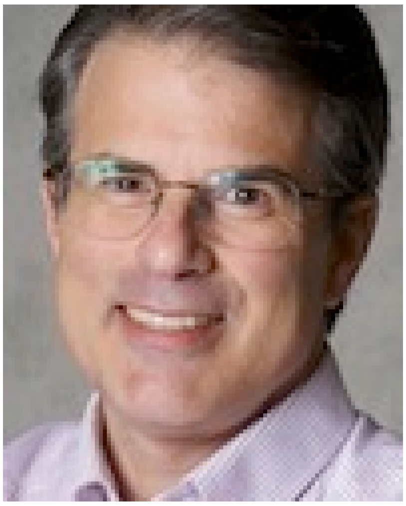
The ‘Securing a Strong Retirement Act of 2020’

By Kerry Pechter *Thu, Oct 29, 2020*

The House has introduced a sequel to last year's SECURE Act. Once again, legislators have listened to the retirement industry and tried to remove what the industry considers obstacles to efficiency and growth.



Retirement policy has been one of the few topics, aside from tax cuts, that Democrats and Republicans can agree on. Congress passed the SECURE Act in 2019. Now red and blue House members have collaborated on a sequel: The Securing a Strong Retirement Act of 2020, or as some are calling it, SECURE 2.0.

The newest proposal, announced this week, builds on last year’s SECURE (Setting Every Community Up for Retirement Enhancement) Act in removing regulatory snags and stumbling blocks that have vexed life insurers, asset managers and retirement plan providers for years. Both bills reflect many specific requests from the retirement industry and its attorneys.

At first glance, the new bill lacks the potentially game-changing elements in the SECURE Act, which opened the gate for the creation of giant 401(k) plans that many unaffiliated companies could join, and took steps to reduce the legal liabilities of employers who offer annuities as investment options in their plans.

Among other things, SECURE 2.0 would:

- *Require* 401(k), 403(b) and SIMPLE plans to automatically enroll newly eligible participants and begin auto-escalated contributions at 3% or more. (My emphasis.)
- Raise the initial age for required minimum distributions (RMDs) from tax-favored savings plans to age 75. (The SECURE Act had raised it to age 72 from 70-1/2.)
- Exempt defined contribution plan participants and IRA owners from the lifetime RMD rules if they have balances of no more than $100,000 (indexed) at the end of the year before they reach age 75. [“That’s a permanent lifetime exemption from RMDs, as long as they make no new transfers into their accounts after the measurement date—the year before they turn 75,” J. Mark Iwry, a former Treasury official who worked on similar changes proposed during the Obama administration, told *RIJ* this week.]
- Liberalize the rules around QLACs (qualified longevity annuity contracts) to raise the

contribution limit to $200,000 and remove the 25% (of total tax-deferred savings) on contributions. QLACs are deferred income annuities purchased with pre-tax money; income payments must start by age 85.
- Increase the tax credit for administrative costs of small businesses that are starting pension plans. The bill would also make employers joining an existing multiple employer plan (MEP) or pooled employer plans (PEPs) eligible for the credit for three years.
- Amend the "Saver's Credit" to create a single credit rate of 50% (currently there is a tiered structure of 10%, 20% and 50% credits), and raise the maximum per-person credit to $1,500 from $1,000.
- Allow 403(b) custodial accounts to invest in collective investment trusts (CITs), as 401(k) participants can.
- Index the current limit on extra IRA contributions ($1,000) for people over 50 to inflation, starting in 2022.
- Increase the limit on IRA contributions for those 60 and older to $10,000 ($5,000 for SIMPLE plans), starting with contributions for tax year 2020.
- Allow 403(b) plans to participate in multiple employer plans, or MEPs, and exempt them from the "one bad apple" rule.
- Permit employers make matching contributions under a 401(k) plan, 403(b) plan, or SIMPLE IRA with respect to "qualified student loan payments."
- Allow employers to make small immediate incentives, like gift cards in small amounts, to encourage employees to contribute to retirement plans.
- Eliminate certain rules that inhibit the use of life annuities in qualified plans and IRAs, such as rules blocking annuity contracts with inflation adjustments, return of premium death benefits, or period-certain guarantees).
- Amend the Employee Retirement Income Security Act of 1974 to allow providers of defined contribution plans to deliver one annual benefit statement on paper and three quarterly statements electronically.

The most surprising provision in this new bill might be the *requirement* that workplace retirement plan sponsors auto-enroll newly eligible employees into a plan and begin automatic contributions of up to 10% of pay. (Employees may still opt-out of their plans.) This almost sounds like a mandate—which are frequently unpopular.

The QLAC relief is welcome. It adds much-needed flexibility to these deferred income annuities, which have been underused in their current form. Under the existing rules, the tax breaks were too meager to spark much interest among the retirees who could best afford to take advantage of them.

In SECURE 1.0, I thought Congress may have missed an opportunity in not connecting the provisions that lower barriers to annuities in plans with the provisions that enable the creation of multiple employer plans, or MEPs or pooled employer plans (PEPs). Offering annuities through MEPs seems promising: There would be greater economies of scale, and the sponsors of MEPs or PEPs will likely be more financially sophisticated than traditional plan sponsors (i.e., employers).

The tweaks in these two acts of Congress may facilitate healthy change in the retirement world, but I can think of changes that life insurers, plan participants and retirees might welcome more: A less repressive interest rate environment, significant mandatory employer contributions to defined contribution accounts (as in Australia, for instance); and, most of all, a resolution of the suspense over the future of Social Security benefits.

Tweaks to the defined contribution system are welcome, but Social Security remains the most important source of retirement income for the majority of Americans. If Congress can collaborate on retirement legislation, maybe they can collaborate on eliminating the technical shortfall in funding that Social Security faces.