DATAIR has created the following COVID-19 and CARES Act communication materials to help you assist plan sponsors with the operation and administration of the special COVID-19 and CARES Act retirement plan provisions. These materials do not replace the requirement to formally amend the plan and provide plan participants with a Summary of Material Modifications. DATAIR will be providing actual amendments for your plans once the IRS releases guidance with respect to these special provisions.

**Cover Letter to Plan Sponsors**

The cover letter can be used while sending the communication pieces to plan sponsors. It describes the new options available.

**Participant Notice**

The Participant Notice is used to communicate the changes to their participants and allows participants to self-certify their eligibility for these special provisions. These notices are not required by law, however if a plan sponsor intends on offering these special benefits, it is important to communicate them to all plan participants.

There are three versions of the participant notice, select the notice that reflects the special provisions being offered:

1. The Coronavirus Related Distributions and Coronavirus Related Loan Provisions Memo – use this if the plan sponsor is offering CVRD Qualified Participants both Coronavirus related distributions and Coronavirus related loan enhancements.

2. The Coronavirus Related Distributions Memo – use this if the plan sponsor is offering CVRD Qualified Participants Coronavirus related distributions but not Coronavirus related loan enhancements.

3. The Coronavirus Related Loan Provisions Memo – use this if the plan sponsor is offering CVRD Qualified Participants Coronavirus related loan enhancements but not Coronavirus related distributions.

**CVRD Qualified Participant Self Certification**

The Act allows plan sponsors to rely on a participant’s self-certification that they meet the requirements. The “CVRD Qualified Participant Self Certification” form has been included in these materials which can be used by the plan sponsor to document participant self-certification. It is intended that this certification form will be used with your normal distribution paperwork, or any special COVID-19 and CARES Act distribution paperwork that may be provided by the plan’s recordkeeper.

The CARES Act requires that a participant be a “CVRD Qualified Participant” to take advantage of the CVRDs and CVRD expanded loan provisions. A participant is a “CVRD Qualified Participant” if they meet any of the following requirements:

1. The participant, participant’s spouse, or participant’s dependent (as defined by Code Sec. 152) have been diagnosed with the virus SARS-CoV-2 or with the disease COVID-19 by a test approved by the Center for Disease Control (CDC); or

2. The participant has experienced adverse financial consequences as a result of the participant, the participant’s spouse, or a member of the participant’s household (that is, someone who shares the individual's principal residence) experiencing one or more of the following events due to SARS-CoV-2 or COVID-19:

* 1. they were quarantined, furloughed, or laid-off
  2. they experienced a reduction in work hours;
  3. they were unable to work due to lack of childcare;
  4. they own or operate a business that either closed or was forced to operate under reduced hours;
  5. their pay or self-employment income was reduced due to COVID-19; or
  6. they have a job offer rescinded or start date for a job delayed due to COVID-19.

Note that this list may be updated by the Secretary of the Treasury.

**Sample Safe Harbor Notice Update**

Because the annual safe harbor notice includes distribution provisions, safe Harbor plans that chose to allow for CVRDs will need to provide a notice update as soon as possible. The sample notice can be customized to the plan provisions.

**CARES Act Provisions Operational Checklist**

This checklist can be used by the plan sponsor to document how the plan is being operated so the amendment, once available, can be accurately completed (current amendment deadline is the end of the plan year starting on or after 1/1/2022). The checklist has been updated to allow the plan to indicate that they are not allowing CVRDs or the expanded loan provision.

To: Plan Sponsor

From:

Date:

RE: CARES Act Corona-19 Virus Defined Contribution Plan Relief

The Coronavirus Aid, Relief, and Economic Security (CARES) Act includes several [new provisions related to retirement plans](http://r20.rs6.net/tn.jsp?f=001nNJIoN2MPojlyFxU35_cgFBCfaCEjgpsI0TmtkLP-Purvo_xNE_cVSPS_Lljdxr59O9beluebEDIdfjEkdPrDbzR3IOBvD8tensmekoNo8_WFc75pW2pKMvKzUIvnjQuKKN8brchLYyORNResNudGzqcUuF9-AOkgQ7rc-z3ZNZPjDzZN0yxEs-Y5vy4nfXseLoZeIJyHbQSGCuE6BEbODdt7mDRJUh4jGJicpBtHAU=&c=2Az6MkDvHJZe6Q6BbssEcMyhFCNP7LNhJEHFRz-ntt4ZrLFCXiWiIw==&ch=_wt3RkOepkcQIer60xMFMR0uDUaCXUk6ZXp8K7kZpE9xaRmIBhW5dQ==) associated with distributions, loans, and required minimum distributions that plan sponsors may wish to adopt as well as certain mandatory provisions. While amendments for these changes will not be required until 2022, it is important that you fully understand the impact of the retirement plan provisions available under the CARES Act. In general, there are three areas where relief has been granted. Below is a brief description of your design options.

