



MassMutual
Government Relations
COVID-19 Legislative Update

- On Friday, March 27, Congress passed, and the President signed the Coronavirus Aid, Relief, and Economic Security (CARES) Act, the largest economic relief package in history, worth over \$2 trillion aimed at combatting the economic impact of COVID-19.
- There are several provisions in the Phase 3 economic relief legislation that benefits life insurers and our customers. This is especially so with respect to retirement policy, where the industry was able to secure provisions that will provide relief for clients.
- Discussions have already begun on a potential Phase 4 COVID-19 stimulus package.
- Unlike prior packages that were focused on economic relief, this new effort will likely target recovery with economic stimulus policies. This fourth effort will be much more politicized and rigorously debated than the prior relief packages.
- Following is a topline summary of the legislation. Advanced Sales will be providing the field with a more comprehensive breakdown of this legislation, including the potential impacts.
- When Congress returns – likely early May – to discuss the Phase 4 package, MassMutual Government Relations will actively monitor and communicate its work regularly, as well as educate policymakers on provisions that may impact MassMutual, your businesses and clients.

Phase Three COVID-19 Economic Relief Package Provisions

- Generally, the bill includes approximately \$500 billion that can be used to back loans and aid businesses, including \$29 billion in loans for the U.S. airline industry and \$150 billion for state and local governments. The package also includes \$130 billion for hospitals and health-care providers that can be used for equipment and supplies.
- The relief package includes direct payments to lower- and middle-income Americans of \$1200 for each adult (\$2400 for joint filers) and \$500 for each child. Unemployment insurance will be extended an additional thirteen weeks while eligibility is expanded to cover more workers.
- The package creates the Exchange Stabilization Fund (ESF), allocating \$500 billion to a new credit facility run through the Department of Treasury that would offer collateralized loans and loan guarantees to hard-hit industries. All the funds doled out through the ESF would come in the form of loans, not grants. The bill bans stock buybacks for any corporation that accepts government loans during the term of their assistance plus one year. Any company that accepts federal money will also face a two-year limit on executive pay raises. Finally, an inspector general and a congressional committee will provide oversight on the Fund.
- According to White House economic adviser Larry Kudlow, the legislative package, together with recent intervention by the Federal Reserve, amounted to \$6 trillion in stimulus measures, or about 30% of annual GDP.

Retirement Provisions

- ***Plan withdrawals and loan relief.*** The proposal would provide tax relief for retirement plan and IRA “coronavirus-related distributions” taken by individuals on or after January 1, 2020 (a very good change from prior versions) and before December 31, 2020. These provisions are similar to disaster relief that has been enacted in the past.

- Employers would be permitted, but not required, to make available distributions and accept any repayments. This special tax treatment would be limited to aggregate distributions of \$100,000.
- Provides an exception to the 10% early distribution penalty under Code section 72(t) (but not for the similar penalty tax under Code section 72(q) that applies to non-qualified annuities).
- Permits the individual to include income attributable to the distribution over the three-year period beginning with the year the distribution would otherwise be taxable (this spreading would apply unless the taxpayer elects out).
- Permits 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.
- **Definition of “coronavirus-related distribution.”** The bill provides that: “The administrator of an eligible retirement plan may rely on an employee’s certification that the employee satisfies the conditions in determining whether any distribution is a coronavirus-related distribution.” Of note, there are questions being raised about the implementation of this provision, but the general expectation is that the IRS will have a light enforcement touch, challenging only in extreme abuse cases.
- **Plan 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. Second, the proposal would extend until the due date of any qualified individual’s loan repayment that would otherwise be due during 2020 (but on or after the date of enactment) to one year after the otherwise applicable due date.
- **Required minimum distributions (“RMDs”).** RMDs for 2020 are waived for all types of DC plans (including 401(k), 403(b), and governmental 457(b) plans) and IRAs. This also applies to RMDs due in 2020, but attributable to 2019, which is a change from prior versions.
- **Plan amendments.** The plan amendment deadline for adopting any of the relief provided under the proposals above 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).

