
NOVEMBER 27, 2017

AGENDA ITEM 6
INFORMATION ITEM

CALIFORNIA SECURE CHOICE RETIREMENT SAVINGS INVESTMENT BOARD

Review Draft of Emergency Regulations

Background

State law compels the California Secure Choice Retirement Savings Investment Board (“Board”) to design and implement the California Secure Choice Retirement Savings Program (“Secure Choice” or “the Program”) and makes the Board responsible for the effective and efficient administration of the California Secure Choice Program Trust (“Trust”). State law also grants the Board authority to adopt regulations to implement the Program and deems the adoption, amendment, repeal, or re adoption of a regulation to address an emergency.

Secure Choice staff began working on regulations earlier this summer by convening informal employer and employee stakeholder working groups. The groups met to discuss, analyze, and make recommendations on key elements for the design of the Program. Staff reported on the output from those stakeholder meetings at the August and September 2017 Board meetings. Staff consulted the expertise of those stakeholder groups, policy experts, the program consultants, external counsel, similar programs in other states and within the State of California, and independent external research to develop a series of recommendations on the design and operation of the Program and presented those recommendations at the October 23, 2017 Board meeting. The draft regulations presented in this item generally represent the recommendations supported by the Board at the October Board meeting.

Regulations are necessary to provide clarity on aspects of law that are vague, intentionally undefined, or left to the Board’s discretion. Some of the topics discussed within the informal stakeholder working group meetings and at prior Board meetings are not explicitly included in these draft regulations, as those topics do not require clarification through the regulations process, but may need to be defined through other means including policies, procedures, and procurement.

The Proposed Regulations seek to define and clarify the following topics:

- Definitions of key terms
- Employer eligibility and exemptions
- Employer registration
- Employer duties
- Employee eligibility and enrollment
- Informational material and disclosures
- Default account settings and alternative elections

- Distributions
- Confidentiality, disclosures, and subpoena powers

Timeline

Emergency regulations remain effective for 180 days and may be readopted for two additional 90 day periods. If the Board approves filing emergency regulations at the December 18, 2017 Board meeting, staff estimate the emergency regulations would become effective by early-January 2018 and remain in effect no later than early-January 2019.

If the Board does not approve filing the regulations until the January 22, 2018 Board meeting, staff estimate the emergency regulations would become effective in early-February 2018 and remain in effect no later than early-February 2019.

Attachments

- Attachment #1 – Draft Regulations
- Attachment #2 – Presentation on Draft Regulations
- Attachment #3 – Timeline for Development and Adoption of Secure Choice Regulations

Note: These regulations are new to the CCR.

California Code of Regulations

Title 10: Investments

Division 1: California Secure Choice Retirement Savings Investment Board

Chapter 15: California Secure Choice Retirement Savings Trust

Section 10000. Existing Definitions

All meanings of the words or terms defined in California Government Code Sections (100000-100050); California Welfare and Institutions Code Section 12302.2; California Unemployment Insurance Code Sections 1088.9, 601, 606.5, and 621; and Title 26 of the United States Code (“Internal Revenue Code”) sections 408(a), 408(b), or 408A shall apply wherever the same words or terms are used throughout this Chapter.

NOTE – Authority Cited: Government Code Section 100010; Government Code Section 100048; California Welfare and Institutions Code Section 12302.2; California Unemployment Insurance Code Section 601; California Unemployment Insurance Code Section 606.5; California Unemployment Insurance Code Section 621; California Unemployment Insurance Code Section 1088.9; Internal Revenue Code Section 408(a); Internal Revenue Code Section 408(b); and Internal Revenue Code 408A.

