

# Recent SECURE 2.0 Act Guidance Regarding Pension-Linked Emergency Savings Accounts

---

March 5, 2024

---

**PRACTICES** Employee Benefits M&A, Retirement Plans

---

This article is the fifth in a series of articles on recent SECURE 2.0 Act guidance and covers guidance on Pension-Linked Emergency Savings Accounts (“**PLESAs**”) issued by the IRS in Notice 2024-22 available [here](#) (the “**IRS Notice**”) and by the DOL in Frequently Asked Questions available [here](#) (the “**DOL FAQs**”).

## Pension-Linked Emergency Savings Accounts

For plan years beginning after December 31, 2023, defined contribution plans may permit non-highly compensated employees who meet the plan’s eligibility requirements to set aside up to \$2,500 (subject to inflation) in after-tax (i.e., Roth) contributions into a PLESA, which is a special short-term plan savings account. Similar to a traditional savings account, employee contributions made to a PLESA may be withdrawn at least once a month for any reason without the imposition of the 10% early withdrawal penalty. In other words, a participant does not have to demonstrate any kind of hardship or emergency prior to taking a withdrawal from a PLESA. Amounts contributed to the PLESA are eligible for employer matching contributions at the same rate as regular elective deferrals. Participants must be allowed to take up to four distributions per year free of charge, but plans may charge a reasonable fee for additional distributions. Plans are not required to permit participants to take more than one distribution per month.

The DOL FAQs provide the following clarifications regarding PLESAs:

- Plans cannot impose more stringent or more lenient eligibility requirements on non-highly compensated employees for participating in a PLESA, and if the plan offers PLESAs, all non-highly compensated employees who meet the plan’s normal eligibility requirements must be eligible to contribute to the PLESA. PLESAs cannot have a minimum contribution or balance requirement. However, plans can require that contributions to PLESAs be made in whole dollar or percentage amounts.
- Automatic enrollment provisions can apply to PLESAs, but participants must be provided with a notice of automatic enrollment in the PLESA and the ability to opt out of participation and take a penalty-free withdrawal of any previous contributions to the PLESA. Any automatic enrollment provision that applies to a PLESA must be 3% or less, and there is no opportunity for an automatic increase.
- Plan sponsors have flexibility in designing the account limitations applicable to PLESAs. The \$2,500 PLESA limit can either apply to the total account balance (including earnings) or the amount of PLESA deferrals. While plan sponsors can impose an overall PLESA account limit lower than the \$2,500 statutory cap, the DOL FAQs clarify that a plan sponsor cannot establish an annual limit on PLESA contributions because such a limit could restrict a participant’s ability to replenish funds after amounts have been withdrawn from a PLESA account.
- PLESA contributions must be deposited in the plan’s trust within the same time period as elective deferrals to avoid a prohibited transaction.

- PLESA contributions must be held in cash, an interest-bearing account, or investment options that are aimed at preserving principal, providing a reasonable rate of return, and ensuring liquidity. Investment options that include liquidity constraints, such as surrender charges at the participant or plan level, generally won't satisfy this requirement. The plan's qualified default investment alternative generally will not meet the PLESA's investment requirements.
- PLESA notices must be provided no less than 30 days, and not more than 90 days prior to the first PLESA contribution, and annually thereafter. The notice must be provided regardless of whether the plan includes automatic enrollment provisions applicable to PLESAs and may be combined with other notices. The DOL has not issued a model notice to date.

The IRS Notice provides the following information on how plan sponsors can avoid potential abuse in administering PLESAs:

- If the plan includes matching contributions, the employer must match an employee's PLESA contributions, if provided, at the same rate it matches regular elective deferrals and only up to the maximum PLESA limit described above. However, when calculating matching contributions, plan sponsors should determine the match for non-PLESA contributions before determining any match attributable to PLESA contributions—meaning that a participant would have to maximize elective deferrals with respect to regular elective deferrals first to receive a PLESA match.
- Plan sponsors cannot (i) forfeit matching contributions attributable to PLESA contributions because an employee takes a withdrawal from the PLESA, (ii) suspend matching contributions made on account of a participant's elective deferrals, or (iii) limit a participant's ability to make contributions to a PLESA if the participant takes a withdrawal from the PLESA.

Please refer to the links below for our previous articles concerning recent SECURE 2.0 guidance.

- [Recent SECURE 2.0 Guidance Regarding Corrections for Automatic Enrollment Failures](#)
- [Recent SECURE 2.0 Guidance Regarding Automatic Enrollment Features](#)
- [Recent SECURE 2.0 Guidance Regarding Optional Treatment of Employer Matching or Nonelective Contributions as Roth Contributions](#)
- [Recent SECURE 2.0 Act Guidance Regarding Small Immediate Financial Incentives and Penalty-Free Withdrawals for Terminal Illness](#)