Voya Updates on the CARES Act

Background:

The Coronavirus Aid, Relief, and Economic Security (CARES) Act is a bipartisan response to the public health crisis and associated economic fallout in the wake of COVID-19. The bill **includes provisions that would permit limited early withdrawals** ("coronavirus-related distributions", or CRDs) **and higher loan amounts** from qualified retirement accounts to ease financial pressures faced by workers who contract or are negatively affected by the virus.

The bill also **suspends required minimum distributions (RMDs) for the entire 2020** calendar year. Additionally, it includes provisions related to **Health Savings Accounts and student loan debt**.

The CRD and enhanced loan provisions are **optional for plans to enact**. Sponsors may choose to allow these provisions, or they may elect do nothing (in which case, depending on plan wording, they will likely not be allowed). It's also important to remember that not all plans offer regular hardship withdrawals and loans, meaning those plan sponsors that do not offer these features will need to consider if they will **add them and/or CRD distributions and loans**.

Summary of CRD and RMD Waiver included in the CARES Act:

- **Coronavirus-Related Distributions:** The bill contains a new distribution type from a plan or IRA called a "coronavirus-related distribution" (CRD). Although the CRD is taxable, the 10% early withdrawal penalty and the 20% mandatory withholding will not apply to CRDs. Unless the individual elects otherwise, a CRD is included in gross income ratably over three years. The distribution must come from an "Eligible Retirement Plan," (an IRA, 401(a) plan (including a 401(k) plan), 403(b) plan, or governmental 457(b) plan) and **must be made to an eligible individual on or after January 1, 2020 and before December 31, 2020.** The CRD is limited to a maximum aggregated amount of $100,000 across all of an individual's plan accounts and IRAs. The eligibility requirements ("Eligibility Criteria") include 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.

- Employers and service providers are **entitled to rely conclusively on a participant's self-certification to determine eligibility.**

- **Loan Relief:**
  - *Loan Initiation*: Individuals who meet the Eligibility Criteria can take out loans during a 180-day period after enactment in amounts up to the greater of $100,000 and 100% of vested account balance (increased from the otherwise applicable limit of $50,000 or 50% of the vested account balance).
  - *Loan Repayments*: For any repayment on a loan due between enactment and December 31, 2020, the **due date for repayments by eligible individuals may be delayed for one year**. Any subsequent repayments must be adjusted to reflect the delay and interest accrued during the delay.

Eligible individuals with existing loans who meet the Eligibility Criteria and have ***outstanding*** loans (whether entered into before or after enactment) are entitled to have any repayment on a loan due between enactment and December 31, 2020 **delayed for one year**. Any subsequent repayments must be adjusted to reflect the delay and interest accrued during the delay. Sponsors must affirmatively elect for these enhanced loan benefits to be made available to their participants.

- **RMD Waivers:** Required minimum distributions (RMDs) for 2020 **are waived for 401(a) plans (including 401(k) plans, 403(b) plans, governmental 457(b) plans and IRAs.** The waiver does not apply to defined benefit plans. The waiver also applies to those individuals who attained age 70 ½ in 2019, and elected a delayed required beginning date of April 1, 2020.

Considerations for plan sponsors and participants:

Voya is reviewing the bill to fully understand all provisions and requirements. As the bill has now been approved by both the U.S. Senate and the House and signed by the President, we are working closely with our clients to help them understand the provisions and also to discuss considerations for how to implement them in their workplace plans.

The CARES Act provides a number of benefits for those that have been impacted by COVID-19, and we applaud Congress for taking action to help Americans and businesses with economic relief in several forms. With lost wages, significant health care costs and other unexpected expenses, we recognize that people may have no choice but to tap retirement savings to address the financial challenges that they are facing.

Before acting on any of the provisions, we believe that employers and individuals should give careful consideration prior to taking advantage of these provisions and at what levels. First and foremost, we continue to encourage individuals to first utilize their emergency savings accounts before tapping long-term retirement savings.