**1. CARES Act Distributions.** While the tax treatment available to participants impacted by COVID-19 is available regardless of the decisions you make, you have an option to create a special distributable event that will enable qualified participants to take a distribution even if they are not eligible for a distribution under the current plan provisions.

**2. CARES Act Plan Loans.** If your plan currently provided for loans to participants, you have the option of enhancing the loan provisions to provide for larger amounts being available as well as a 1-year suspension of loan repayments for certain participants. Both provisions are optional.

**3. Required Minimum Distribution Relief.** You have several options with respect to required minimum distributions, you can elect to suspend them for 2020, you can give participant’s the option of suspending them for 2020 or you can elect to pay them as usual.

Note, that in some cases, plan recordkeepers are making these design decisions with respect to all plans under their control. Therefore, it is important to coordinate your decisions with your plan’s recordkeeper. Also note, that even though a formal plan amendment is not due until 2022, it will be important to communicate to plan participants, the availability of any special COVID-19 provisions.

To: All Plan Participants

From:

Date:

RE: Coronavirus Related Distributions

On March 27, 2020 the Coronavirus Aid, Relief, and Economic Security Act of 2020 (the CARES Act) was signed into law. As a result, we have decided to add a distribution trigger to the plan that may allow you to take money out of the plan. These distributions are referred to as Coronavirus Related Distributions (CVRDs) and you may take the distribution if you meet the requirements to be a CVRD Qualified Participant. This notice is intended to describe the CVRD provisions.

**Who is a CVRD Qualified Participant?**

In order to take a CVRD you must be a CVRD Qualified Participant. You are a CVRD Qualified Participant if you meet any of the following requirements:

1. You, your spouse, or your dependent (as defined by the IRS) have been diagnosed with the virus SARS-CoV-2 or with the disease COVID-19 by a test approved by the Center for Disease Control (CDC); or

2. You, your spouse, or a member of your household have experienced adverse financial consequences as a result of one or more of the following events due to SARS-CoV-2 or COVID-19:

* 1. being quarantined;
  2. being furloughed;
  3. being laid-off;
  4. experiencing a reduction in work hours;
  5. being unable to work due to lack of childcare; or
  6. a business own or operated by you, your spouse or a member of your household either closed or was forced to operate under reduced hours.

This list may be updated by the Secretary of the Treasury.

**What is a CVRD?**

A CVRD is a distribution that meets all the following requirements:

1. you are a CVRD Qualified Participant;

2. the distribution is taken between January 1, 2020 and December 31, 2020; and

3. the total distribution is not more than $100,000 (or your vested account balance). This limit includes all amounts taken from all plans sponsored by the same employer.

**Is the CVRD subject to tax?**

Yes, the amount you take out as a CVRD will be considered taxable income. However, the distribution will not be subject to mandatory withholding at the time it is made and the 10% withdrawal penalty tax that usually applies to early distributions will be waived. Additionally, the tax on Coronavirus-Related Distributions can be paid over a period of up to 3 years by making an election on your 2020 tax return.

**Can the money I take out as a CVRD be put back into a plan?**

Yes, you will also have a window of 3 years to pay back this distribution to either a retirement plan or an IRA.

If you have any questions, please contact your Plan Administrator.

To: All Plan Participants

From:

Date:

RE: Coronavirus Related Loan Provisions

On March 27, 2020 the Coronavirus Aid, Relief, and Economic Security Act of 2020 (the CARES Act) was signed into law. As a result, we have decided to adopt special loan provisions available if you meet the requirements to be a CVRD Qualified Participant. This notice is intended to describe the CVRD provisions.

**Who is a CVRD Qualified Participant?**

In order to take a CVRD you must be a CVRD Qualified Participant. You are a CVRD Qualified Participant if you meet any of the following requirements:

1. You, your spouse, or your dependent (as defined by the IRS) have been diagnosed with the virus SARS-CoV-2 or with the disease COVID-19 by a test approved by the Center for Disease Control (CDC); or

2. You, your spouse, or a member of your household have experienced adverse financial consequences as a result of one or more of the following events due to SARS-CoV-2 or COVID-19:

1. being quarantined;
2. being furloughed;
3. being laid-off;
4. experiencing a reduction in work hours;
5. being unable to work due to lack of childcare; or
6. a business own or operated by you, your spouse or a member of your household either closed or was forced to operate under reduced hours.

