WORKPLACE BENEFITS

SECURE 2.0 Act of 2022

Frequently asked questions

Required Roth Catch-up Contributions: Frequently asked questions

Effective for taxable years beginning after December 31, 2023, the SECURE 2.0 Act of 2022 (“the Act” or “SECURE 2.0”) requires 401(k) retirement plans that permit age-based catch-up contributions to treat any catch-up contributions made by certain “high-paid participants” as designated Roth contributions. For these purposes, a “high-paid participant” is an employee whose wages (as defined for Social Security FICA tax purposes) from the sponsoring employer were greater than $145,000 (indexed) in the prior year.

The following are answers to frequently asked questions (FAQs) on section 603 of SECURE 2.0 to help you understand how the provision applies to your plan. The FAQs include information regarding the announcement by the Internal Revenue Service (Notice 2023-63) on August 25, 2023, regarding a two-year administrative transition period to facilitate the implementation of the new requirements. This is how Bank of America handles catch-up elections for our clients, and may differ from the way catch-up elections are handled by other financial institutions.

How does the transition period extension for the new Roth catch-up requirement affect the implementation of SECURE 2.0 Act for provision 603?

A The two-year extension provides the necessary time for plan sponsors to make the appropriate plan changes with payroll vendors and service providers to comply with the new catch-up contributions requirements. Specifically, until 2026, catch-up contributions will be treated as satisfying the requirement even if the contributions are made on a pre-tax basis or if the plan does not provide for designated Roth contributions. Pursuant to the IRS guidance, your plan must include a Roth deferral feature by January 1, 2026, to offer catch-up contributions. In addition, employees whose wages from the sponsoring employer (as defined for Social Security FICA tax purposes) were greater than $145,000 (indexed) must be identified on the indicative data file to Bank of America to comply with the mandate. Please communicate your interest to implement the provision before the end of the transition period with your service team.

What if our plan does not offer catch-up contributions?

A If your plan does not currently offer catch-up contributions, and there is no intent to add the feature, there is nothing that needs to be done at this time.

What if our plan offers catch-up contributions but does not have a Roth 401(k) feature?

A For taxable years beginning after December 31, 2025, in order to accept catch-up contributions for high-paid participants, a plan must offer a Roth deferral feature. The addition of a Roth deferral option affects the plan document, payroll data and participant communications. Your service team will work with you to ensure this feature is added to your plan by January 1, 2026, or sooner if you decide to add Roth 401(k) deferrals to your plan before the transition period ends.

If our plan already offers catch-up contributions and has a Roth 401(k) feature, is there anything I need to do?

A Yes, for taxable years beginning after December 31, 2025, prior-year wages will need to be tracked to determine the high-paid participants. High-paid participants will be subject to the Roth catch-up contribution requirement. Bank of America will utilize an indicator on your indicative data feed to identify whether an employee falls above or below the wage threshold and will be prepared to accept this indicator on your plan's indicative data feed prior to 2026. Additional details regarding this process are forthcoming. If you decide to implement section 603 in your plan before the end of the transition period, please reach out to your service team.

Why does Bank of America need an additional indicator to identify participants who have a previous-year FICA limit greater than $145,000*?

A This information is critical for Bank of America to correctly identify catch-up contribution eligibility, provide dynamic participant messaging, report to plan sponsors, and to successfully process year-end validation testing.

How will our 401(k) plan participants be made aware of this new requirement?

A A communication will be sent in advance of the 2026 plan year to inform all eligible participants of this important change. In addition, detailed messaging will be added to the contribution rate election experience on Benefits Online® and our mobile applications to ensure participants understand how this may affect their age-based catch-up contributions.

How will catch-up contributions for high-paid participants be accepted by our 401(k) plan for plan years beginning after December 31, 2025, if our plan uses a combined before-tax and catch-up rate election?

A **Negative Consent Option:** For plans that utilize a single, combined contribution rate for both regular deferrals and catch-up contributions, Bank of America will be able to identify default participants, through negative consent, to have deferrals above the 402(g) limit deposited as Roth catch-up contributions. This process requires these Roth catch-up contributions to be sent in the Roth source on the plan's payroll contribution files.

Positive Consent Option: There is a second option for plans that utilize a single, combined before-tax and catch-up rate. Bank of America will be able to accept an affirmative participant election, confirming that the high-paid participant's deferrals above the 402(g) limit will be deposited as Roth catch-up contributions. This election may be made via Benefits Online, the Benefits Online app or through our Retirement & Benefits Contact Center, and will be transmitted on any contribution rate files Bank of America is currently sending to you or your payroll provider. The election may also be captured on the Benefits Online Reporting Tool. This process also requires these Roth catch-up contributions to be sent in the Roth source on the plan's payroll contribution files.

Please note, any catch-up contributions sent on the indicative data feed to the before-tax source for high-paid participants will be rejected by the plan.

How will catch-up contributions for high-paid participants be accepted by our 401(k) plan for plan years beginning after December 31, 2025, if our plan uses separate before-tax and catch-up rate elections?

A Upon receiving the high-paid employee indicator, any before-tax catch-up contribution rate on file for the participant will be zeroed out and transmitted on contribution rate files Bank of America is currently sending to you or your payroll provider and may also be captured on the Benefits Online Reporting Tool.

The participant will then need to elect a Roth catch-up contribution rate via Benefits Online, the Benefits Online app or through our Retirement & Benefits Contact Center should they want to continue to have catch-up contributions deferred into the plan.

Your Bank of America Client Service Manager or Client Relationship Manager will assist you with this process, including establishing the timeline required to ensure the applicable plan changes are made ahead of your 2024 plan year.

* For these purposes, a "high-paid participant" is an employee whose wages from the same employer (as defined for Social Security FICA tax purposes) were greater than $145,000 (indexed) in the prior year.