

# Coronavirus Aid, Relief, and Economic Security Act Signed into Law and Other Regulatory Updates

## CARES Act

On March 27, the president signed the Coronavirus Aid, Relief, and Economic Security Act ("CARES" Act), the third COVID-19 relief bill, into law. The more than \$2 trillion package seeks to address financial pressures facing individuals, businesses, and state and local governments due to the pandemic. The law will also provide emergency funding for hospitals, testing, and vaccine development.

The CARES Act provisions highlighted below impact Fidelity and Fidelity customers. Fidelity remains engaged on the implementation of these measures, and we are available to further educate our customers on the details of the law.

### Retirement Plan Relief

- Plan Withdrawals:** Waives the 10% early withdrawal penalty for distributions up to \$100,000 from qualified retirement accounts by certain individuals impacted by the coronavirus made on or after January 1, 2020, and before December 31, 2020.
    - Income attributable to such distributions would be subject to tax over three years, and the individual may recontribute the funds to an eligible retirement plan within three years without regard to that year's cap on contributions.
  - Plan Loans:** Increases the maximum loan limit for qualified individuals who have been impacted by COVID-19 and extends 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 the later of (1) one year after the otherwise applicable due date or (2) 180 days after the date of enactment.
  - Temporary Waiver of Required Minimum Distribution (RMD) Rules:** Waives RMD rules for all types of defined contribution plans (including 401(k), 403(b), and governmental 457(b) plans) and IRAs for calendar year 2020, providing relief to individuals who would otherwise be required to withdraw funds from such retirement accounts during an economic slowdown due to COVID-19.
  - Single-Employer Plan Funding Rules (Defined Benefit):** Extends single-employer funding obligations due during 2020 to January 1, 2021, with interest for late payments. And, a plan sponsor may elect to apply the plan's funded status for the 2019 plan year as applicable in determining the application of benefit restrictions for "plan years which include calendar year 2020."
- and Treasury programs are authorized to: (1) make direct loans to eligible businesses, states, and municipalities, and (2) support indirect purchases by financial institutions. This provision reflects the Federal Reserve's recent announcements to support the debt markets but provides congressional direction to purchase a broader set of assets, which includes municipal debt issued by state and local governments, and instrumentalities and political subdivisions of those entities.
- Targeted Industries:** In addition to the \$454B in support for corporations and municipalities via the Federal Reserve and Treasury, the provision makes up to an additional \$46B in Treasury direct loans and loan guarantees available to passenger and cargo airlines and companies critical to national security.
  - Buybacks/Dividend Limitations:** The companies that receive direct loans or loan guarantees from the Federal Reserve or Treasury will be subject to certain restrictions related to stock buybacks and dividend payments. In addition, these businesses are subject to additional congressional direction to maintain employment levels.
  - Executive Compensation Restrictions:** The executives of the passenger air carriers, cargo air carriers, and businesses critical to maintaining national security companies that receive direct loans or loan guarantees from the Treasury will be subject to compensation restrictions. Compensation limitations will apply to executives who earn greater than \$425,000 or \$3 million.
  - Oversight of Emergency Lending:** Congress established a Special Inspector General (SIG) for Pandemic Recovery to oversee the loans, loan guarantees, and other investments entered into by the Treasury. The office is terminated five years after the enactment of the Act.
  - Congressional Oversight Commission:** In addition to the SIG, Congress established a five-member commission that will conduct congressional oversight of the Emergency Lending Programs to "provide economic stability" as a result of COVID-19. The Oversight Commission shall terminate on September 30, 2025.

### Market Stability Program

- Emergency Lending Programs:** The Department of the Treasury (Treasury) is authorized to backstop (with at least \$454B) Federal Reserve and Treasury emergency facilities to stabilize the U.S. debt markets, including corporate and municipal debt. The Federal Reserve

## Small Business Administration Relief for Advisors and Independent Broker-Dealers

The CARES Act provides \$350 billion in emergency funding to the Small Business Administration for loans and loan guarantees to small businesses, including sole proprietorships, independent contractors, and nonprofits, with up to 500 employees.

