Late last year, House Ways and Means Committee Chairman Richard E. Neal (D-MA) and Ranking Member Kevin Brady (R-TX) introduced the Securing a Strong Retirement Act of 2020 (SECURE 2.0), a bipartisan legislative proposal that includes changes designed to encourage plan adoption, promote retirement savings, and fix certain plan administration problems.

As retirement income issues gain an expanding focus, we think it is important for broker-dealers, RIAs and their advisors to understand changes that could impact their clients. In this post, we comment on a number of the key provisions.

EXPANDING COVERAGE

At its core, SECURE 2.0 seeks to expand coverage in three ways: by mandating auto-enrollment in 401(k), 403(b) and SIMPLE plans; by making long-term, part-time workers eligible for participation in plans after two rather than three years; and by permitting employers to provide *de minimis* financial incentives for employees to contribute to a 401(k) or 403(b) plan.

The first of these would clearly have the biggest impact. Currently, automatic enrollment for employees is permissive — employers do not have to include that feature in their plans. Even though employees have the right to opt out, the auto-enrollment feature has had a positive effect, since a relative small percentage of those who are auto-enrolled exercise the opt-out feature.

Under SECURE 2.0, for all new plans, automatic enrollment would be a required feature, while still permitting employees to opt out of coverage. (Existing plans would be grandfathered.) In addition, automatic escalation of deferrals would be mandated by 1% per year to a maximum of 10% of compensation. Assuming the opt-out rate in the future is similar to the historic pattern, this should increase enrollment and deferrals — and thus enhance employee retirement savings and plan assets — substantially.

SECURE 2.0 also contains other provisions that would help increase retirement savings.

- The age at which participants are required to begin taking distributions from their retirement plans would be increased from 72 to 75. This change recognizes that many Americans are working beyond a traditional retirement date. In addition, participants with accounts of $100,000 or less would not be required to take a required distribution.
- At age 60, participants in 401(k) and 403(b) plans would be able to increase their catch-up contributions from the current $6,500 beginning at age 50 to $10,000 (adjusted annually for cost-of-living increases), recognizing that those closer to retirement may be able to and may need to contribute more to the plan.
- To assist student loan borrowers in saving for retirement while their student loan debt is being repaid, SECURE 2.0 would allow employers to make matching contributions under a 401(k) plan, 403(b) plan, or SIMPLE IRA, as would governmental employers under their plans.
- Under current law, employers are generally prohibited from providing any immediate incentives, other than matching contributions, for employees to contribute to a 401(k) or 403(b) plan. SECURE 2.0 would allow employers to offer *de minimis* financial incentives, such as gift cards in small amounts, to encourage employees to contribute.
- SECURE 2.0 would make 403(b) plans eligible to participate in multiple employer plans (MEPs), generally under new rules adopted in the SECURE Act. The thinking is that this will facilitate the adoption of 403(b) plans by eligible employers by shifting much of the administrative burden to professional service providers.

- To encourage participation by lower-income workers, SECURE 2.0 would amend the Retirement Savings Contributions Credit (Saver's Credit), which allows low- and middle-income individuals to take a tax credit for making eligible contributions to an IRA or employer-sponsored retirement plan. The changes would eliminate the current tier structure, increase the maximum credit from $1,000 per person to $1,500, increase the maximum income eligibility amount, and index the creditable contribution amount for inflation.

SIMPLIFYING PLAN ADMINISTRATION

SECURE 2.0 would also offer solutions to a number of plan administration problems. These include easing certain disclosure requirements, expanding the IRS Employee Plans Compliance Resolution System (EPCRS) and modifying the requirements for recouping plan overpayments mistakenly made to retirees. The principal objective of these plan administration changes would be to reduce plan costs and simplify the information that participants receive about the plan each year.

PLAN AMENDMENTS

The legislation would allow conforming plan amendments to be made by the end of 2022 (2024 in the case of governmental plans), provided that the plan operates in accordance with the amendments as of the effective date of a bill requirement or amendment.

STATUS OF LEGISLATION

Although the ideas proposed in SECURE 2.0 have broad bipartisan support, it remains unclear whether and when the legislation will ultimately be enacted. One potential obstacle is the cost of the bill, which hasn't yet been scored by the Congressional Budget Office. Since the bill has no revenue-raising provisions in its current form, it could be held up or otherwise modified over cost concerns. Still, the bill has a fair chance of becoming law at some point in 2021.

CONCLUSION

The importance of SECURE 2.0 for firms and their advisors is to gain an understanding of the efforts being addressed by Congress to help American workers have a more secure retirement. While all of the changes will have some impact, the mandating of auto-enrollment is, in our view, the most significant since it will likely have the greatest impact on getting employees into plans and enhancing their retirement benefit over time. Customers will need to understand the new provisions if they are enacted, so broker-dealers, RIAs and advisors need to be prepared to answer their questions.