Episode: *Employee Benefits and Executive Compensation: Preparing for 2027 —* Retirement Plan Developments
Hosts: Constance Brewster and Emily Zimmer
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Emily Zimmer (00:05):
Hi everyone, welcome to this installment in our podcast series, *Employee Benefits and Executive Compensation: Preparing for 2027* — Retirement Plan Updates. I'm Emily Zimmer and I'm joined today by my colleague, Constance Brewster.

Constance Brewster (00:20):
Thanks, Emily. Today we're talking about what's new in the retirement plan world, from recent regulatory developments to evolving plan design trends and administration issues that sponsors should have on their radar.

Emily Zimmer (00:32):
We'll walk through some of the key changes affecting qualified plans and participants, highlight themes we're seeing in the market, and talk about practical steps employers and fiduciaries can consider as they think about updating or refining their retirement programs. Let's get started. Constance, I think the most pressing thing on a lot of plan sponsors' minds right now is the SECURE 2.0 catch-up contribution changes. These have been in the works for a while and we are now squarely in the middle of implementation.

Constance Brewster (01:00):
That's right, and there are really two distinct pieces here that we want to separate out because they work differently and have different deadlines. The first is the optional change to provide an enhanced catch-up contribution limit for participants who are ages 60 through 63, which could have been implemented as early as the 2025 calendar year. For '26, that higher catch-up limit is $11,250 compared to the standard catch-up limit of $8,000. Now, this is an optional provision, but to the extent a plan sponsor implemented this provision through its third-party recordkeeper, the SECURE 2.0 amendment that must be adopted by December 31st of this year should include that language and the date it was implemented. Now, as always, plan sponsors should verify their payroll systems and plan communications to reflect the correct limits.

Emily Zimmer (01:56):
That's right, and there's a real planning opportunity for participants approaching retirement. The second piece is the mandatory Roth catch-up requirement, and that's the one that has probably caused the most administrative headaches due to the ability to choose between a deemed process or a separate election. This is the rule that

requires catch-up contributions for high earners, specifically employees who earned more than $145,000 in FICA wages from the sponsoring employer in the prior year, to be made on a Roth basis. For 2026, that threshold is $150,000, meaning the relevant look-back year is 2025.

Constance Brewster (02:34):
And the IRS issued final regulations on this in September 2025, which was really helpful in providing some clarity. Even though we've been operationally subject to these rules since January 1st of this year, the final regulations have an official applicability date of January 1, 2027. So there is a good faith compliance standard for 2025 and 2026, but that doesn't mean that plan sponsors can ignore it. It just means there's some flexibility in how you implement it while you get your systems in order. By January 1, 2027, full compliance is expected.

Emily Zimmer (03:13):
And one practical point I wanted to flag here, if your plan currently allows catch-up contributions but does not offer a Roth contribution feature, you have a problem if you want your high earners to continue to be able to make catch-up contributions. If high earners continue to be permitted to make catch-ups, the Roth option must be added to the plan. So if that describes your plan, you need to be working on a plan amendment to add Roth contributions now, if you haven't already.

Constance Brewster (03:39):
Exactly. And the formal plan amendment deadline for non-governmental calendar year plans to add this Roth catch-up provision is December 31, 2026. End of year is coming up very quickly, we're already in the third quarter of '26, so now is the time to have those conversations with your recordkeeper and plan counsel.

Emily Zimmer (04:00):
And there are a few nuances in the final regs worth knowing about. One is around control groups. The regs give employers the option to aggregate FICA wages across a control group, which can simplify the high earner determination in some cases. Another is around partners and sole proprietors who don't receive FICA wages. They're generally not subject to this Roth mandate. And there's a correction method outlined in the final regs if catch up contributions are inadvertently made on a pre tax basis for a high earner, which is a nice safety valve.

Constance Brewster (04:30):
Those are great practical points, Emily. Now the bottom line for plan sponsors, talk to your payroll provider to confirm the programming was correctly implemented to address the two catch up related rules as applicable to your plan. Confirm how your record keeper has been tracking catch up contributions for your plan, whether the deemed method or the separate election method is being used and confirm your plan document will be up to shape before the end of the year. Now most plans on pre approved plan

documents will likely have recently received a draft of their SECURE 2.0 amendments and should confirm these terms are accurate before executing the amendment. Remember, you should contact your ERISA attorney before signing. Now, let's shift to something that's on the horizon that plan sponsors should get their arms around now. And that's the Saver's Match. This is one of the last major secured 2.0 provisions to go into effect and it kicks in for taxable years beginning after December 31, 2026. So, January 1, '27.

Emily Zimmer (05:36):
That's right. And the concept here is a significant shift from what we had before. The old Saver's Credit was a non refundable tax credit that low and moderate income workers could claim on their tax return for contributing to a retirement account. The problem was if you didn't owe much in taxes, you might not get the full benefit of the credit. It was largely symbolic for many of the people it was intended to help.