Investment advisors and broker-dealers that fit the eligibility criteria will be able to seek emergency loans in order to operate through the economic hardships brought on by the COVID pandemic. The most critical SBA program expansion in the CARES Act is the Paycheck Protection Program.

**Paycheck Protection Program (PPP) Loans:** Employers who maintain their payrolls during the COVID emergency are eligible for cash-flow assistance. SBA Paycheck Protection can cover the costs of employing individuals and running a business, including mortgages, rents, interest, salaries, payments related to health insurance, retirement benefits, taxes, and utilities. The maximum loan size is 250% of an employer's active monthly payroll, but not more than \$10 million.

- **Loan Forgiveness:** If the employer maintains their payroll, as of its February 15, 2020, level, a portion of the loan would be forgiven. Forgiveness on a loan is equal to the sum of payroll, mortgage, rent, and utility costs over an 8-week period. An employer must apply for forgiveness through its lender and document the costs outlined above.
- **Compensation Limits for Owners and Employees:** For the purposes of computing the loan size, the sum of compensation to an owner or an employee may not be greater than \$100,000.
- **Affiliation Rules Waived:** Affiliation rules are in place to ensure only small businesses receive SBA loans. Congress waived affiliation rules in order to allow any business with fewer than 500 employees that operates as a franchise to be eligible for SBA loans if it is assigned a franchise identifier by SBA.
  - **RIA and BD Consideration:** PPP loan eligibility for investment advisors and broker-dealers owned by a company or investment group, such as a private equity firm, may be based on the total number of employees at the corporate or portfolio level of the fund and not the number of employees at the physical location of the RIA or BD.
- **SBA Lenders:** All 800 currently approved SBA 7(a) lenders are eligible to extend a PPP loan. The Department of Treasury will also be in charge of authorizing new lenders, including non-bank lenders, to help meet the needs of small business owners.

Local SBA District Offices can provide assistance.

## Money Market Funds

- **Exchange Stabilization Fund:** The legislation gives Treasury temporary authority, but does not require it, to use the Exchange Stabilization Fund to guarantee money market mutual funds. The Emergency Economic Stabilization Act of 2008, legislation passed to stabilize the financial system during the subprime mortgage crisis, included language prohibiting Treasury from guaranteeing money market funds. Any guarantee established as a result of the application of this section shall terminate not later than December 31, 2020.

## Health Care and Health Savings Accounts (HSAs)

- **Telehealth services for High Deductible Health Plans (HDHPs):** For plan years before December 31, 2021, allows HDHPs established before December 31, 2021, to provide telehealth (or "telemedicine") and other remote care services without cost-sharing or a deductible.

- **Health Savings Accounts (HSA) for over-the-counter medicines:** Expands the definition of "qualified medical expenses," allowing HSAs, Archer MSAs, Health Flexible Spending Accounts, and Health Reimbursement Arrangements (HRAs) to cover certain over-the-counter medications (without a prescription).
- **Coverage of diagnostic testing for COVID-19:** All testing for COVID-19 is to be covered by private insurance plans without cost sharing, including copays, coinsurance, and deductibles.
- **Rapid coverage of preventative services and vaccines for COVID-19:** Requires group health plans and health insurance issuers offering group or individual health insurance to cover any qualifying coronavirus preventive service. Also provides free coverage without cost sharing of a vaccine within 15 days for COVID-19.

## Student Debt Relief

- **New tax exclusion for employer contributions to student loans:** The CARES Act includes the bipartisan Employer Participation in Repayment Act. The provision enables employers to provide a student loan repayment benefit to employees on a tax-free basis up to \$5,250 annually toward an employee's student loans, and such payment would be excluded from the employee's income. Currently, the provision applies only to student loan payments made by an employer on behalf of an employee in 2020.
- **Temporary Loan Payment Suspension:** Automatically suspends federal student loan payments, including interest, through September 30, 2020. It does not apply to federal loans held by private lenders.

