

June 29, 2023

Delivered via email

The Honorable Jason Smith
1010 Longworth House Office Building
United States House of Representatives
Washington, DC 20515

The Honorable Richard Neal
372 Cannon House Office Building
United States House of Representatives
Washington, DC 20515

The Honorable Ron Wyden
221 Dirksen Senate Office Building
United States Senate
Washington, DC 20510

The Honorable Mike Crapo
239 Dirksen Senate Office Building
United States Senate
Washington, DC 20510

Dear Chair Smith, Ranking Member Neal, Chair Wyden and Ranking Member Crapo:

The undersigned organizations commend you for your leadership in enacting the SECURE 2.0 Act of 2022. This historic legislation will usher in a new era of retirement security.

We also wanted to raise an urgent issue that we have discovered as we have been working on implementation of SECURE 2.0. Briefly, unless transition relief is granted as soon as possible, many retirement plan participants will lose the ability to make catch-up contributions at the end of this year.

Specifically, although some plans may be able to comply (including some signatories to this letter) at great cost and burden, a vast number of plans and employers will not be able to comply with the new requirement, effective for 2024, that workers who earned over \$145,000 in the preceding year from the current employer must make their catch-up contributions on a Roth basis. For many of these plans, unless this requirement is delayed very quickly (i.e., this summer), their only means of compliance will be to eliminate *all* catch-up contributions for 2024. If a delay is not announced until, for example, the fourth quarter, it will be too late to prevent this adverse result, since compliance systems need to be designed well before the effective date.

These challenges exist in part because systems do not exist – and certainly cannot be built in 2023 – to instantly coordinate payroll systems (which determine who earned over \$145,000 in the prior year) with plan recordkeeper systems that must ensure compliance with the new catch-up rule. These circumstances pose a long list of other obstacles including, for many plans, the challenges of adding a Roth feature and communicating that feature to participants, as well as special challenges for state and local governments and collectively bargained plans.

Obviously, any new rule requires new administrative work to implement. **But we have been struck by the overwhelming input from the retirement community that this particular task simply cannot be done in time by a vast number of plans.**

To ensure that this change in the law does not unintentionally result in the elimination of catch-up contributions, the undersigned are seeking a two-year delay of the Roth catch-up requirement described in Section 603 of SECURE 2.0, plus (1) any time necessary to give state and local governments the opportunity to consider and enact needed legislation and (2) any additional time to avoid requiring changes during the term of a collective bargaining agreement or other applicable binding agreements.

Ideally, Congress would pass legislation that provides our requested relief. Accordingly, we are asking Congress to provide such relief as expeditiously as possible.

However, even if Congress does not act, the U.S. Department of the Treasury and the Internal Revenue Service (IRS) have the authority to unilaterally provide the necessary relief. For example, the issue could be addressed simply by an announcement that the IRS will not seek taxes, interest, penalties or any other sanctions from any party by reason of noncompliance with the new Roth catch-up contribution rule prior to January 1, 2026. There are many precedents for such action. A more detailed analysis of this issue will be provided very shortly.

In light of the urgent need for a delayed effective date, this letter addresses only that issue and does not address issues related to (1) the plans to which the Roth catch-up contribution rule applies or does not apply, (2) the application of the rule to employees without FICA wages or (3) the numerous issues on which guidance would be needed well before a delayed effective date.

We thank you for your consideration of this urgent request.

ACLI

Albion Consulting Group, Inc.

Alfa Mutual Insurance

Alight Solutions

Altria Group, Inc.

AMC Networks Inc.

American Benefits Council

American Retirement Association

Andersen Corporation

Anheuser-Busch

Aon

Aptiv

Arconic Corporation

Ascensus, LLC

Associated Benefits Corporation

Assurant, Inc.

Atlas Roofing Corporation

B. Braun Medical Inc.

Ball Corporation

Baltimore City Retirement Systems

Bayer

Bechtel Global Corp.

Betterment Holdings, Inc.

Bloomberg L.P.

bp America

Buck Global, LLC

Burns & McDonnell

California Public Employees' Retirement System

Cargill

CBIZ, INC.

CC Industries, Inc.

CGX

Charles Schwab
Chipotle Mexican Grill
City and County of San Francisco
City of Ann Arbor Employee's Retirement System
City of Austin Deferred Compensation Plans
City of Milwaukee 457(b) Deferred Compensation Plan
City of Phoenix Employees Retirement System
City of San Jose Deferred Compensation Plan
ConocoPhillips
Cook County Government, Illinois
Corning Incorporated
Corteva Agriscience, LLC.
County of Stanislaus
County of Ventura
Cox Enterprises, Inc.
CSL Behring
Defined Contribution Institutional Investment Association
Delta Air Lines
Detroit Entertainment
Dickinson Wright PLLC
EBSCO
Edison International
Edward Jones
Emergent BioSolutions
Employees' Retirement System of the State of Hawaii
Empower
Energy Transfer
Entergy

Enterprise Community Partners
Envista Holdings Corp
Equitable
Eversource Energy
Fidelity Investments
Focus Brands
Franklin Templeton
General Dynamics Corporation
Gilead Sciences
Great Dane
Greif Packaging LLC
Groom Law Group, Chartered
Health Care Service Corporation
HERE N.A., LLC
Hood Companies, Inc.
Houston Methodist
HR Policy Association
HSBC North America
IBM Corporation
IHG Hotels & Resorts
Ingram Micro Inc.
International Alliance of Theatrical Stage Employees Annuity Fund
Investment Adviser Association
Investment Company Institute
IRALOGIX, Inc.
John Hancock Life Insurance Company (U.S.A.)
Kentucky Public Employees' Deferred Compensation Authority
Kern County 457b Plan
Kilpatrick Townsend & Stockton
Kinder Morgan, Inc.