Section 10001. Additional Definitions

The following definitions shall also apply wherever the terms are used throughout this Chapter:

- a) “Account” means a Participating Employee or Participating Individual’s Individual Retirement Account (“IRA”) within the meaning of Section 408(a), 408(b), or 408A held within the Program.
- b) “Administrator” means the third-party administrator, or administrators, hired by the Board to perform recordkeeping, manage investments, and provide other administrative functions necessary or desirable for operation of the Program.
- c) “Automatic Escalation” means an automatic annual increase in a Participating Employee or Participating Individual’s Contribution Rate.
- d) “Board” means the California Secure Choice Retirement Savings Investment Board.
- e) “Compensation” means W-2 wages, as defined in 26 Code of Federal Regulations (“CFR”) 1.415(c)-2(d)(4)
- f) “Contribution” means any deposit from a Participating Employee or Participating Individual to an Account.

- g) "Contribution Rate" means the percentage amount of a Participating Employee's Compensation to be withheld and contributed to his or her Account via payroll deduction pursuant to an election made under Section 10006 of these regulations.
- h) "Disclosure Form" means the form (or forms) and other information about the Program provided to Employees on behalf of the Program.
- i) "Eligible Employee" means any Employee of an Eligible Employer who is at least eighteen years of age, provided however, that an Eligible Employee does not include: (i) any Employee on whose behalf an Employer makes contributions to a Taft-Hartley pension trust fund; (ii) any Employee covered under the federal Railway Labor Act (45 U.S.C. Sec. 151), or (iii) any Employee engaged in interstate commerce so as not to be subject to the legislative powers of the state, except insofar as application of this title is authorized under the United States Constitution or laws of the United States.
- j) "Eligible Employer" means an Employer, as defined under Section 10001(n) of these regulations, that has five or more Employees and does not provide a Tax-Favored Retirement Plan.
- k) "Employee" means any individual who is a resident of California, or a non-resident with California source income, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee under Unemployment Insurance Code Sections 621 et seq, and who receives an IRS Form W-2 ("W-2") with California wages from an Eligible Employer.
- l) "Employee Information Packet" means the packet of information provided by the Program to be distributed to Eligible Employees by Eligible Employers that includes the Disclosure Form and the Opt-out Form and other information determined to be necessary by the Program.
- m) "Employer" means an individual or non-governmental entity engaged in a business, industry, profession, trade, or other enterprise in the state, whether for profit or not for profit, determined to be an employer under common law rules applicable in determining an employer-employee relationship, except as provided in subdivisions (b)-(d) in Unemployment Insurance Code Section 606.5.
- n) "Enrollment Date" means the date by which a Participating Employer shall offer Eligible Employees the opportunity to enroll in the Program. The Enrollment Date shall be either:
 - a. The date no later than 30 days following the Registration Date; or
 - b. For Eligible Employees hired after an Eligible Employer begins participating in the Program, the date no later than 30 days following their hire date.
- o) "Exempt Employer" means an Employer that either (i) has fewer than five Employees as reported on the DE 9C for the quarter ending September 30 of each Program Year; or (ii) that provides or contributes to a Tax-Favored Retirement Plan; or (iii) is the federal

government, the state, any county, any municipal corporation, or any of the state's units or instrumentalities.

- p) "Implementation Date" means the date the Board opens the Program for enrollment to all Eligible Employers.
- q) "Opt-out Form" means the form, paper or electronic, through which an Eligible Employee can note their decision to opt out of participation in the Program.
- r) "Participating Employer" means an Eligible Employer that registers with the Program to provide its Eligible Employees access to the Program.
- s) "Pilot Program" means a period of time during which some Eligible Employers may participate in the Program prior to the opening of the Program for enrollment to all Eligible Employers.
- t) "Program" means the California Secure Choice Retirement Savings Program.
- u) "Program Year" means January 1 through December 31.
- v) "Participating Employee" means an Eligible Employee enrolled in the Program. References herein to a Participating Employee include a Participating Individual as the context requires.
- w) "Participating Individual" means an individual who enrolls in the Program under such terms and conditions as determined by the Program.
- x) "Registration Date" means the date by which each Eligible Employer is required to register with the Program.
- y) "Tax-Favored Retirement Plan" means an Employer-provided retirement plan; including, but not limited to: a defined benefit plan or defined contribution plan which is intended to be tax qualified under Internal Revenue Code Section 401(a); a Taft-Hartley Plan; a Simple 401(k), Simplified Employee Pension ("SEP-IRA") plans, Savings Incentive Match Plan for Employees ("SIMPLE") plans, a plan described by Internal Revenue Code Section 403(a) or 403(b); and an employer-provided automatic enrollment payroll deduction IRAs that qualify for favorable federal income tax treatment under the Internal Revenue Code.
- z) "Trust" means the California Secure Choice Retirement Savings Trust.

