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2026 Retirement Plan Amendment Deadline: What Plan Sponsors Need to Know

Client Alerts

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By December 31, 2026, plan sponsors of certain qualified retirement plans, including 401(k) and defined benefit plans, must amend the plans to incorporate required and discretionary changes under the Coronavirus Aid, Relief, and Economic Security (CARES) Act, the Setting Every Community Up for Retirement Enhancement (SECURE) Act, and the SECURE 2.0 Act of 2022 (SECURE 2.0).[1]

Major Changes

Key changes requiring plan amendments and/or updates to plan operations include:

- Increasing the starting age for Required Minimum Distributions (RMDs).
- Requiring Roth catch-up contributions for high earners.[2]
- Making Long-Term Part-Time (LTPT) employees eligible to participate in the plan.

Please refer to the Appendix below for a complete list and description of required and optional plan amendments.

While many plans are already operating in accordance with these changes, the December 31, 2026 deadline requires formal compliance through written plan amendments to align the plan with operational practices.

Next Steps for Plan Sponsors

Plan sponsors should take the following steps to ensure compliance by the end of 2026.

- Review plan operations to determine which plan amendments are required.
- Finalize discretionary plan design decisions.
- Coordinate with service providers and payroll to implement new operational requirements.
- Adopt plan amendments and/or restatements.

- Provide legally required participant notices and communications (e.g., updated summary plan description, 401(k) safe harbor notices, automatic enrollment notices, and fee disclosures).

If your company has questions, reach out to a member of our Employee Benefits and Executive Compensation Practice:

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Appendix

Required Updates to 401(k) Plans

Plan Amendments

Below is a summary of 401(k) plan amendments that need to be adopted by the end of 2026:

Required Amendments

1. Increased Starting Age for Required Minimum Distributions (RMDs): RMDs must begin at age 73 for individuals turning 72 after December 31, 2022, and age 75 for those turning 74 after December 31, 2032.

2. Mandatory Roth Catch-Up Contributions for High Earners: Plans that permit catch-up contributions must require that catch-up eligible participants with prior-year FICA wages exceeding $150,000 (adjusted annually for inflation) may make catch-up contributions only on a Roth basis. An impacted participant's before-tax catch-up contribution election may be deemed to be a Roth catch-up contribution election, provided that (1) such deemed election is specified in the plan document and (2) such participant is afforded an effective opportunity to change or stop their catch-up contribution election prior to the deemed election applying. If a plan does not permit Roth contributions, participants may not make catch-up contributions.
   Plan sponsors must adopt any applicable plan amendments (e.g., deemed Roth catch-up election, adding Roth contributions, adding catch-up contributions, or aggregating FICA wages for related employers) by the December 31, 2026 deadline.[3]

3. Long-Term Part-Time (LTPT) Employee Eligibility: Long-term part-time employees who are not collectively bargained generally must be eligible to participate in a plan once they have (i) reached age 21 and (ii) worked at least 500 hours in two consecutive 12-month periods beginning in 2025, or worked at least 500 hours in three consecutive 12-month periods beginning in 2021. Plans that make employer contributions on behalf of LTPT employees must also count years starting in 2023 with 500 hours of service for vesting purposes.[4]

4. Automatic enrollment for new 401(k) plans: In general, new 401(k) plans established after December 28, 2022, must include automatic enrollment and escalation features.

5. Surviving Spouse RMD Election: Spouses inheriting a defined contribution plan as sole beneficiaries may elect to be treated as the deceased employee for the purposes of RMDs (e.g., delaying the start of distributions and using longer life expectancy tables). Plans must adopt an amendment by December 31, 2026, to reflect how the surviving spouse election provision will be administered (e.g., as a default election or requiring affirmative action).

6. Overpayment Recovery Relief: Plan fiduciaries have discretion (previously mandatory) not to recover inadvertent overpayments from plan participants. A plan amendment may be required to reflect the new protections available to participants if a plan seeks recoupment (e.g., no recovery permitted on overpayments older than three years (absent fraud); no interest/attorney fees; annual installment repayments capped at 10% of the overpayment amount).

Discretionary Amendments

1. Super Catch-Up Contributions: Plans may offer increased catch-up limits for participants aged 60-63 at the end of a given calendar year. For most plans, the limit is increased to either $10,000 or 150% of the regular catch-up contribution. In 2026, this higher catch-up limit is $11,250.

2. Small Account Cash-Out Limit Increased: Plans may increase the involuntary cash-out limit for account balances of terminated participants from $5,000 to $7,000. Plans can force a tax-free rollover distribution of such small account balances without the participant's consent, provided the plan document permits involuntary cash-outs.

3. Roth Employer Contributions: Plans may allow participants to elect Roth tax treatment for matching and nonelective employer contributions.

4. Matching of Student Loan Payments: Plans are allowed to treat a participant's qualified student loan payment (QSLP) as if it were an elective deferral for purposes of making an employer matching contribution.

5. Self-Certification for Hardship Distributions: Plans may rely on a participant's self-certification instead of collecting hardship documentation.

6. SECURE Act and SECURE 2.0 Emergency Distributions: Plans may offer penalty-free withdrawal options for personal emergencies, birth or adoption expenses, domestic abuse, and federally declared disasters.

7. 2020 RMD Waiver: Plans that implemented procedures to suspend scheduled distributions or offer rollover options for the 2020 calendar year pursuant to the CARES Act must adopt conforming plan language if not previously done.

8. Coronavirus-related Distributions: Plans that allowed coronavirus-related distributions or in-service withdrawal changes must adopt plan amendments if not previously done.

9. CARES Act Loan Relief: Plans that allowed higher loan limits and/or suspended or extended loan repayment periods for qualified individuals pursuant to the CARES Act must adopt plan amendments if not previously done.

Required Updates to Defined Benefit Plans

Plan Amendments

Below is a summary of the defined benefit plan amendments that need to be adopted by the end of 2026:

1. Increased Starting Age for RMDs: RMDs must begin at age 73 for individuals turning 72 after December 31, 2022, and age 75 for those turning 74 after December 31, 2032.

2. Overpayment Recovery Relief: Plan fiduciaries have discretion (previously mandatory) not to recover inadvertent overpayments from plan participants. A plan amendment may be required to reflect the new protections available to participants if a plan seeks recoupment (e.g., no recovery permitted on overpayments older than three years (absent fraud); no interest/attorney fees; annual installment repayments capped at 10% of the overpayment amount).

3. Small Account Cash-Out Limit Increased: Plans may increase the involuntary cash-out limit for account balances of terminated participants from $5,000 to $7,000.

Footnotes

[1] Note that the amendment deadline for collectively bargained plans is December 31, 2028, and the amendment deadline for governmental plans is generally December 31, 2029.

[2] Plans must operate in good-faith compliance starting in 2026, with any conforming plan amendments required by year-end 2026.

[3] Plans that do not offer catch-up contributions do not need to be amended.

[4] Plans with immediate eligibility, or those using the elapsed time method instead of hours of service to determine eligibility, may not need to be amended.

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