Kirton McConkie PC
 Lam Research
 Leidos, Inc.
 Lincoln Financial Group
 Linde Inc.
 Lockheed Martin Corporation
 Los Angeles County
 Louisiana State Employees' Retirement System
 LPL Financial
 Lumen Technologies
 McKesson Corporation
 Mercer
 Microsoft Corporation
 Miles & Stockbridge
 MissionSquare Retirement
 MoDOT & Patrol Employees' Retirement System (Missouri)
 Mueller Industries
 Municipal Police Employees' Retirement System (Louisiana)
 National Association of Government Defined Contribution Administrators (NAGDCA)
 National Association of Insurance and Financial Advisors (NAIFA)
 National Association of Professional Employer Organizations
 National Association of State Retirement Administrators
 National Conference on Public Employee Retirement Systems
 National Coordinating Committee for Multiemployer Plans
 National Council on Teacher Retirement
 National Payroll Reporting Consortium, Inc.

Nationwide
 ND Paper, Inc.
 NEPC
 New York State Deferred Compensation Plan
 New York State Teachers' Retirement System
 NFP
 Niagara Bottling, LLC
 NISA Investment Advisors, LLC
 North American Lighting
 NRECA, America's Electric Cooperatives
 NTCA - The Rural Broadband Association
 NYC Deferred Compensation Plan
 NYC Health + Hospitals
 NYS Metropolitan Transportation Authority
 Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
 Ohio Association of Professional Fire Fighters
 Ohio Police and Fire Pension Fund
 Ohio Public Employees Deferred Compensation
 OHSERS
 Omnicell, Inc.
 Oncor
 Oregon Public Employees Retirement System
 Oregon Public Universities Retirement Plans
 Pacific Maritime Association
 Packaging Corporation of America
 Panera, LLC
 Paramount Global
 Paul Hastings LLP

Paychex, Inc.
PepsiCo
Perdue Farms
Phillips 66
Piedmont Healthcare, Inc.
Pietzsch Law Group, P.A.
Pollard & Associates, Inc.
Principal®
Public Employees' Retirement Association
of Colorado
Qualcomm
Quest Diagnostics
Red Bull
Richmond Retirement System
Ruan Transportation Management Systems
Ryman Hospitality Properties, Inc
Saint-Gobain Corporation
Sanford Health
Schnuck Markets, Inc.
SCPOA Unit President
Seagen, Inc.
SIFMA
Silicon Valley Employers Forum
Small Business Council of America
South Dakota Retirement System
South Miami Pension Plan
Southern Company
Southwest Airlines
SPARK
Stanley Black & Decker, Inc.
State of Alaska - Division of Retirement and
Benefits

State of Florida 457b Deferred
Compensation Plan
State of Indiana Deferred Compensation
Plan
State of New Mexico 457b Plan
Stinson LLP
Suffolk Association of Municipal
Employees (AME)
Suffolk County Correction Officers
Association
Suffolk County Deferred Compensation
Board
Suffolk County Deputy Sheriffs PBA
Suffolk County Detective Investigators PBA
Suffolk County Detectives Association, Inc.
Suffolk County PBA
Suffolk County Police Superior Officers
Association, Inc
Sysmex America, Inc.
Tata Consultancy Services
Tate and Lyle
Teachers' Retirement System of the City of
New York
Teachers' Retirement System of the State of
KY
Tebie Global LLC
Telos Corporation
Tennessee Treasury Department
The Board of Benefits Services of the
Reformed Church in America, Inc.
The Cigna Group
The Council of Insurance Agents & Brokers
The Dow Chemical Company
The ERISA Industry Committee
The Goodyear Tire & Rubber Company

The New York State Deferred
Compensation Plan
The Procter & Gamble Company
The Timken Company
The Vanguard Group, Inc.
The Wagner Law Group
Thompson Coburn LLP
TIAA
TRAM, Inc.
Transamerica
TriNet
Trinseo LLC
TruStage
U.S. Chamber of Commerce
UKG Inc.
Unisys Corporation
United Benefits Group
United of Omaha Life Insurance Company

Unum
UPS
USI Consulting
Utah Retirement System
Verizon
Vorys Sater Seymour & Pease LLP
Voya Financial
Washington University in St. Louis
Washoe County
Waste Connections
Wawa, Inc.
WestRock Company
Williams
Wisconsin Deferred Compensation Program
Womble Bond Dickinson (US) LLP
WTW
Wyoming Retirement System

cc: The Honorable Janet Yellen