We also recommend individuals talk with a financial advisor before taking any action. An advisor can provide the proper guidance as to what to consider for an individual's own situation. Individuals that participate in an employer plan or have an IRA should also utilize resources offered by their employer's workplace plan, record keeper or IRA custodian, calculate their immediate needs, and consider the tax implications of withdrawing from their retirement account and which option is best for them to replenish their Retirement Account when their financial situation improves.

A key consideration is whether current plan loan and distribution options are sufficient, or whether the new distribution and loan options would be beneficial to their participants. Employers will likely make the decision based on the needs of their specific employee population. For example, businesses that have been heavily impacted by COVID-19, such as the travel industry, airlines, small businesses and others, will likely have employees that may have a higher need, or interest in taking a distribution or loan from their plan. As such the employer will need to decide to offer the existing loan provision in their plan or the new Loan provisions or both.

Plan sponsors will also need to work with their record keepers and payroll providers to address administrative issues, particularly in the case of loans. For example, plan sponsors that contemplate offering loans and delayed loan repayments for individuals meeting Eligibility Criteria must track these loans separately and, as applicable make payroll adjustments.

The CARES Act also provides new considerations when it comes to student loan reimbursement. Under this provision, employers are now able to reimburse a “qualified education loan.” This provision expires on Dec. 31, 2020 so employers will have to decide if they want to offer this for the remainder of 2020. Since the benefit would need to meet the other requirements of educational assistance programs, employers will need to consider how and if making such an offer would align with other financial wellness resources that they already offer to help employees address student debt.

Considerations for workplace plan participants and individuals with IRAs:

We recognize that individuals meeting the Eligibility Criteria may have a need to take a CRD distribution or loan, but an individual’s needs and the long-term implications of doing so should be carefully considered. The provisions in the CARES Act – including the waived mandatory tax withholding, waived 10% early withdrawal penalty and increased loan limits (100% of plan assets or $100K, up from 50% or $50K) – are designed to lessen the burden for those that need it most, but they still involve depleting retirement savings that were designated for necessary expenses later in life.

If an individual determines that there is a need to remove savings from their retirement account, he or she will first need to determine their existing plan distribution and loan options and, if elected by the plan sponsor, available CRDs and increased maximum loan options. Individuals will then need to decide on which option(s) to utilize. There are important differences and considerations in determining what options will best meet your needs:

In the case of a CRD distribution:

- First, do you meet the Eligibility Criteria for a CRD Distribution?
- No 20% mandatory tax withholding at the time of distribution (although the distribution is still taxable)
- No 10% excise tax will be imposed for early distributions
- Have three years to spread out tax payments on the CRD
- Need to set aside assets or have a plan to pay taxes as taxes will still need to be paid. Have a plan to replenish your retirement savings over time

In comparison to a distribution, a loan may be a more optimal option:

- No mandatory withholding or taxes on loan amount unless you default on the loan
- Loan repayments and interest go back into your plan account, which is a systematic way to replenish retirement savings over time vs relying on self-discipline to do so.
- For plan participants that take out a loan, please keep in mind that you will have to start to repay the loan in 2021. It will be important to consider your income and other resources that you will have a year from now that you will need to repay the loan when determining whether to take the loan and how much you should withdraw.

Under either scenario, participants will need to come up with funds in the future, either to repay the loan or to pay taxes on the distribution. Again, in making all of these considerations, the right planning tools and, depending on what decisions are made, self-discipline, will be important.

Additionally, assuming the plan allows for it, participants may want to consider taking only half of what they think they will need as they can always consider taking another distribution later in the year if they find it necessary.

The CARES Act also has, for 2020, waived RMDs for all types of defined contribution plans. This is an important benefit for those who do not want to remove assets from their plan or IRA at a time when equity markets have declined sharply. For those that would prefer not to remove assets from their account at a time when asset prices are lower and would rather continue to invest longer-term, this is an important feature to consider.