

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	Atlas Roofing Corporation
Albion Consulting Group, Inc.	B. Braun Medical Inc.
Alfa Mutual Insurance	Ball Corporation
Alight Solutions	Baltimore City Retirement Systems
Altria Group, Inc.	Bayer
AMC Networks Inc.	Bechtel Global Corp.
American Benefits Council	Betterment Holdings, Inc.
American Retirement Association	Bloomberg L.P.
Andersen Corporation	bp America
Anheuser-Busch	Buck Global, LLC
Aon	Burns & McDonnell
Aptiv	California Public Employees' Retirement System
Arconic Corporation	Cargill
Ascensus, LLC	CBIZ, INC.
Associated Benefits Corporation	CC Industries, Inc.
Assurant, Inc.	CGX

Charles Schwab	Enterprise Community Partners
Chipotle Mexican Grill	Envista Holdings Corp
City and County of San Francisco	Equitable
City of Ann Arbor Employee's Retirement System	Eversource Energy
City of Austin Deferred Compensation Plans	Fidelity Investments
City of Milwaukee 457(b) Deferred Compensation Plan	Focus Brands
City of Phoenix Employees Retirement System	Franklin Templeton
City of San Jose Deferred Compensation Plan	General Dynamics Corporation
ConocoPhillips	Gilead Sciences
Cook County Government, Illinois	Great Dane
Corning Incorporated	Greif Packaging LLC
Corteva Agriscience, LLC.	Groom Law Group, Chartered
County of Stanislaus	Health Care Service Corporation
County of Ventura	HERE N.A., LLC
Cox Enterprises, Inc.	Hood Companies, Inc.
CSL Behring	Houston Methodist
Defined Contribution Institutional Investment Association	HR Policy Association
Delta Air Lines	HSBC North America
Detroit Entertainment	IBM Corporation
Dickinson Wright PLLC	IHG Hotels & Resorts
EBSCO	Ingram Micro Inc.
Edison International	International Alliance of Theatrical Stage Employees Annuity Fund
Edward Jones	Investment Adviser Association
Emergent BioSolutions	Investment Company Institute
Employees' Retirement System of the State of Hawaii	IRALOGIX, Inc.
Empower	John Hancock Life Insurance Company (U.S.A.)
Energy Transfer	Kentucky Public Employees' Deferred Compensation Authority
Entergy	Kern County 457b Plan
	Kilpatrick Townsend & Stockton
	Kinder Morgan, Inc.

Kirton McConkie PC	Nationwide
Lam Research	ND Paper, Inc.
Leidos, Inc.	NEPC
Lincoln Financial Group	New York State Deferred Compensation Plan
Linde Inc.	New York State Teachers' Retirement System
Lockheed Martin Corporation	NFP
Los Angeles County	Niagara Bottling, LLC
Louisiana State Employees' Retirement System	NISA Investment Advisors, LLC
LPL Financial	North American Lighting
Lumen Technologies	NRECA, America's Electric Cooperatives
McKesson Corporation	NTCA - The Rural Broadband Association
Mercer	NYC Deferred Compensation Plan
Microsoft Corporation	NYC Health + Hospitals
Miles & Stockbridge	NYS Metropolitan Transportation Authority
MissionSquare Retirement	Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
MoDOT & Patrol Employees' Retirement System (Missouri)	Ohio Association of Professional Fire Fighters
Mueller Industries	Ohio Police and Fire Pension Fund
Municipal Police Employees' Retirement System (Louisiana)	Ohio Public Employees Deferred Compensation
National Association of Government Defined Contribution Administrators (NAGDCA)	OHSERS
National Association of Insurance and Financial Advisors (NAIFA)	Omnicell, Inc.
National Association of Professional Employer Organizations	Oncor
National Association of State Retirement Administrators	Oregon Public Employees Retirement System
National Conference on Public Employee Retirement Systems	Oregon Public Universities Retirement Plans
National Coordinating Committee for Multiemployer Plans	Pacific Maritime Association
National Council on Teacher Retirement	Packaging Corporation of America
National Payroll Reporting Consortium, Inc.	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