) [ ] Employer matching contributions (including safe harbor contributions and QMACs)

(4) [ ] Employer nonelective contributions (including safe harbor contributions and QNECs)

(5) [ ] Rollover contributions

(6) [ ] After-tax employee contributions

(7) [ ] Transferred accounts

(8) [ ] Describe: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ *(must be definitely determinable and not*

*subject to discretion)*

(e) [ ] DAVDs are not available if the Participant has severed employment.

(f) [ ] The minimum amount of a DAVD is \_\_\_\_\_. (*Enter an amount no greater than $1,000*)

(g) [ ] A Participant who has received an DAVD may not receive another DAVD from the Plan during the immediately following \_\_\_\_\_\_ calendar years.

(h) [ ] Describe additional limitations *(must be definitely determinable and not subject to discretion):*

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

9 **Terminally Ill Individual Distributions (TIIDs)**. *(SECURE 2.0 §326 allows a plan to provide penalty-free terminally ill individual distributions (TIIDs) to participants otherwise entitled to an in-service distribution. The plan must receive a physician’s certificate, prior to making the distribution that the individual’s illness or physical condition can be reasonably expected to result in death in 84 months or less after the date of certification. While TIIDs are not a separate distributable event, such distributions are free from the 10% premature distribution penalty tax and can be repaid. See Code §72(t)(2)(K) and Notice 2024-2, §F.)*

(a) [ ] The plan will not make TIIDs. *Skip to election 10.*

(b) [ ] The plan will make TIIDs effective \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. (*Enter a date after December 29, 2022.*)

(c) [ ] Describe additional limitations *(must be definitely determinable and not subject to discretion):*

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

10 **Higher SIMPLE Deferrals**. *(SECURE 2.0 §117 allows a small SIMPLE 401(k) plan to permit deferrals of up to 110% of the normal SIMPLE deferral limit. However, if the employer has more than 25 employees, this increased limit is available only if the employer increases the mandatory employer contribution. See Code §408(p)(2) and §401(k)(11)(E). Notice 2024-2 clarifies that the annual notice to the participants must state the increased deferral limit and the correct employer contributions, and the process for determining eligibility for the credit.)*

(a) [ ] The Plan will not allow 10% higher SIMPLE 401(k) deferrals.

(a) [ ] The plan will allow 10% higher SIMPLE 401(k) deferrals effective as of the \_\_\_\_\_\_\_ calendar plan year. (*Enter 2024 or later year.*)

11 **403(b) Hardship Distribution Sources**. *(SECURE 2.0 §602 allows 403(b) plans to expand the sources available for hardship distributions. In addition to amounts previously available, the plan can allow hardship distributions from the following accounts, even if they are held in custodial accounts: (1) elective deferrals, (2) QMACs and QNECs, (3) safe harbor contributions, and (4) earnings on those amounts. See Code §403(b)(17).)*

(a) [ ] 403(b) hardship distribution sources will not be expanded. *(Skip to election 12.)*

(b) [ ] 403(b) hardship distribution sources are expanded

(1) [ ] for distributions after December 31, 2023

(2) [ ] for distributions on or after the first day of the first plan year beginning in 2024

(3) [ ] for distributions made after \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. (*Enter date after December 31, 2023.*)

(c) [ ] Describe additional modifications: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(*E.g., distributions are not available from earnings; distributions are not available from employer contributions in custodial accounts; must be definitely determinable and not subject to discretion*).

12 **Long-term Part-time (LTPT) Employees**. References to “Regular Participants” refer to employees who are eligible to defer outside of the LTPT rules. *(The LTPT Rules were added for 401(k) plans by SECURE Act §112 and modified (and extended to ERISA 403(b) plans effective in 2025) by §125 of SECURE 2.0. The Treasury has released proposed regulations, on which taxpayers may rely, interpreting these rules for 401(k) plans. Prop. Treas. Reg. §1.401(k)-5. The options here are based on the proposed regulations.)*

