

Kuehn, Kimberly

From: Merrick, B. (Brian) <Brian.Merrick@voya.com>
Sent: Wednesday, April 1, 2020 11:33 AM
To: Cleary, Beth; Kuehn, Kimberly; Bieszk, Elaine
Cc: Campbell, Adria; McCloskey, John; Ruisi, Laura; Conlin, D. (Dawn); Martin, C. (Charmaine); Mitchell Manning (mitchell.manning@voyafa.com)
Subject: CARES Act Letter of Direction
Attachments: CARES Act Plan Sponsor Direction Letter.docx

Hi Beth,

The Coronavirus Aid, Relief, and Economic Security (CARES) Act, signed into law on March 27, 2020 includes provisions applicable to retirement plans including new coronavirus-related distributions (CRDs), higher loan amounts and waiver of required minimum distributions (RMDs).

- **The CRD and enhanced loan provisions are optional for plans to enact.** Sponsors may choose to allow these provisions, or they may elect to do nothing. If you decide to adopt these provisions, **plan amendments are required** although do not need to be adopted until at least the end of the 2022 plan year (or later as Treasury provides), with an additional two years for governmental plans.

In order to enact these provisions before your plan is amended, you will need to submit a Letter of Direction to Voya. To assist you in this process, we have developed a template which you can complete and return to Voya (see attached).

I am happy to discuss or to answer any questions you may have.

[I am also working on the other information from the VRA team we discussed last night.]

Thank you,

Brian Merrick

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Please consider the environment.
Only print if needed.

Sponsor Election to Allow Coronavirus-Related Distributions and Loans

Voya Financial

Dear Plan Sponsor,

On Friday, March 27, 2020, President Trump signed into law the Coronavirus Aid, Relief, and Economic Security Act, or CARES Act (the "Act"). The Act includes a number of tax provisions related to retirement plans noted in this summary.

Coronavirus Related Distribution from Certain Retirement Plans

A plan participant or IRA owner may take a coronavirus related distribution from a 401(a), 401(k), 403(b), or governmental 457(b) plan or from a traditional IRA beginning March 27, 2020 and before December 31, 2020 due to:

- that individual being diagnosed with the virus SARS-CoV-2 or with coronavirus disease 2019 (COVID-19) by a test approved by the Centers for Disease Control and Prevention;
- the individual's spouse or dependent being diagnosed with such virus or disease by such a test; or
- the individual experiencing adverse financial consequences as a result of:
 - being quarantined, 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
 - meeting such other factors as may be issued in Treasury guidance.

A plan administrator may rely on a participant's certification that the participant satisfies the eligibility conditions for taking a coronavirus-related distribution.

Federal Income Tax Treatment of Coronavirus Related Distribution

A coronavirus related distribution is not subject to the mandatory federal 20% withholding or delivery and receipt of the Special Tax Notice. Voya will tax report the full distribution amount for tax year 2020.

Waiver of the IRS 10% Premature Distribution Penalty Tax

A plan participant or IRA owner who takes a coronavirus related distribution up to an aggregate amount of \$100,000 is not subject to the Internal Revenue Service (IRS) 10% premature distribution penalty tax. A plan sponsor's responsibility for monitoring the \$100,000 aggregate distribution amount of a participant's coronavirus related distribution is limited to only coronavirus related distributions a participant takes from all plans of that employer (and any other plans that are part of that employer's controlled group). Please note that Voya will not monitor the \$100,000 aggregate distribution limit.

Repayment of Coronavirus Related Distribution

A coronavirus related distribution may be repaid in one or more contributions to a 401(a), 401(k), 403(b), or governmental 457(b) plan or to a traditional IRA over a 3-year period beginning on the date that the distribution was received if the recontribution is made to:

- a 401(a), 401(k), 403(b), governmental 457(b) plan, or traditional IRA. The coronavirus related distribution is considered to be a rollover eligible distribution for recontribution purposes.

Plan Loan Relief

A participant who satisfies the eligibility requirements for a Coronavirus Related Distribution:

- may take a loan from a 401(a), 401(k), 403(b), or governmental 457(b) plan during the 180-day period beginning on March 27, 2020 of up to the lesser of \$100,000 (taking into account the outstanding balance of all other loans taken from plans of the employer) or 100% of the non-forfeitable value of the participant's account under the plan (note existing outstanding loan amounts and number of loans permitted under the plan will serve to decrease the amount available); and
- may delay repayment of a new or existing loan from a 401(a), 401(k), 403(b), or governmental 457(b) plan for a period of one year for loan repayments outstanding on March 27, 2020 through December 31, 2020. The delay of the loan repayment will not cause the loan to fail to meet the Internal Revenue Code requirements for the

maximum five-year loan term for nonresidential loans or substantially level reamortized payment schedule. Once repayments recommence, the will be adjusted to reflect the delay, including accrued interest.

Please note, your existing loan provisions still apply with respect to the number of loans available. Additionally, your plan must offer loans in order to implement this provision.

Waiver of Required Minimum Distribution (RMD) from Certain Defined Contribution Plans and traditional IRAs for 2020 Calendar Year

RMDs are waived for all participants and beneficiaries in 2020 from accounts within a defined contribution 401(a) or 401(k) plan, defined contribution 403(b) plan, or a defined contribution governmental 457(b) plan, or a traditional IRA. Voya will automatically waive Required Minimum Distributions (RMDs) for 2020 unless otherwise directed.

Plan Sponsor Authorization to Voya

By checking the box(es) below, you confirm your intent to amend your Plan based on the rule changes stated above and instruct Voya to process coronavirus-related distributions and loans.

Important Note: The Act is federal legislation and does not supersede any corresponding State legislation or State taxes applicable to retirement plans. As the Plan Sponsor you acknowledge that you are instructing Voya to process these distributions in the absence of conforming State law and State tax guidance.

Select each that apply:

- The _____ Plan will adopt the Act's provision to allow **coronavirus-related distributions** as outlined above and directs Voya to accept participants' self-certification of eligibility (including a telephonic affirmation on a recorded line) to receive a coronavirus-related distribution.
- The _____ Plan will adopt the Act's provision to allow **coronavirus-related loans** as outlined above and directs Voya to accept participants' self-certification of eligibility (including a telephonic affirmation on a recorded line) to receive a coronavirus-related loan.
- The _____ Plan will adopt the Act's provision to permit delayed **loan repayments** as outlined above and directs Voya to accept participants' self-certification of eligibility (including a telephonic affirmation on a recorded line) to delay loan repayments.

Plan Name

Plan Numbers

Print Authorized Plan Sponsor Representative Name

Title

Authorized Plan Sponsor Representative Signature

Date