Section 10002. Administration

The Board intends that, consistent with Government Code Sections 100000-100050, Welfare and Institutions Code Section 12302.2, and Unemployment Insurance Code Section 1088.9, the Program be operated, and these rules be construed, in a manner consistent with applicable

regulations and guidance provided by the U.S. Department of Labor relating to payroll deduction IRA programs that are not pension plans under Title I of the Employee Retirement Income Security Act..

Section 10003. Employer Registration and Employee Enrollment

- (a) On or before the Registration Date, each Eligible Employer shall register with the Program.
- (b) The Implementation Date shall be the date reported to the Governor and Legislature required in Government Code Section 100043(b)(1) and shall not be the date of the launch of the Pilot Program.
- (c) Except as provided in Section 10003(d), the Registration Dates are as follows:
 - (1) An Employer employing 100 or more Employees: Implementation Date + 12 months
 - (2) An Employer employing 50 or more Employees: Implementation Date + 24 months
 - (3) An Employer employing 5 or more Employees: Implementation Date + 36 months
- (d) Eligible Employers may determine to accelerate their Registration Date, provided the Program may delay the Enrollment Date applicable to such Employer's Employees if it determines to be in the best interests of Program administration.
- (e) To determine the number of Employees for purposes of this section, Eligible Employers shall use data as submitted on the DE 9C filed for the quarter ending September 30 of each year.
- (f) To register with the Program, an Eligible Employer shall use the internet portal established by the Administrator. Eligible Employers shall provide the following information:
 - (1) Employer name and Doing Business As name, if applicable,
 - (2) Federal Employer Identification Number or California State Employer Payroll Tax Account Number,
 - (3) Employer mailing address,
 - (4) Name, title, telephone number, and email address of an individual designated by the Employer as the primary contact for the Program,
 - (5) Number of Employees as determined pursuant to paragraph (e) of this section, and
 - (6) Any other information reasonably required by the Program for the purposes of administering the Program.
- (g) An Eligible Employer who lacks access to the internet may request to register with the Program by alternate means established by the Administrator. Such Eligible Employers shall make the request to the Administrator no later than 15 days prior to the Registration Date.
- (h) The initial Enrollment Date for each Eligible Employer shall be a date that is not more than 30 days after the Employer's Registration Date.
- (i) The Enrollment Date for new hires will be on or about the date that the Eligible Employee typically completes new hire paperwork, but in no event later than 30 days following the Eligible Employee's start date.

- (j) Eligible Employees who initially choose not to participate in the Program may enroll in the Program at any time.
- (k) An Eligible Employer formed after the Implementation Date or Employers who were previously ineligible for the Program, must register with the Program at a time of their choosing but no later than 12 months after the date it becomes eligible for the Program.

Note – Authority Cited: Government Code Section 100002; Government Code Section 100010; Government Code Section 100012; Government Code Section 100014; Government Code Section 100032; Government Code Section 100043; Government Code Section 100048; Unemployment Insurance Code Section 1088.9.

Section 10004. Employer Exemptions

- (a) An Employer shall be exempt from the Program if:
 - (1) The Employer employs fewer than five Employees as reported on the DE 9C for the quarter ending September 30 of each Program Year;
 - (2) The Employer provides or contributes to a Tax-Favored Retirement Plan; or
 - (3) The Employer is the federal government; the state; any county; any municipal corporation; or any of the state’s units or instrumentalities.
- (b) By the Implementation Date, the Program will notify Employers with a method whereby Exempt Employers may certify their exemption from the Program.

