**FIS Relius Documents Update**

**Spring 2023**

This document answers frequently asked questions about the status of our upcoming document approvals and submissions, as well as the SECURE 2.0 amendment.

**Has FIS has received approval letters for its Cycle 3 Defined Benefit Plans?**  **When will the DB Cycle 3 language be available in the Relius Documents ASP system?**

We have received approval of our DB plans.We expect to send the approval letters and approved plans to clients soon. More updates will be issued as we proceed through the process.

For the Relius Language System, we will release the AA-formatted formatted version of the DB plan first, followed by the IDP formatted version.

Please be sure to check the Relius Documents ASP dashboard for the most current information regarding Cycle 3 language system availability and conversion tool information.

**What is the deadline for an employer to adopt a Cycle 3 DB restatement?**

Employers that have a PPA preapproved DB document (regardless of when it is adopted) must restate such a plan document to use a Cycle 3 document by March 31, 2025 (see IRS Announcement 2023-6). The restatement period begins April 1, 2023.

**Will FIS offer any workshops to cover the Cycle 3 DB documents?**

We are planning to offer a webinar – please stay tuned for details.

**What are some key differences that have been identified with the Cycle 3 Documents?**

As occurred for the DC plans two years ago, the IRS restructured the prototype and volume submitter programs for Cycle 3 into a single Opinion Letter "preapproved plan" program that offers both a standardized edition and a nonstandardized edition. However, FIS is offering only non-standardized preapproved plans for Cycle 3 (one product will be formatted with an adoption agreement and one product will be offered as an IDP-formatted (preapproved) plan. Nonstandardized plans allow for greater flexibility in plan features and options (in effect, nonstandardized plans will fill the role previously filled by "volume submitter" documents). For reasons best known only by the IRS, the IRS will nonetheless refer to the approval letter as an Opinion Letter (which was the term used previously for prototype plans).

Also as part of Cycle 3, the IRS is no longer ruling on trust provisions. Therefore, trust provisions that have historically been part of the plan document itself have been removed and are now presented as a separate trust agreement. This separate trust agreement document is offered for use to our clients though clients are not obligated to use the FIS separate trust. Clients may use any other trust agreement, as appropriate for their business, so long as the separate trust agreement resolves any conflict between the terms of the plan document and the terms of the trust agreement in favor of the preapproved plan document. Otherwise, the employer will have no reliance on the IRS Opinion Letter.

**Does a terminating plan need to be restated onto the Cycle 3 pre-approved document prior to being terminated?**

There is no qualification requirement that requires a plan restatement. However, if a plan is not being submitted to the IRS for a determination letter on plan termination, FIS recommends the plan be restated onto the Cycle 3 approved documents. This way the employer can be assured that the plan language satisfies the changes made during the six-year period between the PPA Cumulative List and the Cycle 3 Cumulative List (which for the Cycle 3 DB plan, was the 2017 Cumulative List). If a particular plan is not restated, then there is no reliance on any interim good-faith amendments (if any) which were adopted during such period (e.g., the amendment required for some DB plans for IRS Notice 2017-44). However, restating a DB plan for Cycle 3 cannot and does not bring a plan completely up to date for a termination for all qualification requirements applicable on the date of a 2023 plan termination (since there were SECURE changes that first became effective on December 29, 2022). If reliance is desired for amendments for changes in law that were not taken into account by the IRS for purposes of Cycle 3, e.g., all the changes made by CARES, SECURE 1.0 and 2.0, then reliance can only be obtained by submitting a determination letter application using Form 5310.

**What are the SECURE 2.0 document amendment deadlines for ongoing plans?**

With the passage of SECURE 2.0, the deadline to amend ongoing plans for CARES, SECURE 1.0 and SECURE 2.0 is the last day of the plan year beginning in 2025 (or 2027 for governmental plans and certain union plans), i.e., the deadlines are **December 31, 2025** for calendar year plans and December 31, 2027 for calendar-year governmental plans. The new deadlines apply to all defined contribution, defined benefit, 403(b) and 457(b) plans, including tax-exempt 457(b) plans. The deadline to amend for the Disaster Tax Relief Act of 2020 was similarly extended.

**Do you have a SECURE 2.0 amendment for terminating plans?**

We have a short termination amendment available at [FIS Relius | Other Resources](https://www.relius.net/News/OtherResources.aspx?T=P). This amendment addresses the mandatory changes that are in effect for the 2023 plan year. We anticipate that it will be updated in the summer to be more comprehensive for 2023 plan terminations to reflect 2023 optional provisions. Near the end of the year, we will update the terminating plan amendment to reflect provisions that go into effect for the 2024 plan year. These amendments are what the IRS treats as a "good faith" amendment and based upon our current understanding of the revised sections of the Internal Revenue Code. As such, it is subject to change whenever additional guidance becomes available. Please continue to consult our [Other Resources](https://www.relius.net/News/OtherResources.aspx?T=P) page to make sure you are using the latest version of the amendment.

This amendment should be adopted on or before the date of plan termination. You should continue to use the SECURE 1.0/CARES amendment for any terminating plans, in combination with the SECURE 2.0 termination amendment. We do not have any plans to combine these amendments.

**What about ongoing plans? When will an amendment for SECURE 2.0 be ready? Should we continue to use the SECURE 1.0 and CARES amendments?**

The “ongoing plan” amendment will follow at a later date, likely near the end of 2024. We will continue to update clients with timeframes for both the ongoing plan SECURE 2.0 amendment and the FIS language systems as they become available. As with the original SECURE 1.0 amendment for ongoing plans, we will wait to release an amendment for as long as practicable, consistent with the needs of our clients to have an orderly process, so that the amendment can reflect as many items of IRS guidance as possible. We also hope that Congress timely enacts technical corrections.

We are evaluating our strategy for the content of the SECURE 2.0 amendment for ongoing plans. For example, based on requests from many customers, we are considering a combined amendment which would include both the existing SECURE 1.0 and CARES provisions from our original amendment together with the new provisions of SECURE 2.0 in a single amendment. If we adopt that approach, we anticipate that plans that have previously been updated for CARES and SECURE 1.0 will be able to check a box to let the prior amendments prevail (and turn “off” the relevant language in the SECURE 2.0 amendment).

**When will defined contribution plans need to be updated for Cycle 4?**

The IRS has not formally announced a time frame for Cycle 4. They did announce a plan to have the Cycle 4 submission period (when we would submit our preapproved documents for an opinion letter) as running from February 1, 2024, to January 31, 2025, but it is possible that period may be delayed because of SECURE 2.0. The IRS generally takes two years to review plans and then opens a 2-year amendment period. If they keep to their 2025 submission deadline, this would mean the restatement period would run from 2027 to 2029.

**Will any provisions of SECURE 2.0 be included in the Cycle 2 403(b) plan or the upcoming Cycle 4 defined contribution plans?**

The IRS released the Cycle 2 403(b) cumulative list [Notice 2022-8] long before Congress passed SECURE 2.0, and therefore none of the SECURE 2.0 changes will be reflected in that document, other than the technical correction relating to safe harbor notices in a QACA. The IRS has yet to release the Cycle 4 cumulative list and we do not know what will be included on that list.