

# CARES Act Operational Checklist

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On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) became law. The CARES Act includes several provisions that affect retirement plans. The CARES Act makes it easier for plan participants to access retirement savings through tax-favored distributions, relaxes certain participant loan limitations, and allows a temporary waiver of required minimum distributions for certain plans.

It is likely that the Internal Revenue Service (IRS) and the Department of Labor (DOL) will provide guidance on the provisions of the CARES Act. Based on this guidance, the plan sponsor will adopt an interim amendment prior to the amendment deadline, which is the last day of the 2022 plan year. In the meantime, plan sponsors may use this Operational Checklist to document the operational implementation of the CARES Act changes.

## Explanation of CARES Act

### **Tax-favored distributions from retirement plans**

The CARES Act waives the 10% early withdrawal tax under Code §72(p) and allows retirement plans to make COVID-19 withdrawals without violating in-service distribution restrictions. To qualify for this special treatment, the plan must make the COVID-19 withdrawal on or after January 1, 2020 and before December 31, 2020 and the aggregate distribution cannot exceed \$100,000 (including all plans maintained by members of the same related employer group). A COVID-19 withdrawal is a distribution to an individual (1) diagnosed with the COVID-19 virus, (2) whose spouse or dependent is diagnosed with the COVID-19 virus, or (3) who experiences adverse financial consequences as a result of being quarantined, being furloughed or laid off or having work hours reduced due to such virus or disease, being unable to work due to lack of child care due to such virus or disease, closing or reducing hours of a business owned or operated by the individual due to such virus or disease or other factors as determined by the Secretary of the Treasury (a "Qualifying Participant"). A plan administrator may rely on a participant's certification that he/she is a Qualified Participant.

Based on previous IRS guidance relating to similar disaster-related distribution provisions, a defined benefit plan or a money purchase plan may not generally make COVID-19 withdrawals.

An individual receiving a COVID-19 withdrawal may spread the income tax ratably over a 3-year period or may elect to have the entire amount included in income in the year of distribution. In addition, the individual may repay the COVID-19 withdrawal (or a portion) back to the plan (or any plan the participant is eligible to roll money into) or to an IRA as a rollover at any time within three year period beginning on the date of the distribution.

### **Relaxation of participant loan requirements**

For the 180 day period beginning on the enactment (March 27, 2020) of the CARES Act, Qualified Participant may receive plan loans in an amount not to exceed the lesser of \$100,000 (rather than \$50,000) or 100% (rather than 50%) of the participant's vested account balance (accrued benefit).

Payments to outstanding loans for the remainder of 2020 may be delayed for up to one year for Qualifying Participants. Interest continues to accrue during the period and the plan can extend the term of the loan for up to one year.

### **Temporary waiver of required minimum distributions for certain plans**

The required minimum distribution rules under Code §401(a)(9) are waived for the 2020 calendar year for certain plans. These plans include defined contribution plans, including §401(a) plans, §403(a) plans and §403(b) plans, governmental Code §457(b) plans and IRAs. The waiver rules do not apply to defined benefit plans.

The temporary waiver may include distributions required to be made by April 1, 2020 for individuals that attained age 70 ½ in 2019. If an individual receives a distribution after December 31, 2019 that is eligible for waiver, the individual may rollover the distribution.

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Plan Name

## 1. COVID-19 withdrawals from retirement plans.

This provision is effective for COVID-19 withdrawals made on or after January 1, 2020 and before December 31, 2020.

**COVID-19 withdrawals are available from the following sources:**

- All available sources
- Specify: \_\_\_\_\_

## 2. Relaxation of participant loan requirements.

This provision is effective on the date of enactment (March 27, 2020) and ends 180 days after enactment.

**The loan policy is updated for Qualified Participants as follows:**

- The loan limit for a participant who is a Qualified Participant is increased to the lesser of \$100,000 or 100% of the participant's vested account balance.
- Payments to outstanding loans for the remainder of 2020 may be delayed for up to one year for Qualifying Participants.

## 3. Temporary waiver of required minimum distributions.

This provision applies to required minimum distribution otherwise required in the 2020 calendar year.

**A Participant who is eligible to receive a required minimum distribution for the 2020 calendar year may elect whether or not to receive the 2020 required minimum distribution (or any portion of such distribution).**

- If a Participant does not make an election regarding his/her 2020 required minimum distribution, such distribution will not be made for the 2020 calendar year.