Note – Authority Cited: Government Code Section 100000; Government Code Section 100010; Government Code Section 100012; Government Code Section 100032; Government Code Section 100043; Government Code Section 100048.

Section 10005. Participating Employer Duties

- (a) Participating Employers shall:
 - (1) For each Eligible Employee provide to the Administrator:
 - (A) Eligible Employee’s full legal name;
 - (B) Eligible Employee’s Social Security Number or Individual Taxpayer Identification Number;
 - (C) Eligible Employee’s date of birth;
 - (D) Eligible Employee’s mailing address;
 - (E) Eligible Employee’s phone number, if available;
 - (F) Eligible Employee’s email address(es), if available; and
 - (G) Any other information requested by the Administrator for the sole purpose of administering the Program;
 - (2) Provide the Employee Information Packet to all Eligible Employees within 30 days of the initial Registration Date.
 - (3) Provide the Employee Information Packet to all newly-hired or Eligible Employees within 30 days.
 - (A) The Employee Information Packet shall be provided by the Administrator to Participating Employers electronically via email or by supplying Participating Employers the online location where the materials may be downloaded.

- (B) Upon request by a Participating Employer, the Administrator will provide the Employee Information Packet(s) in hard copy form.
 - i. Participating Employers must request hard copies no later than 45 days prior to the Enrollment Date.
 - ii. Eligible Employees may also request receipt of the Employee Information Packet in hard copy form.
- (4) Facilitate collection of Opt-out Forms and the record of employees' acknowledgement of receipt of the Disclosure Forms.
- (5) Remit Contributions for each Participating Employee each Compensation period to the Administrator at the default Contribution Rate, or at such other Contribution elected by the Participating Employee, or at a rate increased automatically by Automatic Escalation, as directed by the Administrator.
 - (A) Any rate change, or other alternate election impacting Participating Employee's Contributions, shall be made by the next practicable Compensation period and no later than the Compensation period occurring at least 30 days after the election.
- (6) Communicate to Eligible Employees (i) that the Participating Employer's role is limited to remitting Participating Employee Contributions, providing essential Eligible Employee contact information to the Administrator, collecting signed Disclosure Forms from Eligible Employees who request paper enrollment and remitting to the Administrator; and (ii) that the Participating Employer does not provide any additional benefit or promise any particular investment return on the Participating Employee's savings and that Eligible Employees shall refer questions about the Program to the Administrator.
- (7) Participating Employers shall remain neutral about the Program. Participating Employers shall not:
 - (A) Require, endorse, or discourage Eligible Employee participation in the Program.
 - (B) Provide Participating Employees advice or direction on investment choices, Contribution Rates, participation in auto-escalation, or any other Participating Employee decision about the Program.
 - (C) Remit any Contributions for any Participating Employee that completed an Opt-out Form.
 - (D) Exercise any authority, control, or responsibility regarding the Program other than as set forth in paragraph 1 of this section.
- (8) A Participating Employer is not a fiduciary for the Program, is not a sponsor of the Program, and shall not be liable as a plan sponsor.
- (9) A Participating Employer shall have no civil liability for acting in accordance with these regulations.

Note – Authority Cited: Government Code Section 100000; Government Code Section 100002; Government Code Section 100008; Government Code Section 100010; Government Code Section 100012; Government Code Section 100014; Government Code Section 100032; Government Code Section 100034; Government Code Section 100043; Government Code Section 100048.

