



## **The Coronavirus Aid, Relief, and Economic Security (CARES) Act: CARES Act Distributions**

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The Coronavirus Aid, Relief, and Economic Security (CARES) Act was passed by the Senate on March 26, 2020. Section 2202 of the CARES Act permits plan sponsors to make qualified coronavirus-related distributions available from 401(a), 401(k), 403(b) and governmental 457(b) plans. These are called "CARES Act Distributions."

**CARES Act Distributions will be implemented for Eligible Plans and processed by Fidelity as described below after the CARES Act is fully enacted into law. Please review the Description below carefully to understand if your Plan(s) is/are eligible. If eligible, but you do not want Fidelity to implement CARES Act Distributions for one or more Eligible Plans, you must opt out by the required date.**

By accepting the provision of CARES Act Distribution services for your Plan(s) by Fidelity Workplace Services LLC or an affiliate and not opting out using the CARES Act Distributions Opt-Out Election Form by the deadline, 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, Inc. 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 are timely amended to permit CARES Act Distributions. 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 (generally December 31, 2022) or, for governmental plans, two years later.

CARES Act Distributions will be treated as meeting the requirements of Internal Revenue Code sections 401(k)(2)(B)(i), 403(b)(7)(A)(ii), 403(b)(11) and 457(d)(1)(A). 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 CARES Act Distributions 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 CARES Act Distributions 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 CARES Act Distributions.

## **Description of CARES Act Distributions from 401(a) Defined Contribution Plans, 401(k) Plans, 403(b) Plans and Governmental 457(b) Plans**

1. Pre-Approved CARES Act Distributions: Will be available by phone or NetBenefits®, eliminating the need for a paper application and submission/approval of documentation by the plan administrator or Fidelity. For by-phone transactions, a Workplace Services Group Representative will confirm that the participant meets the eligibility requirements for a CARES Act Distribution and process the request. For NetBenefits® transactions, participants will self-certify that they meet the eligibility requirements. This option will not be available for plans with spousal consent.
2. Spousal Consent CARES Act Distributions: Will be available only to plans with spousal consent requirements.
  - (1) If the participant is single and therefore spousal consent is not required: For by-phone transactions, a Workplace Services Group Representative will confirm that the participant meets the eligibility requirements for a CARES Act Distribution and process the request. For NetBenefits® transactions, participants will self-certify that they meet that the eligibility requirements. Single participants must consent to the lump sum distribution by phone or on-line.
  - (2) If the participant is married and therefore spousal consent is required: For by-phone transactions, a Workplace Services Group Representative will confirm that the participant meets the eligibility requirements for a CARES Act Distribution and send the appropriate paperwork to the participant, who will complete the paperwork and send it directly to Fidelity. For NetBenefits® transactions, participants will self-certify that they meet that the eligibility requirements, download and complete the paperwork (including obtaining spousal consent to a lump sum distribution), and send it directly to Fidelity. A participant's request for a Spousal Consent CARES Act Distribution transaction will remain valid and pending for 30 days before it expires and is purged from the system.



3. Eligible Plans: The following plans are eligible to offer CARES Act Distributions: 401(a) profit sharing plans, 401(k) plans, 403(b) plans, and governmental 457(b) plans. The following plans are not eligible to offer CARES Act Distributions: Defined benefit plans, money purchase pension plans, Puerto Rico-only qualified plans, participants subject to the Puerto Rico Internal Revenue Code in 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).
4. Availability: CARES Act Distributions must be processed and distributed by December 31, 2020.
5. Eligible Participants: One or more of the following must apply to the Participant:
  - 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,
  - ii. The Participant's spouse or dependent (as defined in section 152 of the Internal Revenue Code) is diagnosed with such virus or disease by such a test, or
  - iii. The Participant experienced 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.

As permitted by the CARES Act, the plan administrator may rely on an employee's certification that the employee satisfies one or more of the above conditions in determining whether any distribution is a CARES Act Distribution. Each participant will self-certify as to his or her eligibility. Fidelity will not request or collect any additional information.

6. Contribution Sources: All contribution sources will be available for CARES Act Distributions, with the exception of money purchase pension plan contribution sources in 401(a) plans and 401(k) plans.
7. Status Codes: All eligible participants with any status code (such as A, L, R, T, etc.) may request a CARES Act Distribution.
8. Distribution Hierarchy: CARES Act Distributions will be taken on a pro-rata basis from all available contribution sources and fund options.



9. Requested Amount: No minimum dollar amount will be required for a CARES Act Distribution to any participant. The maximum dollar amount that can be requested per transaction is \$100,000. Fidelity will not track the overall limit of \$100,000 within or across plans, even among plans of controlled groups. Each participant will self-certify that he or she has not requested more than the allowable aggregate amount, when combined with all prior retirement plan and IRA CARES Act Distributions.
10. Maximum Number of Distributions: No maximum number of CARES Act Distributions per participant will be imposed.
11. Delivery: CARES Act Distributions will be delivered by check, deposit into a Fidelity nonretirement account, or electronic funds transfer (EFT) to the Bank Account identified on the Participant's account in NetBenefits®.
12. Income Tax Withholding: CARES Act Distributions are not eligible rollover distributions and are subject to income tax withholding at 10%, unless the participant elects a different percentage or 0% withholding. Income taxes on CARES Act Distributions may be paid ratably over a three-year period. CARES Act Distributions are not subject to the 10% early withdrawal penalty.
13. Recontributions: CARES Act Distributions may be recontributed to the Plan as roll-over contributions during the 3-year period beginning on the day after the date on which the distribution was received. Fidelity will provide a special form to plan administrators for this purpose.

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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