

CARES Act Special Loan Limit Drawing to a Close

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The Coronavirus Aid, Relief, and Economic Security Act¹ (CARES Act) increases the limitations associated with loan amounts² from retirement plans. However, this relief only applies for a limited period of time. The relief is available to qualified individuals³ who receive a loan on or after March 27, 2020 and before September 23, 2020.

The increase in the loan limitation amount is an optional provision.⁴ Plans could, but were not required, to offer this relief. Plan sponsors that want to provide the relief could cause the plan to be operated consistent with these rules without an immediate amendment provided that a conforming plan amendment is adopted before the last day of the 2022 plan year (i.e., December 31, 2022 for calendar year plans).

Comment: For plans that implemented this particular relief, the window for being able to take advantage of the relief is drawing to a close. Participants considering taking advantage of this relief, if offered, should complete the loan process before the relief expires. Plan sponsors should process loan requests in a timely manner to avoid the closing of the relief window. Additionally, the plan sponsor should work with their document provider and record keeper to ensure that the plan document is amended to reflect the operation of the plan.

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¹ Pub. L. 116 136 (2020).

² Under Code Section 72(p)(2)(A), a plan loan (when added to the outstanding balance of all other loans outstanding) must not exceed the lesser of (1) \$50,000 reduced by the excess of the highest outstanding balance of loans from the plan during the 1 year period ending on the day before the date on which the loan is made over the outstanding balance of loans from the plan on the date that the loan is made, or (2) the greater of \$10,000 or one half of the present value of the participant's nonforfeitable accrued benefit under the plan. Code Section 72(p)(2)(B).

³ Qualified Individual is defined to include: 1) an individual or the individual's spouse or dependent who is diagnosed with COVID 19 by a test approved by the Centers for Disease Control and Prevention; 2) an individual or the individual's spouse or a member of the individual's household who experiences adverse financial consequences as a result of being quarantined, furloughed, laid off or having their work hours reduced due to COVID-19; 3) an individual or the individual's spouse or a member of the individual's household who experiences adverse financial consequences due to being unable to work due to a lack of childcare due to COVID-19; 4) an individual or the individual's spouse or

a member of the individual's household who experiences adverse financial consequences as result of closing or reducing hours of a business owned or operated by the individual due to COVID-19; 5) an individual or the individual's spouse or a member of the individual's household who experiences adverse financial consequences due to a reduction in pay or self-employment income, or having a job offer rescinded or start date for a job delayed due to COVID-19; and 6) as designated by the Internal Revenue Service. CARES Act Section 2202(a)(4)(A)(ii) and Notice 2020-50.

⁴ Notice 2020-50.