This list may be updated by the Secretary of the Treasury.

**What are the expanded loan provisions?**

For loans taken from the plan between March 27, 2020 and September 23, 2020 by CVRD Qualified Participants, the applicable limits on plan loans described in the plan’s Summary Plan Description (SPD) are increased. The $50,000 limit that generally applies has been increased to $100,000 and the 50% of vested account balance limit is increased to 100%. Refer to your SPD to see how these limits are applied when calculating the maximum available plan loan.

**Have the repayment terms changed?**

Yes, if you are a CVRD Qualified Participant, all loan payments due at any time between March 27, 2020 and December 31, 2020 will be suspended for a period of 1 year. Loan payments will restart as of the first due date that occurs on or after January 1, 2021 and the skipped payments will be adjusted to reflect interest during the suspension period and must be repaid starting on the one-year anniversary of the first skipped payment. Additionally, the time to repay the loan may be extended by one year.

If you have any questions, please contact your Plan Administrator.

To: All Plan Participants

From:

Date:

RE: Coronavirus Related Distributions and Loan Provisions

On March 27, 2020 the Coronavirus Aid, Relief, and Economic Security Act of 2020 (the CARES Act) was signed into law that provides special plan distribution and loan provisions to the plan that are available to CVRD Qualified Participants (as defined below). This notice is intended to describe the CVRD provisions.

**Who is a CVRD Qualified Participant?**

In order to take a CVRD you must be a CVRD Qualified Participant. You are a CVRD Qualified Participant if you meet any of the following requirements:

1. You, your spouse, or your dependent (as defined by the IRS) have been diagnosed with the virus SARS-CoV-2 or with the disease COVID-19 by a test approved by the Center for Disease Control (CDC); or

2. You, your spouse, or a member of your household have experienced adverse financial consequences as a result of one or more of the following events due to SARS-CoV-2 or COVID-19:

1. being quarantined;
2. being furloughed;
3. being laid-off;
4. experiencing a reduction in work hours;
5. being unable to work due to lack of childcare; or
6. a business own or operated by you, your spouse or a member of your household either closed or was forced to operate under reduced hours.

This list may be updated by the Secretary of the Treasury.

**Coronavirus Related Distributions (CVRDs)**

We have decided to add a distribution trigger to the plan that may allow you to take money out of the plan. These distributions are referred to as Coronavirus Related Distributions (CVRDs) and you may take the distribution if you meet the requirements to be a CVRD Qualified Participant. Coronavirus Related Distributions (CVRDs) are further described below:

**What is a CVRD?**

A CVRD is a distribution that meets all the following requirements:

1. you are a CVRD Qualified Participant;

2. the distribution is taken between January 1, 2020 and December 31, 2020; and

3. the total distribution is not more than $100,000 (or your vested account balance). This limit includes all amounts taken from all plans sponsored by the same employer.

**Is the CVRD subject to tax?**

Yes, the amount you take out as a CVRD will be considered taxable income. However, the distribution will not be subject to mandatory withholding at the time it is made and the 10% withdrawal penalty tax that usually applies to early distributions will be waived. Additionally, the tax on Coronavirus-Related Distributions can be paid over a period of up to 3 years by making an election on your 2020 tax return.

**Can the money I take out as a CVRD be put back into a plan?**

Yes, you will also have a window of 3 years to pay back this distribution to either a retirement plan or an IRA.

**Expanded Loan Provisions**

We have decided to enhance the plan loan provisions for CVRD Qualified Participants as described below.

**What are the expanded loan provisions?**

For loans taken from the plan between March 27, 2020 and September 23, 2020 by CVRD Qualified Participants, the applicable limits on plan loans described in the plan’s Summary Plan Description (SPD) are increased. The $50,000 limit that generally applies has been increased to $100,000 and the 50% of vested account balance limit is increased to 100%. Refer to your SPD to see how these limits are applied when calculating the maximum available plan loan.

**Have the repayment terms changed?**

Yes, if you are a CVRD Qualified Participant, all loan payments due at any time between March 27, 2020 and December 31, 2020 will be suspended for a period of 1 year. Loan payments will restart as of the first due date that occurs on or after January 1, 2021 and the skipped payments will be adjusted to reflect interest during the suspension period and must be repaid starting on the one-year anniversary of the first skipped payment. Additionally, the time to repay the loan may be extended by one year.