Section 10006. Default program options and alternative elections for Contributions, Automatic Escalation, and investment options

(a) Default Elections

A Participating Employee who has not made an alternative election as specified in this section shall make Contributions to the Program according to the following default elections:

- (1) Contributions shall be made to a Roth IRA Account.
- (2) Contributions shall equal 5% of Compensation for each Compensation period.
 - (A) Before a default election under this section may be changed by the Board, the Board must first hold an interested persons' hearing on the proposed change; and
 - (B) The Program shall provide notice to Participating Employees no later than 90 days before the change is scheduled to take effect.
- (3) The Contribution Rate shall increase by an additional 1% of Compensation on each January 1 following the Participating Employee's initial enrollment up to a maximum Contribution Rate of 8%.
 - (A) If a Participating Employee has not participated in the Program for at least 180 days such Employee shall not participation in Automatic Escalation shall not be a default Account setting until the next Program Year that occurs after they have exceeded 180 days of participation.
- (4) Contributions will be invested in an investment option, or options, selected by the Board that appropriately balances risk and return opportunities for Participating Employees.

(b) Alternative Elections

- (1) A Participating Employee may select a Contribution Rate other than the default Contribution Rate between 0% and 100% of Compensation, or represented as whole dollar amounts, through a method established by the Administrator.
 - (A) Participating Employees may select an alternative Contribution Rate, or whole dollar Contribution amount, as frequently as they choose, however Participating Employers may choose to limit such changes to no more than once every 30 days.
- (2) A Participating Employee may opt out of Automatic Escalation at any time by following procedures established by the Administrator.
- (3) A Participating Employee may select an alternative Automatic Escalation amount at least 0.25% of Compensation if their Contributions are represented as a percentage of Compensation or at least \$1 in additional monthly Contributions if their Contributions are represented by whole dollar amounts by following procedures established by the Administrator.
- (4) Alternate elections shall be implemented as quickly as practicable and no later than the nearest Compensation period 30 days following the election.

(c) Participating Individuals

- (1) The Program shall not allow for participation by individuals until it receives explicit authorization from the Board
- (2) If the Board allows participation by individuals, the Program may establish processes and procedures for Participating Individual transactions with the Program, including without limitation payroll and non-payroll Contributions, including minimum

and maximum Contribution amounts, in accordance with annual Contribution limits established by the Internal Revenue Service and any applicable federal laws and regulations.

Note – Authority Cited: Government Code Section 100002; Government Code Section 100010; Government Code Section 100012; Government Code Section 100032; Government Code Section 100034; Government Code Section 100043; Government Code Section 100048; Internal Revenue Code Section 408A.

Section 10007. Contributions

(a) Participating Employees

- (1) The initial Participating Employee Contributions shall be facilitated by the Participating Employer no later than the first Compensation period that occurs following 30 days after creation of the Participating Employee’s Account.
- (2) A Participating Employee may elect to make non-payroll Contributions to an Account in accordance with procedures developed by the Administrator.
- (3) The Program shall establish procedures for payroll and non-payroll Contributions, including maximum Contribution amounts, in accordance with annual Contribution limits established by the Internal Revenue Service and any applicable federal laws and regulations.

(b) Participating Employers

- (1) Participating Employers are prohibited from contributing to a Participating Employee’s Account.
 - (A) This provision shall not apply to Participating Employers who are also Eligible Employees participating in the Program.
- (2) Amounts deducted by the Participating Employer pursuant to this Section shall not exceed the amount of the Participating Employee’s Compensation remaining after any payroll deductions required by law to have higher precedence, including a court order.

Note – Authority Cited: Government Code Section 100002; Government Code Section 100010; Government Code Section 100012; Government Code Section 100043; Government Code Section 100048; Internal Revenue Code Section 408A.

Section 10008. Rollovers and Distributions

- (a) A Participating Employee or Participating Individual may request a rollover or a distribution of funds by submitting a properly completed distribution request to the Administrator in a manner established by the Program.
- (b) The Program shall establish procedures for rollovers to and from an Account and distributions from an Account, in accordance with applicable regulations established by the U.S. Treasury Department and the Internal Revenue Service, and any other federal laws and regulations.

Note – Authority Cited: Government Code Section 100002; Government Code Section 100010; Government Code Section 100012; Government Code Section 100043; Government Code Section 100048; Internal Revenue Code Section 408A.