## Relief to Individuals

- **Recovery Rebate "Checks":** Individuals will receive checks of up to \$1,200 (\$2,400 per married couple), plus \$500 for every child
  - Individuals who made more than \$75,000 or a head of household who earned \$112,500 as in 2019 and couples who file joint tax returns who earned more than \$150,000 in 2019 will be excluded from the relief provision.
  - Above those income thresholds, the payment decreases by \$5 for every \$100 earned until it stops altogether for single people earning a minimum of \$99,000 or married people who have do not have children and earn a minimum of \$198,000.
- **Employment Provisions:**
  - Paid Leave: Limits paid family and medical leave (capped at \$200/day and \$10,000 aggregate); paid sick leave (capped at \$511/day and \$5,110 aggregate); and grants the Labor Secretary authority to exempt small businesses with fewer than 50 employees from paid leave provisions.

## Fiscal Support for State and Local Governments

- Law will provide direct fiscal support to municipalities for COVID-19 related shortfalls and expenses including but not limited to:
  - \$150B to states, tribal governments, territories, and local governments with a population over 500,000 people
  - \$130B in grants to health care providers
  - \$30.9B to elementary, secondary, and higher education
  - \$130B grants to health care providers to provide reimbursements and to supplement lost revenue to hospitals
  - \$25B for transit providers through Federal Transit Administration
  - \$10B to maintain airports via the Federal Aviation Authority

## Charitable Contributions

- **Partial Above-the-Line Deduction:** Allows partial above-the-line deduction for charitable cash contributions in 2020 permitting taxpayers to deduct up to \$300, whether they itemize their deductions or not. The above-the-line deduction provision explicitly excludes contributions to donor-advised funds.
- **Additional Modifications:** Will curtail 2020 limitations on deductions for charitable cash contributions by individuals who itemize and corporations. For individuals, the 60 percent of adjusted gross income limitation is suspended for 2020. For corporations, the 10 percent limitation is increased to 25 percent of taxable income. This provision also does not apply for contributions to donor-advised funds.

## Corporate Tax Relief

- **Delay of Employer Payroll Tax Payments:** Provides extensive corporate tax relief for U.S. businesses, including but not limited to allowing employers and self-employed individuals to postpone payment of the employer share of Social Security taxes that they would otherwise be required to pay between the date of enactment and January 1, 2021. The deferred payments are required to be paid in two installments, with 50% of the deferred amount required to be paid by December 31, 2021, and the other 50% by December 31, 2022.

## Regulatory Relief

### Internal Revenue Service (IRS) Regulatory Relief:

- **Federal Income Tax Deadline:** Federal income tax deadline extended to July 15 from April 15.
- **IRA Contributions:** IRS has extended 2019 IRA contributions to July 2020.
- **HSA Contributions:** IRS has stated that HSA contributions for 2019 can now be made up through July 15, 2020. Employees will need to abide by the 2019 maximum contribution amounts, which were \$3,500 for individual coverage and \$7,000 for family coverage with a \$1,000 catch-up limit for account holders over the age of 55.

### SEC Regulatory Relief Related to COVID-19:

The SEC has issued several orders for regulatory relief over the past weeks to broker-dealers, funds, and investment advisors:

- **Affiliated Purchases under Rule 17a-9:** Provides No-Action relief under Section 17(a) of the Investment Company Act of 1940 for affiliated purchases of debt securities under Rule 17a-9 of the Investment Company Act (3/26).
- **Rule 606 Reporting:** Provides temporary exemptive relief from certain requirements of Rule 606 from broker-dealer reporting requirements under Regulation NMS under the Exchange Act (3/25).
- **In-Person Board Votes:** Extends SEC relief, issued on March 13, from the need for in-person board meetings to approve management and underwriting contracts as well as the selection of auditors at in-person board meetings, to August 15, 2020 (3/25).
- **Form N-PORT & N-CEN:** Extends relief, issued on March 13, to temporary exempt Form N-PORT and Form N-CEN filings that otherwise would be due on or before June 30, 2020, subject to conditions including that the form be filed as soon as practicable, but no later than 45 days after its original due date. The amended order also removed the requirements for a fund to (i) explain the reasons why it is relying on the order when

notifying the SEC staff and on the fund's website and (ii) provide the SEC staff with an expected filing date (3/25).

