

Retirement plan news

DC update

SECURE Act stuck

The *Setting Every Community Up for Retirement Enhancement Act of 2019* (SECURE Act) that was passed almost unanimously in the House this summer ... is still with the Senate. As a reminder, the SECURE Act would change many of the retirement plan rules to encourage employers to sponsor a plan, simplify plan administration, and help employees save for retirement. Among the many proposed changes, this bill would

- Extend 401(k) plan eligibility to long-term part-time workers,
- Increase the Required Minimum Distribution (RMD) starting age to 72,
- Simplify the safe harbor 401(k) rules, and
- Expand the fiduciary safe harbor for selection of a lifetime income product provider.

At one time, swift passage of this legislation seemed sure. Now, time is running out for the Senate to devote floor time for debate and amendments to address the concerns raised by a few Senators. Without any further progress in the Senate, it's becoming less likely this bill will pass in 2019, despite strong bipartisan support.

Plan amendments for hardship distribution changes

As described in our first quarter 2019 issue of *Retirement plan news*, the Treasury Department proposed regulations to implement changes to the hardship distribution rules. In September 2019, the Treasury finalized these regulations with minimal changes and confirmed that plans that complied with the proposed regulations will satisfy the final regulations. If your plan already implemented any of the permitted changes (e.g., made safe harbor 401(k)



contributions available for hardship distributions, eliminated the six-month suspension of deferrals), you may need to amend your plan document and/or update your safe harbor 401(k) plan notice, if applicable. Your Wells Fargo Advisors financial advisor can help you work with your service and document providers to determine amendment timing requirements for your plan.

Year-end to-do list

It's that time of year again! As a business owner or human resources staff member, you're probably swamped with year-end reports, budget revisions, and strategic planning meetings. But don't forget about your retirement plan. You won't want to miss the deadlines for certain administrative tasks that must be completed by year-end to keep your plan in compliance. And, just as you're strategizing to make sure your business is healthy and growing in the coming years, taking a strategic approach to an annual retirement plan review can help you make certain your plan is meeting all the legal and regulatory requirements and achieving the objectives you set.

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Year-end compliance tasks

Year end is a busy time for qualified retirement plans and their service providers. In addition to day-to-day operations, several annual tasks must be completed by year end to maintain the qualified status of the plan. Be sure to ask your plan recordkeeper and third party administrator if there are deadlines by which you must submit certain requests, information, or authorizations to make sure these tasks are processed timely.

By December 1

- ✓ Deliver any participant notices required by your specific plan features (e.g., safe harbor 401(k) contribution, automatic enrollment, and Qualified Default Investment Alternative (QDIA))

By December 31

- ✓ Identify all participants in required minimum distribution (RMD) status – those age 70½ or older and beneficiaries – and make certain all RMDs for 2019 have been made.
- ✓ Review 2018 nondiscrimination and compliance testing results to ensure any failures have been corrected to avoid potentially expensive late corrections.
- ✓ Adopt plan amendments for any discretionary plan changes made in 2019.
- ✓ If your plan has a cashout provision, identify terminated participants who have not responded to your distribution notices and have plan account balances of \$5,000 or less. Accounts between \$1,000 – \$5,000 must be rolled over to an IRA set up for each terminated participant, and accounts of \$1,000 or less may be paid out by check or rolled over, depending on the option you selected in your plan document.
- ✓ Use up forfeitures (from terminated participants who were not fully vested in the employer contributions in their account). Forfeitures are generally used to pay plan expenses, offset employer contributions, or as additional allocations to remaining participants, depending on the plan document.

Annual plan review

Conducting an annual plan review is one of the best ways to make sure you are meeting your fiduciary responsibilities, operating your plan in compliance, and thinking strategically about how your plan is meeting your objectives. Your Wells Fargo Advisors financial advisor can help identify the appropriate items to include in your plan review and introduce plan features and enhancements that may help drive stronger plan performance. Your financial advisor may also be the best resource for benchmarking information, which can help you understand how well your plan metrics and plan fees measure up to other plans of a similar size or type. You may want to include the following topics in an annual review.



