

JUST THE FACTS

A Newsletter Prepared By First Actuarial Consulting, Inc.

April 2020

On March 27, 2020, the [Coronavirus Aid, Relief, and Economic Security Act](#) (“CARES Act”) became law. During its assembly, we heard from insiders regarding the possible inclusion of extensive reforms and relief for the US multiemployer defined-benefit system, yet no such provisions appear in the final Act. We will continue to monitor and inform you if any new relief measures are passed. This *Just the FACTs* attempts to summarize the main provisions of which retirement plan sponsors should be aware. The CARES Act contains provisions relevant to defined-contribution arrangements, which presumably include multiemployer annuity and savings plans, and for single-employer defined-benefit plans. The relevant language is found in the Act’s **Title II – Assistance for American Workers, Families and Businesses**.

Defined-Contribution Plans

Special coronavirus-related distributions will now be available under the Act from:

- individual retirement accounts; and
- defined-contribution plans described in IRC sections 403(a), 457 and 403(b).

Coronavirus-related distributions may be made during calendar 2020 to an individual:

- who is diagnosed with the coronavirus disease by a test approved by the CDC;
- whose spouse or dependent is diagnosed with the virus; or
- who experiences adverse financial consequences as a result of being quarantined, furloughed, or laid off, having work hours reduced, or other factors due to the virus as determined by the Secretary of the Treasury.

Participants may self-certify to the plan sponsor that they satisfy the conditions above.

These plans may permit individuals to receive a coronavirus-related distribution without the 10% tax penalty for early withdrawals and without automatic 20% withholding requirements, unless the aggregate amount of such distributions to such individual from all plans maintained by the controlled group exceeds \$100,000. These distributions are subject to regular income tax, although it may be spread over three years. And these limits apply only to coronavirus-related distributions; regular in-service or hardship distributions are subject to separate limits.

Also, there are provisions for which the participant may repay the distribution over a three-year period. If the coronavirus-related distribution is properly repaid, the distribution will be treated as having been made as an eligible rollover distribution.

JUST THE FACTS is prepared by First Actuarial Consulting, Inc. for general informational purposes only. It does not offer legal advice and does not claim to give all information regarding any given topic. As always, how these issues affect your plan specifically should be discussed with fund counsel before any action is taken in this regard.



JUST THE FACTS

Regarding **loans** from qualified defined-contribution plans, the usual limitation on loans will be increased (during the 180-day period beginning on March 27, 2020) from \$50,000 to \$100,000 (or, if less, the present value of the nonforfeitable accrued benefit of the employee under the plan). In addition, should the due date of any loan occur before 2020 ends, it will be delayed for one year.

These are options for plan sponsors. For those interested, their eligible plans must be retroactively amended to incorporate the new rules by the last day of the first plan year beginning on or after January 1, 2022. The CARES Act requires relevant notification to stakeholders of plans taking advantage of these options.

The CARES Act has provisions eliminating **required minimum distributions** that would have been based upon account balances as of December 31, 2019, and otherwise required to have been made in 2020 from:

- most defined contribution plans (*e.g.*, 401(k) and 403(b) plans);
- Section 457(b) deferred compensation plans that are maintained by an eligible employer; and
- IRAs.

Single-Employer Defined-Benefit Plans

The payment of **minimum required contributions**, including quarterly contributions, during calendar year 2020 may be delayed until January 1, 2021, but must include interest for the period between its original due date and the actual payment date (calculated using the effective rate of interest for the plan year which includes such payment date).

Regarding any benefit restrictions per the measurement of the **adjusted funding target attainment percentage (“AFTAP”)**, a plan sponsor may elect to treat the plan’s AFTAP for the last plan year ending before 2020, as the AFTAP for the plan year which begins in 2020.

Adjustable / Variable Accrual Plans

As a side note, due to the economic impact of the coronavirus, sponsors of adjustable or variable-accrual pension plans may need to amend the plan documents.

Caveats

JUST THE FACTS is prepared by First Actuarial Consulting, Inc. for general informational purposes only. It does not offer legal advice and does not claim to give all information regarding any given topic. As always, how these issues affect your plan specifically should be discussed with fund counsel before any action is taken in this regard.



JUST THE FACTS

While we have attempted to alert our readers to the most prominent retirement provisions of the CARES Act, we have tried to avoid cluttering this notice with too many details. There are many other provisions of which employers should be aware regarding, for instance, delays on payment of employment taxes. We want to remind you that, at FACT, we are not lawyers and do not provide legal advice. Plan sponsors should seek fund counsel's opinion on how the CARES Act may affect particular plans and situations.

Also, please be aware that FACT staff are all working from home currently and continue to service all our clients' needs, so if you have any questions or concerns, please let us know. Feel free to call or email your team members directly. Our main telephone number is 212-395-9555 and our general inbox is <mailto:factinfo@actuarial.com> yours good health and comfort during this crisis.

JUST THE FACTS is prepared by First Actuarial Consulting, Inc. for general informational purposes only. It does not offer legal advice and does not claim to give all information regarding any given topic. As always, how these issues affect your plan specifically should be discussed with fund counsel before any action is taken in this regard.