If you have any questions, please contact your Plan Administrator.

**CVRD QUALIFIED PARTICIPANT SELF-CERTIFICATION**

I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, certify that at least one of the following applies to me.

1. I have been diagnosed with the SARS-CoV-2 virus or a COVID-19-related disease.

2. My spouse and/or dependent has been diagnosed with the SARS-CoV-2 virus or a COVID-19-related disease.

3. I, my spouse, or a member of my household has suffered “adverse financial consequences” as a result of the following associated with COVID-19:

1. being quarantined;
2. being furloughed;
3. being laid-off;
4. experiencing a reduction in work hours;
5. being unable to work due to lack of childcare; or
6. a business own or operated by you, your spouse or a member of your household either closed or was forced to operate under reduced hours.

**Acknowledgement/Authorization**

Signature of Participant: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Update to the Annual Safe Harbor Notice**

|  |  |  |
| --- | --- | --- |
| **To:** | **All Eligible Employees** | |
| **Plan Name:** |  | |
| **Date:** |  | |
| **Effective Date of the change:** | |  |

The IRS requires that each Eligible Employee receive a notice 30 days before the beginning of the Plan Year that includes information about the plan at that time. If anything contained in that notice changes, we must provide you with an update that describes the changes. Due to the passage of the CARES Act, we have added a new way to get your vested money from the plan. This new distribution event is described below. Please contact the Plan Administrator if you have any questions related to this notice.

**When can I take my contributions out of the Plan?**

In addition to the other distribution events listed in the original Annual Safe Harbor Notice, you may also take your vested money out of the plan if you are a CVRD Qualified Participant.

You are a CVRD Qualified Participant if you meet any of the following requirements:

1. You, your spouse, or your dependent (as defined by the IRS) have been diagnosed with the virus SARS-CoV-2 or with the disease COVID-19 by a test approved by the Center for Disease Control (CDC); or

2. You, your spouse, or a member of your household have experienced adverse financial consequences as a result of one or more of the following events due to SARS-CoV-2 or COVID-19:

1. being quarantined;
2. being furloughed;
3. being laid-off;
4. experiencing a reduction in work hours;
5. being unable to work due to lack of childcare; or
6. a business own or operated by you, your spouse, or a member of your household either closed or was forced to operate under reduced hours.

This list may be updated by the Secretary of the Treasury.

If you are a CVRD Qualified Participant you can take a CVRD. A CVRD is a distribution that meets all the following requirements:

1. you are a CVRD Qualified Participant;

2. the distribution is taken between January 1, 2020 and December 31, 2020; and

3. the total distribution is not more than $100,000 (or your vested account balance). This limit includes all amounts taken from all plans sponsored by the same employer.

The amount you take out as a CVRD will be considered taxable income. However, the distribution will not be subject to mandatory withholding at the time it is made and the 10% withdrawal penalty tax that usually applies to early distributions will be waived. Additionally, the tax on Coronavirus-Related Distributions can be paid over a period of up to 3 years by making an election on your 2020 tax return.

Additionally, you will also have a window of 3 years to pay back this distribution to either a retirement plan or an IRA.

You can learn more about when you may take money from the Plan in the "Distribution" section of the Plan's SPD. You can also learn more about the extra 10% penalty tax in IRS Publication 575, Pension and Annuity Income.

**CARE ACT PROVISIONS**

**OPERATIONAL CHECKLIST**

The purpose of this checklist is to memorialize the elections made by the plan sponsor with respect to special provisions that apply to retirement plans as a result of the Care Act which was enacted in March 27, 2020.

NOTE: This is not an amendment to the plan. The deadline to amend a retirement plan to reflect the CARES Act is the last day of the plan year beginning on or after **January 1, 2022** (e.g., December 31, 2022 for a calendar year plan). An amendment reflecting the operation of the plan will be prepared once the IRS has issued the necessary guidance with respect to the required contents of the amendment.

Coronavirus-Related Distributions and Loans

* Not Applicable. The plan will not be changing for optional CARES Act Provisions*.*
* Coronavirus-Related Distributions: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ *(Enter date first made available).*
* Coronavirus-Related Loan Provision: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ *(Enter date first made available).*

2020 Required Minimum Distribution (RMD) Provisions *(assuming future guidance allows for a choice)*

Participants will have the choice to waive their RMD. If a participant fails to make an election 2020 RMDs will be

* waived.
* distributed.

NOTES: *(Use this space to make any notes with respect to the administrative operation of these special provisions)*: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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