Plan objectives and goals

Confirm that the objectives you set for the plan are still steering the course for your retirement plan (e.g., competitive benefits to attract or retain employees, help employees prepare for retirement). If there have been any significant changes in your business or employee demographics, you may want to adjust your objectives. This includes any plan metric goals you set in previous years that have since been achieved (e.g., 75% participation rate). In this case, you may want to consider raising the bar and setting new goals.



Plan metrics

Understanding how your plan's key metrics have changed over the years or as your workforce has changed can help you identify weaknesses and areas for enhancement. Metrics typically measured include the plan's participation rate, average employee contribution rate, the cost of employer contributions, and the number of plan loans and hardship distributions taken by participants each year. These metrics are often calculated for the plan as whole and then again across different employee groups based on specific demographics (e.g., age, wage, location) to identify whether there are pockets of employees who are falling behind.



Plan features and enhancements

With your plan metrics in hand, your financial advisor can help you evaluate whether any plan features should be added or changed to drive stronger participation, contribution, or retirement readiness rates, or reduce plan leakage. Solutions for improving plan metrics, such as automatic enrollment, may require a written plan amendment. Other changes such as financial wellness education may entail additional costs or increased staff time. Your advisor can help you weigh the best options for your plan and business objectives.

→ Investments and fees

Your advisor will help you review whether your current investment options are meeting the criteria set in your Investment Policy Statement (IPS). This includes benchmarking investment fees to confirm they continue to be reasonable. You may also want to review whether the number and type of investment options are still appropriate given your participants' overall level of investment expertise.

→ Plan administration

Even though you hire service providers to help administer your plan, as the plan fiduciary, you are ultimately responsible for making sure that plan operations follow the tax rules and the terms of your plan document. For example, you'll want to make sure the definition of compensation in your plan document is being correctly applied to contribution calculations and compliance testing. Free self-audit tools developed by the IRS can help you determine whether your plan is in compliance with the tax rules.

→ Service provider performance and fees

At least once per year, you should assess service provider performance to make sure you are satisfied with the level of service you and your participants are receiving and that the service provider is fulfilling all of its obligations in the service agreement. You'll want to make sure all participant questions and concerns have been addressed. Your financial advisor can help you benchmark service fees to make sure they are still reasonable for a plan of your size or with similar features.

→ Fiduciary considerations

Your financial advisor may also help you review your fiduciary duties and confirm you are documenting that you followed prudent policies and procedures to fulfill those duties. For example, keeping written minutes of quarterly and annual meetings and the plan decisions made at those meetings can help provide a record of due diligence and fiduciary compliance. Other fiduciary concerns often covered in an annual meeting include reviewing your fidelity bond coverage and your contribution deposit timing.

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Let's set a date.

Your Wells Fargo Advisors financial advisor can help you make certain your plan is aligned with your objectives, provide plan metric and fee benchmarking, and assist you in developing procedures for conducting an annual plan check-up.

1st quarter 2020 compliance deadlines for calendar-year plans*

January 31

- Deliver Form W-2, *Wage and Tax Statement*, to participants
- Deliver Form 1099-R, *Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.*, to participants

February 14

- Deliver 4th quarter 2019 benefit statements and statement of plan fees actually charged to individual accounts to participants

February 28

- File Forms 1099-R with the IRS if filing on paper

March 15

- Distribute 2019 Actual Deferral Percentage (ADP) and Actual Contribution Percentage (ACP) testing excesses to highly compensated employees (HCEs) to avoid the 10% excise tax (June 30 for eligible automatic contribution arrangements (EACAs))

March 31

- File 2019 tax returns and make deductible contributions for 2019 for partnerships and S corporations (or request extension to file)
- File Forms 1099-R with the IRS if filing electronically (required if you file 250 or more information returns)

*If a tax-filing due date falls on a Saturday, Sunday, or legal holiday, generally the due date may be extended until the next business day.