Senate Approves Coronavirus Stimulus with Retirement Relief

BY **TED GODBOUT** | MARCH 26, 2020

CORONAVIRUS

It's not over yet, but after six days of intense negotiations, about midnight on March 25, the Senate unanimously approved a sweeping $2 trillion stimulus bill, including retirement relief provisions supported by the American Retirement Association.

The Coronavirus, Aid, Relief and Economic Security (CARES) Act (**H.R. 748 as amended**; note that this link is an 883-page PDF file of the bill text) was passed by a vote of 96-0 (four senators were under quarantine). While a vote was expected earlier in the day, it was delayed for several hours as several senators raised concerns over the formula used to calculate unemployment benefits. An amendment to address this issue was defeated 48-48.

The legislation now moves to the House of Representatives. House Majority Leader Steny Hoyer (D-MD) reportedly announced that the House will consider the bill Friday morning, March 27. The House leadership will attempt to approve the legislation via voice vote, which calls for simple "yeas and nays" without a recorded vote. If even a single member objects, however, and calls for a recorded vote, then the full House would need to be called back into session, unless the rules are changed to allow for proxy voting.

Assuming approval in the House with no amendments, it would then head to President Trump. Treasury Secretary Steve Mnuchin has previously indicated that the President would sign the bill.

As for those retirement-based provisions, the final bill sticks closely to what was initially proposed by Senate Majority Leader Mitch McConnell (R-KY), including provisions to ease retirement plan hardship and loan rules to free up funds for individuals impacted by the pandemic and to provide relief from the required minimum distribution (RMD) rules. The final bill also adds funding relief for single-employer defined benefit plans.

Below are the key provisions affecting retirement plans.

Hardship Distributions (Section 2202): The CARES Act waives the 10% early withdra
Revenue Code Section 72(t) on early withdrawals up to $100,000 from a retirement p

Plan Loans (Section 2202): H.R. 748 doubles the current retirement plan loan limits to the lesser of $100,000 or 100% of the participant's vested account balance in the plan. Individuals with an outstanding loan from their plan with a repayment due from the date of enactment of the CARES Act through Dec. 31, 2020, can delay their loan repayment(s) for up to one year.

Plan Amendments (Section 2202): The legislation further permits retirement plans to adopt these rules immediately, even if the plan does not currently allow for hardship distributions or loans, provided the plan is amended on or before the last day of the first plan year beginning on or after Jan. 1, 2020, or later if prescribed by the Treasury Secretary.

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Temporary Waiver of Required Minimum Distribution Rules (Section 2203): H.R. 748 waives RMDs for calendar year 2020 for DC plans, including 401(k), 403(b), 457(b) and IRA plans, allowing individuals to keep funds in their retirement plans. Under current law, individuals generally at age 72 must take an RMD from their DC plans and IRAs. The legislation also includes special rules regarding the waiver period to, in essence, hold harmless those individuals (and plans) who took advantage of the RMD waiver for 2020.

Single-employer DB Plan Funding Rules (Section 3608): New to the bill is a provision to provide single-employer defined benefit plan funding relief by giving companies more time to meet their funding obligations by delaying the due date for any contribution otherwise due during 2020 until Jan. 1, 2021. At that time, contributions due earlier would be due with interest. The provision also provides that a plan's status for benefit restrictions as of Dec. 31, 2019 will apply throughout 2020, such that a plan sponsor may elect to treat the plan's adjusted funding target attainment percentage for the last plan year ending before Jan. 1, 2020, as the adjusted funding target attainment percentage for plan years which include calendar year 2020.

Expansion of DOL Authority to Postpone Certain Deadlines (Section 3607): The legislation provides the Department of Labor with expanded authority to postpone certain deadlines under ERISA. In general, the legislation increases the circumstances to go beyond a terroristic or military action to also include a public health emergency declared by the Secretary of Health and Human Services under the Public Health Service Act.

In a **March 16 letter** to the DOL and Treasury Department, the ARA pressed the agencies to provide relief from various filing requirements, including an automatic extension of the Form 5500 series for retirement plans, an extension to the deadline for correcting a failed ADP or ACP test and an extension of the period for distributing excess contributions and excess aggregate contributions under a plan, among others.

ARA Presses for DC Funding Relief

Moving beyond the CARES Act, the ARA continues to push for additional assistance, including defined contribution funding relief. **Most recently**, the ARA called on the Treasury Department to provide relief to help employers facing significant financial burdens relating to the Coronavirus, especially for retirement plans sponsored by small businesses. "The financial crisis facing employers might force them to terminate their plans rather than keeping them intact, but partially frozen, until the business recovers," the ARA warned in a March 24 letter to Carol Weiser, Benefits Tax Counsel with the Department of Treasury.

What's Coming Up?

You won't want to miss the upcoming NAPA Member Webcast Exclusive: Coronavirus
March 30 at 3:00 p.m. ET, please join NAPA Executive Director Brian Graff and ARA Chi
Adams for an exclusive NAPA member update on the retirement-related provisions in

LIVE CHAT