Section 10010. Confidentiality

- (a) The Board will treat Account information as confidential, including without limitation, names, addresses, telephone numbers, personal identification information, Contributions, and earnings.
- (b) The Board may disclose Account information to persons or entities other than those described in Section 10006 if the Administrator receives a signed release from the Participating Employee or Participating Individual consenting to disclosure of some or all of the Account information to a specific person or entity. For purposes of this paragraph Account information includes information pertaining to:
 - (1) An Account;
 - (2) Primary and contingent beneficiary designations;
 - (3) Distributions from the Account; or
 - (4) Other information contained in any order from a court of competent jurisdiction.
- (c) A written authorization to release information is valid indefinitely, unless a specific end date is provided in the written statement.

Note – Authority Cited: Government Code Section 100002; Government Code Section 100010; Government Code Section 100014

Section 10011. Subpoena

A subpoena for information available from the Program must be addressed to the Program. The Program reserves the right to object to any subpoena on the grounds that the subpoena fails to provide a reasonable time for preparation and travel, is otherwise unreasonable or oppressive, or that service was improper, in addition to any other basis legally available. To facilitate prompt processing, copies of subpoenas should be served at the Program. Faxed subpoenas are not acceptable.

Note – Authority Cited: Government Code Section 100010; Government Code Section 100048.

Section 10012. Disclosure

The Board may disclose aggregated anonymized data that does not include information that is identifiable to an individual Eligible Employee or Participating Employer for purposes of research associated with the Program. The Board may disclose information that it is required to disclose under the California Public Records Act. The Board may disclose Account information to the Administrator, the providers of investments for the Program, regulatory agencies to the extent disclosure is required by law, and to other persons or entities to the extent the Board determines disclosure is necessary to administer the Program.

Note – Authority Cited: Government Code Section 100010; Government Code Section 100048; Government Code Section 6250 et seq.

California Secure Choice Retirement Savings Investment Board



Overview of Draft Regulations

November 27, 2017

Public Comment Opportunities

- Board Meeting November 27
- Email anytime until December 7: SecureChoice@sto.ca.gov
- Informal public meetings (see web for access details):

| | |
|--------------------------------|--|
| December 5, 2017 | December 7, 2017 |
| 10:00 a.m. – Noon | 10:00 a.m. – Noon |
| State Personnel Board Building | Ronald Reagan State Building, Auditorium |
| 801 Capitol Mall, Room 150 | 300 South Spring Street |
| Sacramento, CA 95814 | Los Angeles, CA 90013 |
- Board Meeting(s) December 18 and possibly later
- Office of Administrative Law formal public comment Jan-Feb 2018

Rulemaking Process

See detailed timeline provided in agenda materials.

- Informal public comment, revisions as necessary and appropriate
- Board approval: at Board's discretion December 18 or January 22
- Submission to Office of Administrative Law (OAL)
- OAL formal review and public comment
- Effective date: mid-January or mid-February 2018
- Permanent rulemaking: initiate in February or March 2018
- Permanent regulations effective: Summer 2018

Employer Eligibility

10001(j),(k),(m),(o),(r),(y); 10004

- Eligibility: 5+ employees and no tax-favored retirement plan
- Number of employees: based on employees reported in DE 9C form submitted for quarter ending September 30.
- Retirement plan coverage: any tax-favored retirement plan defined in 10001(z)
- Government employers: not eligible

Employee Eligibility

10001(i),(k)

- Eligibility: Any employee working for an eligible employer
- Minimum age: 18
- No minimum hours worked, no distinction for part-time, seasonal, or temporary employees
- Must have California income reported in W-2 from subject employer and have pay subject to California Unemployment Insurance taxes

Employer Registration

10003(a)-(c), (k)

- Registration date by employer size:
 - 100+ employees: ~January 2020
 - 50+ employees: ~January 2021
 - 5+ employees: ~January 2022
- Employers may register at any time prior to registration date
- Procedure: electronic enrollment through web portal
- Employers can request enrollment via other means (i.e. paper) at least 15 days before the registration date
- Registration will require transmitting certain essential information about the employer and its eligible employees
- New or newly-eligible employers must register within 12 months of eligibility