Constance Brewster (05:59):
And that's where the Saver's Match attempts to fix this problem by replacing the credit with an actual federal matching contribution of 50% up to $2,000 in retirement contributions for a maximum federal match of $1,000 per year. So instead of going towards your tax bill, the money goes directly into your retirement savings account. That's a real tangible benefit that actually builds retirement savings.

Emily Zimmer (06:28):
Now, the income limits for eligibility are similar to the old Saver's Credit. It phases out for higher income individuals. But the delivery mechanism is fundamentally different. The match is deposited by the treasury into a qualifying retirement account, which could be an IRA or a workplace plan if the plan agrees to accept those contributions.

Constance Brewster (06:48):
In early August of this year, the IRS and Treasury issued the first real guidance on the Saver's Match in the form of IRS Notice 2026-48. This notice outlines eligibility rules, the match calculation, the plans and IRAs that can receive these deposits, and how participants can claim the match on their tax return returns. It also addresses reporting and administrative responsibilities for employers, record keepers and IRA custodians.

Emily Zimmer (07:19):
Now, one thing that caught my eye in the notice is a special rule for small matches. If the Saver's Match for a given participant is less than $100 for the year, the participant can elect to take it as a refundable tax credit instead of a retirement account contribution. That's a nice practical accommodation.

Constance Brewster (07:37):
Agreed. There's also a delivery mechanism question that's still being worked out. The notice suggests that the IRS may route the Saver's Match through a conduit IRA before

it flows into the participant's chosen retirement account. If that approach is finalized in the proposed regulations, it would have a meaningful effect on how the contribution is treated. Once it passes out of the conduit IRA as a rollover, it essentially loses the Saver's Match characterization, which means that recovery tax and certain reporting requirements wouldn't apply. The industry is watching that very closely.

Emily Zimmer (08:16):
And one other thing worth noting is that the administration has directed Treasury to establish a website, trumpira.gov, by January 1st, 2027, to help workers without employer-sponsored plans access and find IRAs that can receive Saver's Match contributions. Comments on the notice are due by October 5th, and proposed regulations are still forthcoming. So while we have much more clarity than we did even a few months ago, this is definitely still an area to watch. Okay, let's switch gears a little and talk about something that is more of an evolving trend than a hard compliance deadline. And that's the push toward in-plan retirement income solutions. This has been building for a few years, but we're really seeing it gain traction in 2026.

Constance Brewster (09:01):
It definitely has. For a long time, the 401(k) system was really designed around the accumulation phase. How do you help employees save money for retirement? But what the industry has recognized is that there's an equally important question on the other side. Once you've saved the money, how do you turn it into income that lasts through retirement? That transition from savings to spending is where a lot of participants are lost.

Emily Zimmer (09:29):
Absolutely. And the solutions that are emerging are varied. You have updated target date funds with built-in income features. You have annuity options, either as a standalone investment option or integrated into a managed account or target date fund. You have systemic withdrawal programs. The industry has been really creative here so far.

Constance Brewster (09:49):
And from a fiduciary standpoint, one of the barriers for plan sponsors has historically been the concern about fiduciary liability. If you add an annuity option and the insurance company later has issues, you're on the hook. SECURE 1.0 actually created a fiduciary safe harbor for selecting an annuity provider. And there's been ongoing regulatory interest in clarifying and expanding that safe harbor, particularly for guaranteed income products. Now, that's something plan sponsors should be watching because broader safe harbors could really accelerate the adoption.

Emily Zimmer (10:25):
That's right, Constance. And there's actually a case working its way through the courts called Anderson v. Intel, where the Supreme Court agreed to hear the case in January

of this year. Oral argument is currently scheduled for October 6th. So by the time many of you are listening to this, the case may have already been argued. To be precise about what's at stake, the core question here is whether the plaintiffs alleging ERISA imprudence based on fund underperformance must include a meaningful benchmark, a comparator investment, in their complaint just to survive a motion to dismiss. The Intel plan used customized target date funds with significant allocations to hedge funds and private equity, and participants alleged those alternatives underperformed. The Ninth Circuit said the complaint had to include a meaningful benchmark and affirmed dismissal when it didn't. A Supreme Court ruling loosening that standard could meaningfully expand fiduciary litigation risk for plans using alternatives or non-traditional investment structures. A ruling tightening it could make it harder for plaintiffs to get these cases off the ground. Either way, a decision is expected by June of next year, so this one will be directly relevant to how plan sponsors think about investment design heading into the new year.

Constance Brewster (11:36):
That's a great point, Emily, and it reinforces a theme we see constantly. It's process, process, process. Whatever investment options are in your plan, the fiduciary protection comes from having a documented, prudent process for evaluating them and not from any particular investment outcome. Plan committees should review and document their decision-making, especially as they consider adding newer product types.

Emily Zimmer (12:03):
That's right. And from a participant communication standpoint, even if you add a great retirement income option, it doesn't do much good if participants don't understand what it is or how to use it. So plan sponsors should be thinking about education and communication strategy alongside the plan design decisions.

Constance Brewster (12:19):
Before we wrap up, let's talk about a few plan administration items that are ongoing but that plan sponsors really need to have on their checklist, particularly with a bunch of amendment deadlines converging.

