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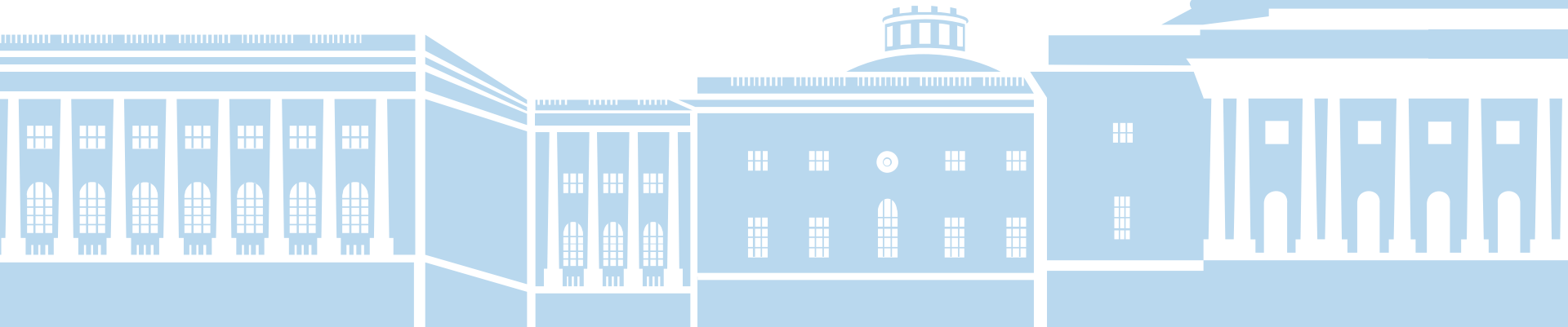
# Legislative and Regulatory Retirement Issues Arising Regarding the Health Crisis

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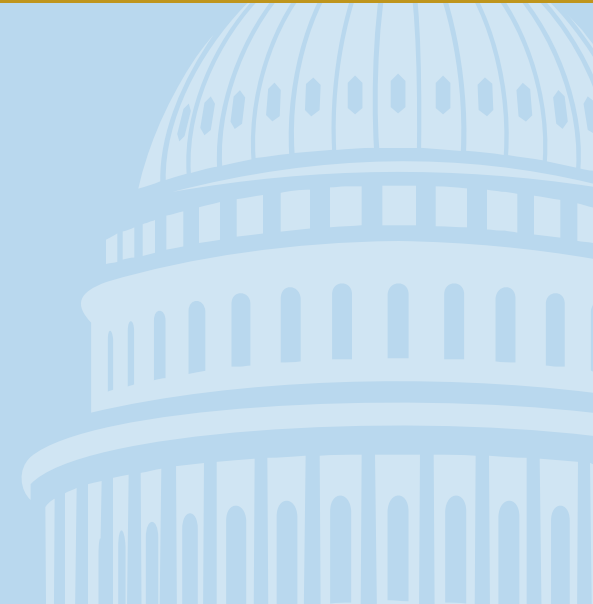
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# Legislative Process

- **Democrats and Republicans working on different packages for Stimulus 3.0. Republican bill introduced March 19.**
- **Different views on inclusion of broad array of retirement provisions.**
- **Goal is enactment of Stimulus 3.0 early next week.**
- **4.0 already being considered.**

# Possible Legislative Proposals



# Required Minimum Distributions

- **Relief for required minimum distributions for 2020 for IRAs and DC plans.**
- **Status: not in Republican bill; being well received by Democrats, but nothing is certain.**

# Withdrawals

## For 2020, the proposal would:

- **Permit in-service distributions, even if such amounts are not otherwise distributable from the plan;**
- **Provide an exception to the 10% early distribution penalty;**
- **Exempt the distribution from the 402(f) requirements and mandatory 20% withholding applicable to eligible rollover distributions;**
- **Permit the individual to include income attributable to the distribution over the three-year period beginning with the year the distribution would otherwise be taxable; and**
- **Permit recontribution of the distribution to a plan or IRA within three years, in which case the recontribution is generally treated as a direct trustee-to-trustee transfer within 60 days of the distribution.**

# Withdrawals - Continued

- **Employers would be permitted, but not required, to make available distributions described above and accept any repayments.**
- **This special tax treatment would be limited to aggregate distributions of \$100,000.**
- **Status: included in Republican bill but only for adversely affected individuals; unclear status among Democrats.**

# Home Purchase Distributions

- **The proposal would permit individuals to recontribute certain distributions from a retirement plan or IRA, if such distributions were to be used to purchase or construct a principal residence and that principal residence was not purchased or constructed.**
- **These repayments must be made by the date which is 180 days after the date of enactment.**
- **Status: not in Republican bill; being well received by Democrats but nothing is certain.**

