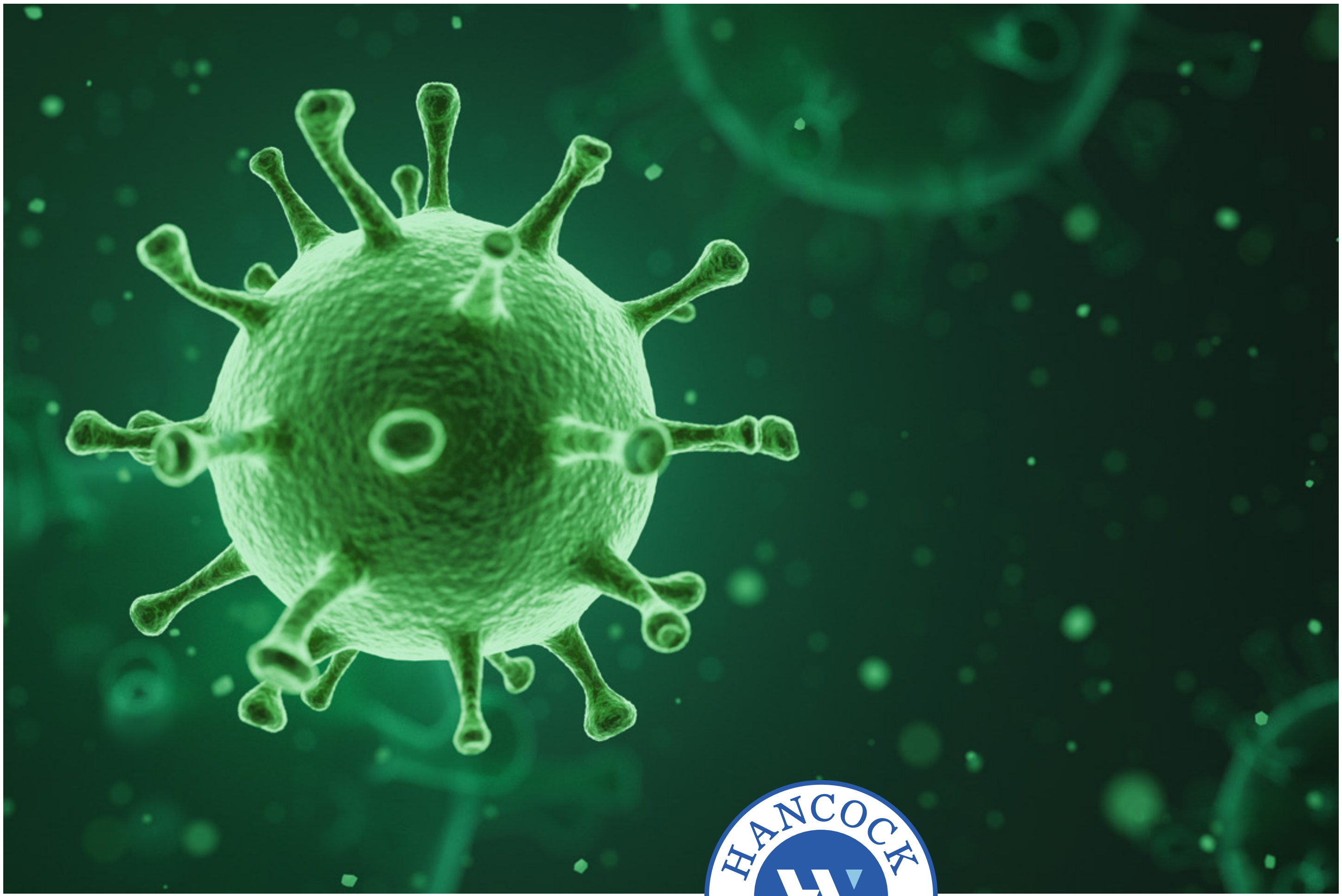

CARES Act: Retirement Plan Provisions

Updated April 13, 2020

On March 27, 2020, the Coronavirus, Aid, Relief, and Economic Security (CARES) Act (the "Act") was signed into law. A portion of the Act is intended to loosen access to retirement plan funds for individuals impacted by the COVID-19 pandemic. The following is a summary of the retirement-related provisions of the Act:

Coronavirus-related distribution (CRD)

- Waiver of 10% penalty on early withdrawals for amounts up to $100,000 from a retirement plan or IRA taken between January 1, 2020 and December 31, 2020 (so can be retroactively applied to distributions taken prior to enactment of the Act)
- CRDs are only available to a **qualified individual** (see "qualified individual" below)
- Individuals are allowed to pay the tax on a CRD ratably over a three-year period; and
- Individuals are allowed to repay the CRD back to the plan, tax-free, over the three years from the date of the withdrawal (not limited by plan limits). May be repaid back into the plan making the withdrawal, another qualified plan or an IRA that accepts rollovers.
- Plan sponsor has discretion whether to offer this design in their qualified plan

Plan loans

- For participant loans taken from plans between enactment of the Act and September 23, 2020, loan limits are increased for **qualified individuals** (see "qualified individual" below) to the lesser of:
  - $100,000; or
  - 100% of their vested account balance
- **Qualified individuals** (see "qualified individual" below) with **existing outstanding loans** with a repayment due from the date of enactment of the Act through December 31, 2020 may delay loan repayments for up to one year. The plan can choose to extend the term of the loan for up to a year as well. Doing so would allow participants to avoid a financial hardship when they do resume repayment by keeping their repayment amount the same as prior to the suspension of the repayment. These loans will continue to accrue interest during the period of the suspension of repayments.
- Plan sponsor has discretion whether to offer these design elements in their qualified plan

Qualified individual

- Eligibility for the CRD and the adjustment to the loan limits is conditioned upon an individual meeting one of the following criteria:
  - Is diagnosed with COVID-19;
  - Whose spouse, or dependent (as defined by the Internal Revenue Code) is diagnosed with COVID-19;
  - Who experiences adverse financial consequences due to furlough, quarantine, layoff, reduction in hours, inability to work due to lack of child care due to COVID-19, or closing of business/reduction of hours by individual due to COVID-19; or
  - Factors determined by the Secretary of the Treasury
- Importantly, the Act does not require the plan sponsor to verify whether an individual qualifies for the COVID-19 adjusted loan limits or the CRD. The plan sponsor may rely upon a **participant's certification** for eligibility.

Required minimum distributions

- The Act waives RMD payments for 2020.
  - Includes RMD attributable to 2019 which was not paid by January 1, 2020;
  - Includes RMD if already made in 2020; but
  - Does not include RMD distributions that were made in 2019
- For RMDs that were already made in 2020 the participant may defer taxes and roll it back to the plan from which it was made or roll it to another qualified plan or IRA which accepts rollovers. Additional guidance regarding any potential impact to the 60-day rollover period is expected from the IRS.

Defined benefit and money purchase pension plans

- The Act allows these plans to delay any contributions due in calendar year 2020 (including all quarterly contributions) until January 1, 2021. The new January 1, 2021 due date applies for all quarterly contributions (they would no longer be separately due).
- Leveraging the delayed due date would subject the employer to interest on the delayed contributions from the original due date(s) at the effective rate for the plan year that includes the date of payment.
- Plan sponsors should expect leveraging delay should lead to higher contributions in 2021.

Reporting and notices

The Act empowers the Department of Labor to extend certain deadlines for notices – more information expected in the coming weeks.

Plans can adopt the new rules immediately. The plan will eventually need to be amended on or before the last day of the first plan year beginning on or after January 1, 2022, or later if prescribed by the Secretary of the Treasury.

We understand that these are challenging times for business, and we're here to help. Please contact us at 800-651-9227, or call your Relationship Manager for help understanding how the Act impacts your plan or how it affects your employees and participants.

Source: National Association of Plan Advisors