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Coronavirus Aid, Relief, and Economic Security Act (the "CARES Act")
Overview of Defined Contribution Plan Provisions, Items to Consider and Action Items
Last Updated August 4, 2020

Item	Provision	"Old" Rule	New Rule[1]	Period for Administering Change	Items to Consider/Action Items
1	**Tax-Favored "Coronavirus-Related" Distributions**	In-service withdrawals of DC plan accounts are generally permitted only at certain times (e.g., hardship, age 59-1/2), and only certain account sources may be available. Early withdrawals before age 59-1/2 are subject to an additional 10% tax.	✓ "Coronavirus-related" distributions ("CV Distributions") of up to $100,000 (taking into account all DC plans of the controlled group) are not subject to the 10% penalty that normally applies to early withdrawals, and it appears that these withdrawals may be available from all vested account sources. ✓ Participant may elect to include the amount of the CV Distribution in income over a three-year period (mandatory 20% withholding does not apply). ✓ Participant may choose to repay all or a portion of the CV Distribution to a DC plan or IRA within three years. ✓ Participant may self-certify that he or she is a qualified individual eligible for CV Distribution.	CV Distributions may be taken on or after January 1, 2020, but before December 31, 2020	✓ Consider whether plan will allow for CV Distributions and discuss implementation with third party administrator/Seyfarth attorney ✓ If plan allows for CV Distributions consider/review: • what account sources will be available for CV Distributions • Form 1099-R withholding and reporting procedures with payroll department and/or third party administrator • procedures for monitoring other plans within control group (if any) to ensure compliance with $100,000 limit on CV Distributions • self-certification process for qualified individuals • updates to participant communications (SPDs, SMMs, etc.) ✓ Consider whether plan will accept re-contributions of CV Distributions. ✓ If plan allows for re-contribution of CV Distributions, consider/review process for determining whether an amount is eligible for re-contribution
2	**Plan Loans - Increase in Limit**	The limit on plan loans is the lesser of $50,000 or 50% of the participant's vested account balance.	For a qualified individual, the limit on plan loans is increased to the lesser of $100,000, or 100% of the participant's vested account balance.	Loans made on or after March 27, 2020-September 23, 2020 (the 180-day period beginning on the date of the enactment of the	✓ Consider whether plan will allow for increased limits on plan loans for qualified individuals. ✓ If plan allows for increased limits, consider whether CV loan will apply towards any existing limit on the *number* of loans permitted under the plan. For example, if plan limits participants to two loans outstanding, the CV loan would count toward this limit unless the plan were amended to provide

[1] Retirement plans (excluding governmental plans) must adopt amendments to reflect any CARES Act changes implemented by the last day of the first plan year beginning on or after January 1, 2022 (December 31, 2022 for non-governmental calendar year plans). Governmental plans must adopt amendments by the last day of the first plan year beginning on or after January 1, 2024. The deadlines for plan amendments also may be extended by the Secretary of Treasury in future guidance.

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				CARES Act)	otherwise. A change to the number of loans permitted under the plan may need to be made by the end of 2020. ✓ If plan incorporates maximum limit on loans by reference, increased limits for qualifying individuals may also be incorporated by reference. If plan sponsor does not want to provide for increased loan amounts, amendment may be necessary.
3	**Plan Loans - Suspension of Loan Repayments**	Loan repayments generally must be made by the last day of the calendar quarter following the date payment is due.	✓ Qualified individuals may delay loan repayments for plan loans outstanding on or after March 27, 2020 (date of enactment). The Act provides that the due date for any loan repayment due during the period from March 27, 2020 until December 31, 2020 may be delayed "for 1 year." ✓ The one year delay is disregarded for purposes of applying the maximum loan term (i.e., five years for a general purpose loan). ✓ Loan repayments are suspended through December 31, 2020, and resume in January 2021. ✓ Under new IRS safe harbor, when loan repayments resume on January 1, 2021, they are reamortized to account for the suspension period (up to 9 months). The term of the underlying loan may then be extended by up to one year from the original due date. ✓ Interest accruing during the loan suspension period must be added to the remaining principal of the loan.	Loans outstanding during the period beginning March 27, 2020 and ending on December 31, 2020	✓ Consider whether plan will allow for suspension of plan loan repayments. • Discuss process with third party administrator (some TPAs automatically administered the suspension period unless the plan sponsor expressly opted out) ✓ If suspension period is permitted under plan, consider how resumption of payments will be administered beginning January 1, 2021: • Will IRS safe harbor be applied? • In lieu of IRS safe harbor, will another reasonable method be applied when administering the resumption of payments? (E.g., this could include suspending payments that would otherwise be due during the suspension period until the one year anniversary of the beginning of the suspension period, although non-suspended repayments would have to recommence in January 2021).

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4	**Waiver of 2020 Required Minimum Distributions (RMDs)**	Participants who reached 70½ before 2020 are generally required to begin taking RMDs by April 1 of the year following attainment of 70½, or following termination of employment, if later. NOTE: The SECURE Act had previously changed the RMD age from 70 1/2 to 72 for anyone who reached age 70 1/2 on or after January 1, 2020 (i.e., age 70 by July 1, 2019).	✓ Participants are not required to take 2020 RMDs. The CARES Act waives *any* RMD required to be made in 2020 (as long as it was not already made before 2020). ✓ In Notice 2020-51, the IRS provided two sample amendments that plan sponsor's may adopt to provide participants and beneficiaries a choice as to whether or not to receive a waived RMD. ✓ IRS Notice 2020-51 provided relief for plan sponsors who treated a distribution as a 2020 RMD.	Required beginning dates in 2020	✓ Consider whether to: • Distribute 2020 RMDs (no option for participant or beneficiary) • Distribute 2020 RMDs unless the participant or beneficiary elect not to receive the 2020 RMD (IRS provided sample amendment for this option in Notice 2020-51)) • Do not distribute 2020 RMDs unless the participant or beneficiary elects to receive the 2020 RMD (IRS provided sample amendment for this option in Notice 2020-51)
5	**Treatment of 2020 RMDs as Eligible for Rollover**	RMDs are not eligible rollover distributions under the IRC	✓ A plan sponsor *may* allow a participant who already took a RMD in 2020 (including amounts required to be taken by April 1, 2021) to roll these funds back into the plan. ✓ The IRS extended the 60-day rollover period until August 31, 2020. ✓ If a plan sponsor does not allow for this, however, the IRS has clarified that the payment is not subject to the direct rollover requirements, participant notice requirement or 20% withholding.	Required beginning dates in 2020	✓ Consider whether to: • Provide for availability of a direct rollover of 2020 RMDs • Allow participants a direct rollover opportunity *only* for pre-CARES Act distributions (i.e., a direct rollover option is NOT offered for 2020 RMDs) ***Note: The IRS issued sample amendments in Notice 2020-51. The above is a general summary of the options. You should consult with your Seyfarth attorney.***