# Loans

- **The proposal would increase the maximum loan limit for qualified individuals to the lesser of: (1) \$100,000 (from \$50,000); or (2) the greater of \$10,000 or 100% (from 50%) of the present value of the participant's vested benefit.**
- **This increased loan amount would be available for loans made during the 180-day period beginning on the date of enactment.**
- **The proposal would extend for one year the due date of any individual's loan repayment that would otherwise be due during 2020.**
- **Status: included in Republican bill but only for adversely affected individuals; being well received by Democrats but nothing is certain.**



# Plan Amendments

- **The plan amendment deadline for adopting any of the relief provided under the proposals (above or below) would be no earlier than the last day of the first plan year beginning on or after January 1, 2022 (January 1, 2024 for governmental plans).**
- **Status: included in Republican bill but with dates two years earlier; being well received by Democrats but nothing is certain.**

# Funding, Benefit Restrictions, and Premiums

- **Provide Congress with more time to consider DB funding reform by delaying the due date for any contribution otherwise due during 2020 until December 31, 2020. At that time, contributions due earlier would be due with interest.**
- **Under the proposal, a plan may elect to determine the applicability of benefit restrictions for the 2020 plan year based on the plan's funded status for the 2019 plan year.**
- **Under the proposal, the sum of the per-participant flat and variable rate premiums for the 2020 plan year cannot exceed such sum for 2019.**
- **Status: not included in Republican bill; among Democrats, favorable overall, but mixed.**

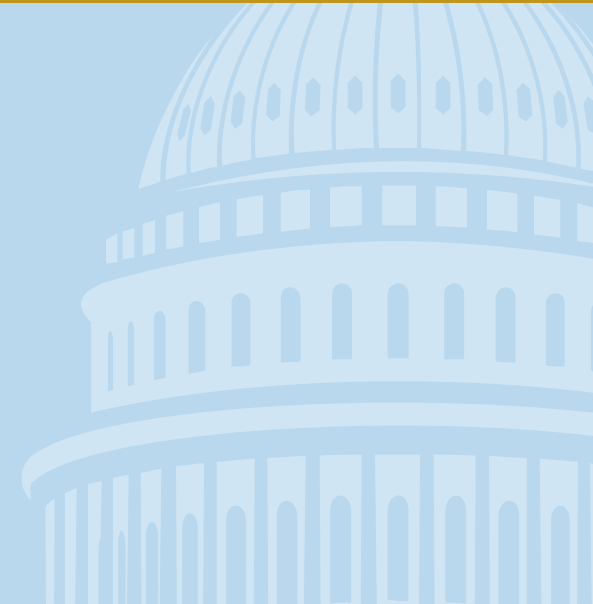
# Miscellaneous

- **The proposal would automatically extend, by 90 days, the deadlines for all retirement-related notices, applications, and reporting obligations during 2020.**
- **The proposal would also automatically extend by 90 days the following deadlines during 2020: (A) the deadline for making contributions to IRAs for 2019; (B) the deadline for withdrawing excess IRA contributions; (C) the deadline for recharacterizing IRA contributions; and (D) the deadline for completing rollovers.**

# Miscellaneous - Continued

- **Issue for discussion with participant groups: In order to get spousal consent (such as to non-QJSA distributions), the spouse's consent must be "witnessed by a plan representative or a notary public".**
- **In this new social distancing world, that may not be possible in many situations, or at the least it may raise health concerns. Should this be addressed? This is not an industry request in any way. This is for the participant groups to consider.**
- **Status: a challenge, likely up to the agencies.**

# Administrative and Technical Issues



# Possible Administrative Relief

- **See “Miscellaneous” legislative proposals above, and we will likely be asking for a longer delay for notices, applications, and reporting obligations.**
- **Clarification that the current “emergency” situation qualifies as a national “disaster”, which has a range of effects, including automatically extending many deadlines (see Rev. Proc. 2018-56 for full list)**
- **Other deadlines include 403(b) restatement deadline (March 30) and DB restatement deadline (April 30)**
- **If Congress doesn’t act, guidance needed on disaster hardship distributions and unforeseeable emergency withdrawals.**

# Possible Administrative Relief

- **Other possible asks:**
  - Plan loan and withdrawal relief administrative relief (if not granted by Congress)
  - PBGC grace periods (such as granting extensions for the time period to make distributions pursuant to a standard termination due to the instability in the financial markets).
  - E-delivery rules would be very helpful right now
  - Relief from contribution deadlines, esp. payroll deductions
- **Technical issues plan sponsors will face:**
  - Are payments to furloughed employees compensation?
  - Have my furloughed employees had a severance from employment?
  - Partial termination?



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# Questions?

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