Emily Zimmer (12:32):
Absolutely. So let's start with auto enrollment, because this is now mandatory for most new 401(k) and 403(b) plans. Under SECURE 2.0, plans established after December 29, 2022, that are adopted after December 31, 2024, must include automatic enrollment starting at a contribution rate of at least 3%, with auto escalation up to at least 10%, though not more than 15%. There are exceptions for small businesses with 10 or fewer employees, businesses in existence for less than three years, church plans, and governmental plans.

Constance Brewster (13:09):
And for plans that were already in existence before the cutoff date, automatic enrollment

remains optional, though we are seeing more and more plan sponsors choosing to add it voluntarily because it really does boost participation rates, particularly among younger workers who might not otherwise get around to enrolling.

Emily Zimmer (13:28):
Absolutely. And the other item on the administration checklist that we wanted to highlight is long-term, part-time employees. This is a provision that went into effect for plan years beginning after December 31, 2024. Under the pre-SECURE rules, part-time employees could be excluded from 401(k) plans if they didn't meet the one-year, 1,000-hour service requirement. SECURE 1.0 changed that by requiring that employees who complete at least three consecutive years of at least 500 hours or more be given the opportunity to make elective deferrals. Now, SECURE 2.0 shortened that to two years. So for plan years starting in 2025 onward, employees who have completed two consecutive years of at least 500 hours must be eligible to make deferrals.

Constance Brewster (14:14):
Now, this is a real administrative challenge for employers with large part-time workforces, such as the retail, the hospitality, and healthcare industries. You need to be tracking hours for all employees, including those who would otherwise be excluded, because you may be accumulating service credit for people who will become eligible. If you haven't done a full audit of your workforce and your plan's eligibility tracking for long-term, part-time employees, now's the time to do it.

Emily Zimmer (14:43):
And it's important to remember that the employer can still exclude long-term, part-time employees from employer contributions and from non-discrimination and coverage testing, which is helpful. It's really the deferral eligibility obligation that's the real requirement.

Constance Brewster (14:59):
Before we finish with year-end amendments, there is one more piece of new guidance we should flag that came out in May of this year, and that's Notice 2026-33 on qualified long-term care distributions. This one came from SECURE 2.0 provisions that didn't get talked about much, but I think it's actually quite impactful.

Emily Zimmer (15:21):
I agree. So this comes from SECURE 2.0 Section 334. And this added a new optional distributable event that allows defined contribution plans to distribute funds to participants to pay premiums for qualified long-term care insurance without triggering the 10% early withdrawal penalty. We've had the statutory provision since late 2025, but this Notice 2026-33 finally gave us the operational roadmap.

Constance Brewster (15:48):
So for a few key parameters, the annual distribution is capped at the lesser of the actual

premium cost, 10% of the participant's vested account balance, or $2,600 for 2026, with this dollar figure indexed going forward. Participants still owe income tax on the distribution, it's just the 10% penalty that is waived. And there is a documentation requirement. The insurance issuer must file a long-term care premium statement with the plan before any distribution qualifies. If that statement hasn't been filed, the distribution doesn't get the favorable tax treatment.

Emily Zimmer (16:31):
Now, it's important to remember that this is a completely optional feature that plan sponsors can choose to add or not add. But if you are considering it, the good news from Notice 2026-33 is that the IRS extended the plan amendment deadline for most plans. Non-governmental, non-collectively bargained plans now have until December 31 of next year, 2027, rather than the general December 31, 2026 SECURE 2.0 amendment deadline. So there's a little extra runway here compared to the other amendments we've been talking about. Something to put on the radar for your 2027 plan design conversations.

Constance Brewster (17:05):
And that brings us to one final note on the amendment front. With so many SECURE 2.0 provisions going into effect over 2023 through 2026, there is a significant backlog of plan document amendments that are coming due. The IRS issued guidance on the amendment deadline for most provisions. Calendar years have until December 31, 2026. Governmental and collectively bargained plans generally have until December 31, 2029. But that December, 2026 deadline for calendar year plans is not far away. And depending on the complexity of what needs to be amended, the drafting and review process will take time.

Emily Zimmer (17:48):
That's right. So our advice to plan sponsors is don't wait until November or December to start the process. Sit down with your plan counsel, make a list of every SECURE 2.0 provision you've adopted or are required to adopt, confirm that your plan document accurately reflects your current operations, and get amendments in process. There's no good reason to be scrambling at year-end on something this important.

Constance Brewster (18:10):
Agreed. Now, that's all for today's discussion of retirement plan updates. We've covered several of the developments shaping how plans are structured, operated, and communicated, and some of the questions plan sponsors and fiduciaries should be asking as the landscape continues to change. If you have any questions or need further assistance, please do not hesitate to reach out to our team at Troutman Pepper Locke.

Emily Zimmer (18:34):
And be sure to check out the additional episodes in our series, *Employee Benefits and*

Executive Compensation: Preparing for 2027. We'll be covering other key developments in the employee benefits and executive compensation space. Thanks for listening.