Other Relevant Provisions

- **Paid family medical leave.** Includes some clarifications and revisions to existing paid leave provisions that were included in the Families First Coronavirus Response Act (Phase 2), but it **does not** include any new or expanded paid sick or paid family and medical leave provisions. Those revisions include:
 - Capping the amount an employer must pay for a paid leave benefit at \$511 per day and \$5,110 in the aggregate or \$200 per day and \$2,000 in the aggregate for each employee, dependent upon the type of leave taken.
 - Providing an end date (an expiration date) on payments by employer of the time when the employer has paid that employee for paid leave for an equivalent of 80 hours of work; or (B) upon the employee’s return to work after taking paid leave under this section.
 - Proving specific stipulations related to situations an employer shall provide paid sick time in the event the employee is unable to work (or telework) due to:

- The employee is subject to a Federal, State, or local quarantine or isolation order related to COVID–19.
- The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID–19.
- The employee is experiencing symptoms of COVID–19 and seeking a medical diagnosis.
- The employee is caring for an individual who is subject to an order as described in subparagraph (1) or has been advised as described in paragraph (2).
- The employee is caring for a son or daughter of such employee if the school or place of care of the son or daughter has been closed, or the child care provider of such son or daughter is unavailable, due to COVID–19 precautions.
- The employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor.
 - Adds the capabilities for States to deal with Unemployment Insurance claims via telephonic and other electronic means.
 - Amends new section 110 of the Family Medical Leave Act (added under 2.0) adding that OMB can exclude for good cause the requirements for certain employers of the Government and certain categories of Executive Branch employees.
 - Addresses rehiring of employees that might have been laid off prior to March 1, 2020 and are rehired at same employer, for eligibility purposes.
- **Student loan payments.** Workers paying down student loans will have access to billions in emergency education funding, as well as support from employers who can assist with student loan repayment without a tax implication on the benefit. This was a provision that industry strongly supported.

Small Business Provisions

- The small business loan program and loan forgiveness program in the CARES Act are intended to allow businesses to continue functioning while maintaining their current workforce during the period of uncertainty caused by the COVID-19 pandemic.
- **Paycheck Protection Program.** \$350 billion is allocated in small business loans for the use of salary, wages, and payment of cash tips (up to an annual rate of pay of \$100,000); employee group health care benefits, including insurance premiums; retirement contributions; and covered leave. If the employer maintains its payroll, then the portion of the loan used for covered payroll costs, interest on mortgage obligations, rent, and utilities would be forgiven.
 - Eligible entities include: small businesses, 501(c)(3) nonprofit, etc., with no more than 500 employees or the applicable size standard for the industry as provided by the Small Business Administration, whichever is higher (see below for a useful tool from the SBA to determine if a business is considered small). This includes sole-proprietors, independent contractors, and other self-employed individuals.
 - Provides a formula by which the loan amount is tied to payroll costs incurred by the business to determine the size of the loan.
 - The size of the loans would equal 250 percent of an employer’s average monthly payroll.
 - The cost of participation in the program would be reduced for borrowers and lenders by providing fee waivers, an automatic deferment of payments for one year, and no prepayment penalties.

- Loans will be made available immediately through more than 800 existing SBA-certified lenders, including banks, credit unions, and other financial institutions, and the SBA would be required to streamline the process to bring additional lenders into the program.
- The Treasury Secretary is authorized to expedite the addition of new lenders and make further enhancements to quickly expedite delivery of capital to small employers.
- The maximum loan amount for SBA Express loans is increased from \$350,000 to \$1 million. Express loans provide borrowers with revolving lines of credit for working capital purposes.
- **Refundable Payroll Tax Credit.** Includes a 50% refundable payroll tax credit on worker wages to further incentivize businesses, including ones with fewer than 500 employees, to retain worker.
- **Social Security Tax Deferral.** The bill includes a deferral of the 6.2% employer Social Security tax, payable in each of the following 2 years, with half due by the end of 2021.

Resources for Small Businesses

- The Small Business Administration website is a helpful resource for more information about loan assistance. The Small Business Administration's website on COVID-19 can be found [here](#). Please note that it may take several days – or potentially weeks – for full guidance and resources to be made available once the legislation is enacted.
- The SBA website also offers a size standards tool to assist in determining if a business is small. That tool can be found [here](#).
- For any questions on the small business provisions included in this legislative package, please reach out directly to the Small Business Administration.