



## **The Coronavirus Aid, Relief, and Economic Security (CARES) Act: Delay of Repayments Service**

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The Coronavirus Aid, Relief, and Economic Security (CARES) Act was passed on March 27, 2020. The CARES Act includes an optional change related to the delay of loan repayments, as described in Section 2202 of the CARES Act, available for 401(a), 401(k), 403(b) and governmental 457(b) plans (individually, a "Plan"). The CARES Act permits Plan Sponsors to allow qualified individuals to delay loan repayments that would otherwise be due on March 27, 2020 through December 31, 2020 ("deferral"). The deferral of repayments service is described below.

The IRS issued Notice 2020-50 on June 19, 2020 that significantly expanded the categories of "qualified individuals" – participants who are eligible to delay loan repayments. Fidelity updated its CARES Act deferral of repayments service accordingly, as described in section 1 below. This document also reflects additional administrative modifications to the deferral of repayments service.

By directing Fidelity Workplace Services LLC or an affiliate ("Fidelity") to provide this service, the Plan Sponsor and Fidelity intend and agree that this document constitutes a modification of the Plan Administration Manual or an amendment to the applicable agreement between Fidelity Investments Institutional Operations Company, LLC and/or Fidelity Workplace Services LLC and/or Fidelity Management Trust Company and the Plan Sponsor/Client and/or Plan Administrator for recordkeeping and related services to the Plan. Please contact your Service Team for a separate written amendment or updated Plan Administration Manual reflecting these changes. This document may contain service and/or compensation information intended by Fidelity to satisfy the requirements of Department of Labor regulation Section 2550.408b-2(c)(1) and which require review by the responsible plan fiduciary.

Plan Sponsors are responsible for ensuring that their plan documents and/or loan policies, and/or procedures or other descriptions are timely amended for this provision and service. Clients using the Fidelity 401(k) or 403(b) Volume Submitter Plan Document will receive additional information from Fidelity. Clients using individually designed plan documents should discuss amendment requirements with their benefits counsel. The deadline for retroactive plan amendments is the last day of the first plan year beginning on or after



January 1, 2022 (December 31, 2022 for a calendar year-end plan) or, for governmental plans, two years later.

If the Plan is a 401(a) plan, a 401(k) plan or a governmental 457(b) plan and Fidelity Management Trust Company is the trustee, the Trust Agreement for the Plan is deemed amended to permit these services unless prohibited by the Plan. If the Plan is a 403(b) plan and Fidelity Management Trust Company is the custodian of a group custodial account, the Group Custodial Account Agreement for the Plan is deemed amended to permit these services unless prohibited by the Plan. If the Plan is a 403(b) plan funded with Fidelity Investments® Code Section 403(b)(7) Individual Custodial Accounts (ICA), Plan Participants will be notified that the ICA Agreement has been amended by Fidelity Management Trust Company to permit such services.

Note that the following plans are not eligible for the services described below: Defined benefit plans, Puerto Rico-qualified plans, the Puerto Rico portion of dual-qualified plans, and nonqualified deferred compensation plans (including 409A plans, 457(b) plans sponsored by tax-exempt entities, 457(f) plans and 415(m) plans).

### **Description of Deferral of Repayments for Existing Loans for Qualifying Individuals from 401(a) Defined Contribution Plans, 401(k) Plans, 403(b) Plans and Governmental 457(b) Plans**

1. Qualified Individuals: A participant ("Participant") must be a "qualified individual" in order to be eligible for deferral. A qualified individual is a Participant to whom one or more of the following applies. **IRS Notice 2020-50 expanded the categories of qualified individuals as shown below in bold font:**
  - i. The Participant is diagnosed with the virus SARS-Co-V-2 or with coronavirus disease 2019 ("COVID-19") by a test approved by the Centers for Disease Control and Prevention **(including a test authorized under the Federal Food, Drug, and Cosmetic Act)**;
  - ii. The Participant's spouse or dependent (as defined in section 152 of the Internal Revenue Code) is diagnosed with COVID-19 by a test approved by the Centers for Disease Control and Prevention **(including a test authorized under the Federal Food, Drug, and Cosmetic Act)**; or



- iii. The Participant experienced adverse financial consequences because:
  - a. The Participant, **the Participant's spouse or a member of the Participant's household** was quarantined, furloughed or laid off, or had work hours reduced due to COVID-19;
  - b. The Participant, **the Participant's spouse or a member of the Participant's household** was unable to work due to lack of childcare due to COVID-19;
  - c. A business owned and operated by the Participant, **the Participant's spouse or a member of the Participant's household** closed or reduced hours due to COVID-19; or
  - d. **The Participant, the Participant's spouse or a member of the Participant's household had a reduction in pay (or self-employment income) due to COVID-19 or had a job offer rescinded or start date for a job delayed due to COVID-19.**

**A "member of the Participant's household" is someone who shares the Participant's principal residence.** As permitted by the CARES Act, the plan administrator may rely on a Participant's certification that the Participant satisfies one or more of the above conditions. Each Participant will self-certify as to his or her eligibility. Fidelity will not request or collect any additional information.

- 2. Deferment Election: CARES Act Loans will be available by phone or NetBenefits®. For election by-phone, after confirming that the Plan permits the delay, the Workplace Service Group Representative will ask the Participant to certify his or her eligibility. For election through NetBenefits®, Participants will self-certify that they meet the eligibility requirements online.
- 3. Deferment Period: All loan repayments due from the date the Participant requests deferment through and including December 31, 2020 will be deferred (the "Deferment Period"). Loan repayments which are due during the Deferment Period as a result of a loan default cure period extension through June 30, 2020, September 30, 2020 or December 31, 2020 will also be deferred.
  - i. Early Termination of Deferment Period. Plan Sponsors and terminated Participants may contact Fidelity on or before December 30, 2020 to initiate an action to proactively request a plan loan offset on or before December 30, 2020 by requesting



a lump sum distribution and/or direct rollover (which would reflect the plan loan offset).

4. Payroll Deduction Loan Repayments: Fidelity will provide a report in Plan Sponsor Webstation® of Participants who have contacted Fidelity to request deferment. The Plan Sponsor will be responsible for stopping their payroll deduction loan repayments during the Deferment Period. Fidelity will provide the Plan Sponsor a change feedback file with the new repayment amount at the end of the Deferment Period.
5. ACH Deduction Loan Repayments: Participants will be responsible for logging into NetBenefits® and stopping their ACH debit loan repayments during the Deferment Period. Fidelity will notify the Participants directly of the re-amortized ACH loan repayment amounts after the Deferment Period ends and prior to the repayment start date.
6. Loan Repayment Frequency: Same as the original loan, when repayments begin.
7. Re-amortization and Accrued Interest: Interest will continue to accrue during the Deferment Period. In January 2021, Fidelity will re-amortize the outstanding balance of the loan plus the interest accrued during the Deferment Period over the remaining term of the loan. The repayment amount of the re-amortized loan will reflect the remaining outstanding principal balance of the loan and the accrued interest on the loan including the interest that accrued during the Deferment Period.

The CARES Act Deferment of Repayments service described above may be modified if legislative, regulatory or other relevant guidance is issued or for service enhancements. Modifications may affect the associated policies, processes, procedures, applications, Participant communications, forms, etc.

Fidelity does not provide legal or tax advice. The information herein is general in nature and should not be considered legal or tax advice. Consult an attorney or tax professional regarding your specific situation.

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