Identifying Exempt Employers

10004(b)

- Option 1: Encourage Optional Self-Certification via web (draft Regs)
 - Use US DOL's *Form 5500* database of 11,000 CA ERISA employers in conjunction with self-reporters to glean list of exempt employers
 - Consider phasing into a requirement after successful Program launch
- Option 2: Required Self-Certification via web (Oregon model)
 - Require employers to self-certify via web; takes 2 minutes on average
 - Basis of pending litigation in Oregon
- Option 3: Required Self-Certification via State tax form (Illinois model)
 - Cost and time to modify existing form

Employee Enrollment

10003(i)-(j)

- Information packet: provided to eligible employees within 30 days; includes opt-out form and method to acknowledge receipt of disclosures
- Participants can opt out at any time
- 30-day period before contributions begin
- Employees may choose to enroll at any time

Employer Duties

10005

- Provide essential information to the Administrator
- Distribute employee information packet provided by Program within 30 days of registration
 - Available electronically and by mail, if requested
- Facilitate collection of opt-out forms and record of employees' acknowledgement of receipt of disclosures, per method to be established by Program in consideration of employer org. feedback
- Remit contributions for each participating employee
- Remain neutral about all aspects of participation
- No fiduciary duty, no liability for participant decisions

Contributions

10006(a)(2), (b)(1); 10007

- Default contribution: 5% of compensation
- Alternate contribution: 0-100% of compensation, or at least \$1
- Non-payroll contributions: permitted
- First contribution: made after 30 day grace period
- IRS contribution limits: program will alert participants
- Employer contributions: prohibited

Default Settings

10006(a)

- IRA type: “Roth” post-tax [see other options on next page]
- Contribution rate: 5%
- Automatic Escalation: 1% annual increase up to 8% max (opt-out basis)
- Investment option: to be determined at Board’s discretion

Alternate elections: 10006(b)

Participants may choose alternate elections at any time; however, employers may choose to limit changes to no more frequently than once every 30 days

IRA Type Considerations

Section 10006(a)(1)

- Staff and consultants recommend “Roth” default; consider adding “Traditional” option after successful launch of Program
 - Ability to access contributions tax- and penalty-free
 - Lower income individuals get minimal, if any, benefit from “Traditional”
 - Strong stakeholder feedback in support of Roth (to reduce opt-outs)
 - Single scheme keeps administration simpler for employers at Program launch
 - Drawback: earners above \$133,000 may not participate
- Alternative Options:
 - “Roth” default with “Traditional” option at Program launch—would allow earners above \$133,000 to participate, but add administrative complexity for employers
 - “Traditional” default with “Roth” option—not recommended; refund scenario would include penalties

Individual Participation

10006 (c)

- If/when explicitly authorized by the Board, individuals may also participate directly without an employer arrangement
- Minimum age: 18
- Contributions: must be whole dollar amounts
- Minimum contributions: none in regulations, but the Program may establish if necessary
- Auto-escalation: individuals can participate if making direct-deposit contributions, subject to same limits as employees

Withdrawals and Rollovers

10008

- Pre-retirement age withdrawal: program will prompt participant with educational material on impact of pre-retirement withdrawal
- Rollover procedures: to be established in accordance with federal laws and regulations

Confidentiality and Disclosures

10010

- All account information is confidential
- Release of any individual account information shall require written authorization from the individual
- The Board may disclose aggregated anonymized data

Investments

10006(a)(4)

- Default option or options to be determined pending Board establishment of investment policy statement and investment menu; appropriate balance of risk and return opportunities

California Secure Choice Retirement Savings Investment Board



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Email: SecureChoice@sto.ca.gov

Proposed Timeline – Development and Adoption of Secure Choice Regulations

Timeline

Outlined below is an estimated schedule for the drafting and adoption of regulations for the California Secure Choice Retirement Savings Program. Some of the dates included are best estimates and may be subject to some change.