(a) [ ] [*Optional*] To avoid application of the LTPT rules, effective with the first day of the 2024 plan year, the service requirements to defer are modified as follows: [*Select one. Can skip (b) – (g)*] (*Some plans are choosing to avoid application of the LTPT rules by ensuring that all eligible employees (those who are not excluded from the plan for reasons other than age or service) are eligible to defer prior to the LTPT mandate. It is intended that, unless otherwise specified on the describe line, the selections in this paragraph (a) act as a maximum service condition and may be an alternative way to satisfy the service requirements. For example, suppose a plan currently requires some or all participants to complete a year of service, and selects option (a)(3) to say that employees automatically satisfy the service requirement 24 months after hire. In that case employees who meet the other eligibility conditions in the plan (e.g., job classification, work for participating employer, etc.) will satisfy the service requirement defer on the earlier of the date they have a year of service or the date that is 24 months after hire.)*

(1) [ ] Employees satisfy such requirements immediately upon hire.

(2) [ ] Employees satisfy such requirements 36 months after hire (for the 2024 plan year) or 24 months

after hire (for 2025 and subsequent plan years)

(3) [ ] Employees satisfy such requirements \_\_\_\_\_ months after hire [*Enter a number less than 25*]

(4) [ ] Employees satisfy such requirements upon completion of an eligibility computation period with at

least 500 hours of service.

(5) [ ] Describe: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[*To avoid the LTPT rules, this option must guarantee any employee who satisfies the plan’s eligibility conditions unrelated to age and service will be eligible to defer prior to the date the employee becomes an LTPT Employee*]

(b) Determination of hours of service to be an LTPT Employee will be based on: [*Select (1), (2), or (3). Complete (d) if*

*Applicable.*]

(1) [ ] Actual hours of service.

(2) [ ] Actual hours of service for hourly paid employees and the equivalency method (see (4)) for others.

(3) [ ] The equivalency method specified in (4).

(4) [ ] The equivalency method is [ ] 10 hours per day; [ ] 45 hours per week; [ ] 90 hours bi-weekly;

[ ] 95 hours semi-monthly; [ ] 190 hours per month;

(c) [ ] An LTPT Employee, in addition to being eligible to defer will also be treated as a Regular Participant for purposes of *(check any or all that apply)*:

(1) [ ] Receiving an allocation of the safe harbor contributions (including QACA).

(2) [ ] Receiving an allocation of Employer matching contributions.

(3) [ ] Receiving an allocation of Employer nonelective contributions.

(4) [ ] Receiving an allocation of top-heavy minimum contributions.

(5) [ ] Making after-tax Employee voluntary contributions.

(6) [ ] Making rollover contributions.

(7) [ ] Making deemed IRA contributions described in Code §408(q).

(d) [ ] The following provisions which apply to Regular Participants do not apply to LTPT Employees *(check any or all that do not apply to LTPT Employees)*:

(1) [ ] The ability to make Roth elective deferrals.

(2) [ ] Automatic deferral provisions. *(If the plan is a EACA, and LTPT Employees are not subject to the automatic contribution arrangement, then the plan will not qualify for the 6-month period to distribute excess contributions and excess aggregate contributions to correct ADP/ACP failures without being subject to a penalty under Code §4979. Instead, they are subject to the normal 2½ month deadline.)*

(3) [ ] Automatic escalation provisions.

(4) [ ] The ability to make catch-up contributions.

(e) The initial 12-month period used to determine if an employee is an LTPT Employee is based on the employee’s

employment commencement date. Subsequent periods are: *(select one)*:

(1) [ ] Based on anniversaries of the employment commencement date.

(2) [ ] Based on the plan year.

(3) [ ] The same as the same as the eligibility computation period for Regular Participants.

(f) The entry date which applies to LTPT Employees is: *(select one)*:

(1) [ ] The same as the entry date which applies to Elective Deferrals of Regular Participants.

(2) [ ] The earlier of the first day of the first month or the seventh month of the Plan Year immediately

following the date an Employee becomes an LTPT Employee.

(3) [ ] The first day of the plan year quarter following the date the employee becomes an LTPT Employee.

(4) [ ] The first day of the month following the date the employee becomes an LTPT Employee.

(5) [ ] Describe: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(g) Describe additional provisions which apply to LTPT Employees: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_