Information Regarding Directive to Implement Coronavirus Aid, Relief, and Economic Security Act of 2020 [HR 748, "CARES ACT"]

The Coronavirus Aid, Relief, and Economic Security Act of 2020 (the "CARES Act"), which was signed into law on March 27, 2020, contains several provisions affecting retirement plans in the area of distributions and loans due to the impact and effects of the Coronavirus. For a detailed summary of the CARES Act of 2020 see our March 2020 issue of the Pension Analyst.

Default Provisions

TEMPORARY WAIVER OF REQUIRED MINIMUM DISTRIBUTION ("RMD")

A participant or beneficiary who would have been required to receive required minimum distributions (RMD) under prior law but did not received those distributions before January 1, 2020 from an Eligible Retirement Plan (a profit-sharing plan, including a 401(k) plan a 403(b) plan, or a governmental 457(b) plan) is not required to receive those distributions for 2020.

For participants and beneficiaries that have not had an RMD distributed as of April 10, 2020, Prudential Retirement ("Prudential") will not process an RMD distribution. This includes 2020 RMD payments for participants and beneficiaries who began receiving them earlier (e.g., attained 70-1/2 before 2019), and participants and beneficiaries who under prior law have a required beginning date in 2020 (both the 2020 RMD payment and the 2019 RMD payment to the extent it was not previously made). For post-death RMDs, the one-year period is disregarded for purposes of the five-year payout requirement for deaths occurring before January 1, 2020. If the 2020 RMD payment is made, it is not treated as an eligible rollover distribution for certain purposes, but some amounts may be rolled over.

Participants and beneficiaries described above will be given the opportunity to elect to receive an RMD described above.

Directive to Implement Optional CARES Provisions:

If you intend to amend your plan for the optional provisions of the CARES Act, you may make your elections using this link.

CORONAVIRUS-RELATED DISTRIBUTION ("CRD")

A Coronavirus-Related Distribution ("CRD") is a distribution from an Eligible Retirement Plan made on or after January 1, 2020 and before December 31, 2020, to an individual:

- who is diagnosed with the virus SARS-CoV-2 or with coronavirus disease 2019 (COVID-19) by a test approved by the Centers for Disease Control and Prevention,

- whose spouse or dependent (as defined in Code section 152) is diagnosed with such virus or disease, or

- who experiences adverse financial consequences as a result of being quarantined, being furloughed or laid off or having work hours reduced due to such virus or disease, being unable to work due to lack of child care due to such virus or disease, closing or reducing hours of a business owned or operated by the individual due to such virus or disease, or other factors as determined by the Secretary of the Treasury.

The maximum CRD for an individual from all Eligible Retirement Plans and IRAs is $100,000. The Plan Sponsor should monitor related Eligible Retirement Plans for this limitation.

The following special tax provisions apply to a CRD:

- The 10% early withdrawal penalty under IRC section 72(t) does not apply to any CRD. Prudential will report the entire distribution amount on Form 1099-R for the year of distribution. Prudential, however, will not report the distribution as exempt from the 10% penalty. If future IRS guidance permits it, a participant may claim exemption from the penalty when filing his/her individual tax return.

- An individual who receives a CRD may repay the distribution during the 3-year period beginning on the day after the date on which such distribution was received. The repayment is treated as an eligible rollover distribution that has been transferred to the Eligible Retirement Plan in a direct trustee to trustee transfer within 60 days of the distribution.

- Any amount required to be included in gross income (such as any portion of a CRD that a participant does not repay within 3 years) may be included in gross income over the 3-taxable-year period beginning with the year of distribution. Prudential, however, will tax report the entire amount on Form 1099-R for the year of distribution. If future IRS guidance permits, a participant may claim the 3-year (or shorter period) when filing his/her tax return.

- CRDs are not subject to the mandatory 20% withholding rules that apply to eligible rollover distributions.

- CRDs are allowed from 401(k) and 403(b) and governmental 457(b) plans without regard to whether the employee separated from service, attained aged 59½, or any of the other plan distribution requirements.

- Participants cannot obtain favorable tax treatment on the CRD by rolling it to a qualified retirement plan or an IRA. Prudential will treat any repayments of CRDs as pre-tax rollover contributions

LOANS

In general, if a retirement plan allows for loans, the loan is not treated as a taxable distribution to a participant if it is used to purchase a main home, or the loan is repaid within five years. The maximum amount of the loan cannot exceed the lesser of $50,000 or one-half of the present value (but not less than $10,000) of the taxpayer's vested benefit under the plan. This amount is then reduced by the highest outstanding balance of all loans during the past 12 months. Under the CARES Act, there is loan relief for a "qualified individual." A qualified individual is an individual who would be eligible to receive a CRD, as described on the preceding page.

For a qualified individual who requests a new loan between March 27 and December 31, 2020, (1) the $50,000 limit is increased to $100,000, (2) the one-half of the vested benefit limit is increased to 100% of the vested account balance, (the amount is still reduced by the highest outstanding loan balance during the past 12 months), and (3) the repayment period for any loan may be delayed by 1 year if the payment due date of the loan occurs sometime between March 27, 2020 and December 31, 2020. The remaining payments should be appropriately adjusted to reflect the delay and any interest accruing during the delay. The delay is disregarded in determining the term of the loan (for purposes of determining the statutory maximum loan term). The CARES Act does not override any existing loan restrictions under a plan (e.g., number of outstanding loans, restrictions after a loan default).

Please note that Prudential will not automatically delay loan repayments. Any requests for a delay for up to one year must be in writing to Prudential by either an authorized representative of the employer or a participant who certifies the participant's eligibility for the delay. This documentation will be retained at Prudential for audit purposes. Additional administrative details will be forthcoming.

NEXT STEPS

Prudential will update its recordkeeping system as soon as administratively practicable after receipt of this Directive elections in good order to allow participants to take CRDs and loans under the relief offered by the CARES Act.

Plan Sponsors must amend plan documents to reflect the new terms. The deadline for amending plans to include this relief is the last day of the first plan year beginning on or after January 1, 2022 (governmental plans get an additional 2 years), or such later date as provided by the Secretary of the Treasury.

If Prudential does not provide plan document services for your Plan, please inform your plan document provider of your elections to complete an amendment. Please provide a signed copy of your plan amendment to Prudential for our retention with records of your Plan.

If Prudential's plan document services have been elected, the standard plan drafting fees will apply if CRDs or loan relief is selected since this is considered a discretionary plan amendment.

Please keep in mind that this information is intended as general guidance and not intended to be legal advice. As with all matters of this nature, please discuss these changes with your own legal counsel.

If you have any questions, please contact your Prudential representative.