Emergency Regulations

If the Board approves submission of emergency regulations at the December 18, 2017 Board meeting, staff estimate the following timeline for adoption of emergency regulations:

| | |
|-------------------|--|
| December 19, 2017 | 5-day Notice posted on Secure Choice website and sent to Interested Parties. |
| December 27, 2017 | Emergency regulations filed with OAL. |
| January 01, 2018 | Public comment period ends. |
| January 06, 2017 | OAL review period ends. If approved, the emergency regulations are filed with the Secretary of State and are in effect for 180 days. |
| July 05, 2018 | Emergency regulations expire. |
| October 03, 2018 | (optional) first 90-day re-adoption expires. |
| January 01, 2019 | (optional) second 90-day re-adoption expires. |

If the Board approves submission of emergency regulations at the January 22, 2018 Board meeting, staff estimate the following timeline for adoption of emergency regulations:

| | |
|------------------|--|
| January 15, 2018 | 5-day Notice posted on Secure Choice website and sent to Interested Parties. |
| January 22, 2018 | Secure Choice Board Meeting – Resolution for Proposed Regulations. |
| January 23, 2018 | Emergency regulations filed with OAL. |
| January 28, 2018 | Public comment period ends. |
| February 3, 2018 | OAL review period ends. If approved, the emergency regulations are filed with the Secretary of State and are in effect for 180 days. |
| August 2, 2018 | Emergency regulations expire. |
| October 31, 2018 | (optional) first 90-day re-adoption expires. |

Proposed Timeline – Development and Adoption of Secure Choice Regulations

January 29, 2019 (optional) second 90-day re-adoption expires.

Permanent Regulations

Staff will initiate the regular rulemaking process in the weeks after the emergency regulations take effect. If the emergency regulations are approved at the December 18, 2017 Board meeting, staff estimate the following timeline for adoption of permanent regulations:

| | |
|-------------------|--|
| January 23, 2018 | Post Notice of Proposed Rulemaking on Secure Choice website. |
| February 05, 2018 | The <i>Rulemaking File</i> and Notice of Publication are filed with the Office of Administrative Law (OAL). The Notice of Proposed Regulatory Action is issued. |
| February 16, 2018 | OAL publishes Notice and 45-day* public comment period begins. |
| April 02, 2018 | 45-day public comment period ends. |
| April 03, 2018 | Public Hearing. |
| April 30, 2018 | Deliver permanent regulation package to OAL for 30-day review.* |
| May 30, 2018 | Deadline for OAL review. If approved, OAL issues Approval of Certificate of Compliance for permanent regulations and files regulations with the Secretary of State |
| May 30, 2018 | Regulations become effective upon filing. |

*If public comments are received that warrant substantial modifications to the proposed regulations, then the process will be lengthened to accommodate a 15-day comment period as follows:

| | |
|----------------|---|
| April 30, 2018 | Proposed regulation amendments are modified and Notice of Proposed Changes is issued to initiate a 15-day comment period. |
| May 18, 2018 | 15-day comment period ends. |
| May 21, 2018 | Deliver permanent regulation package to OAL for 30-day review. |

Proposed Timeline – Development and Adoption of Secure Choice Regulations

June 20, 2018 Deadline for OAL review. If approved, OAL issues Approval of Certificate of Compliance for permanent regulations and files regulations with the Secretary of State

June 20, 2018 Permanent regulations become effective upon filing.

*Or, if public comments are received that warrant major changes, a new 45-day notice is required.

June 29, 2018 End of new 45-day public comment period.

July 13, 2018 Deliver permanent regulation package to OAL for 30-day review.

August 12, 2017 Deadline for OAL review. If approved, OAL issues Approval of Certificate of Compliance for permanent regulations and files regulations with the Secretary of State

August 12, 2018 Permanent regulations become effective upon filing.