- **Annual and Semiannual Shareholder Reports:** Extends relief, previously issued on March 13, and provides updated conditions, for the preparation and transmission of annual and semiannual shareholder reports otherwise due to be transmitted on or before June 30, 2020 (3/25).
- **Prospectus Delivery:** Extends relief, previously issued on March 13, for delivery of prospectuses for subsequent purchases, subject to certain conditions (3/25).
- **Form ADV and Form PF:** Extends relief, previously provided on March 13, for delivery of Form ADV and Form PF filing requirements, subject to conditions, until June 30, 2020 (3/25).
- **Proxy Reporting and Delivery:** Extends relief from the reporting and proxy delivery requirements, subject to conditions, for filings due on or before July 1, 2020 (3/25).
- **Affiliated Interfund Lending:** SEC order providing temporary relief for registered investment companies, other than money market funds, to enter into certain affiliated interfund lending arrangements, subject to conditions (3/23).
- **Transfer Agent Relief:** Provides conditional exemptive relief for registered transfer agents subject to certain conditions, from provisions of the Securities Exchange Act of 1934 concerning: (i) the clearance and settlement of securities transactions; and (ii) the safeguarding of securities and funds (3/20).
- **NYSE Electronic Auctions:** Modifies certain rules to facilitate NYSE auctions in an electronic trading environment after NYSE announced that it will temporarily close its trading floor effective Monday, March 23, as a precautionary measure in response to COVID-19 (3/20).
- **Consolidated Audit Trail:** Provides relief exempting the SROs from collecting or retaining certain retail customer data, including (1) individual social security numbers or individual tax payer identification numbers, (2) dates of birth, and (3) account number. The SEC staff also issued no-action relief delaying the SROs' enforcement of their CAT compliance rules until May 20, 2020 (3/17).
- **Request for Comments:** Provides commenters for pending regulatory actions with deadlines in March, the ability to submit their comments until April 24.

### FINRA Regulatory Relief Related to COVID-19:

FINRA has provided its member firms temporary relief from certain requirements due to COVID-19 operational issues including:

- **Submission of Fingerprint Information under Rule 1010(d):** Provides member firms a temporary extension of time for submission of fingerprint information. Firms seeking to use this temporary exemptive relief must comply with FINRA's guidance with respect to FINRA Rule 1010.
- **FAQs Related to Regulatory Relief Due to the Coronavirus Pandemic:** In the form of FAQs, provides temporary relief for member firms from several rules and requirements relating to:
  - Communications with customers,
  - Requirements to file non-promotional communications with FINRA,
  - Annual independent AML testing timeframes,
  - Reminders of best execution requirements,

- Form U4 or Form BR updates for temporary relocations due to COVID-19,
  - Activation of BCP plans and FINRA notifications,
  - Communications with FINRA,
  - Remote office or telework arrangements,
  - Filing extensions for Annual Reports and FOCUS Reports,
  - Temporary relief relating to Rule 1010 (electronic filing requirements for uniform forms),
  - Temporary extension of time under Rule 1210.04 for registered persons functioning as principals for a limited period, and
  - Additional time for reporting Rule 4530 customer complaint information.
- **Requests for Comment:** Provides an extension for the comment periods for Regulatory Notice 20-05, Proposal to Implement Recommendations Regarding Enhancements to the Continuing Education Program for Securities Industry Professional (to May 31) and Regulatory Notice 20-04, Proposed Amendments to the Capital Acquisition Broker Rules (to May 15).

Please reach out to your Fidelity Representative with any questions.



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