



HUMAN RESOURCES DEPARTMENT
FORT BEND COUNTY, TEXAS

Kent M. Edwards, PHR
Director of Human Resources

MEMORANDUM

To: Judge KP George
Commissioner Vincent Morales
Commissioner Grady Prestage
Commissioner Andy Meyers
Commissioner Ken DeMerchant

From: Kent Edwards,
Director of Human Resources

Subject: HR Agenda Items for June 9, 2020 Commissioners Court

Date: June 1, 2020

The following information is a summary of the HR Agenda Items for the June 9, 2020 Commissioners Court.

Discussion Item – Human Resources – Take all appropriate action to adopt the amendment to include the Coronavirus Aid, Relief, and Economic Security (CARES) Act provisions as presented by Mass Mutual, Edward Jones as it pertains to the Fort Bend County's 457(b) Deferred Compensation Plan, and authorize County Judge to execute all documents necessary to implement this change.

Explanation:

The Coronavirus Aid, Relief, and Economic Security (CARES) Act was signed into law on March 27, 2020. Provisions of the Act allow Participants to access funds from their Fort Bend County's 457(b) Deferred Compensation Plan if meet the eligibility requirements. Fort Bend County's 457(b) Deferred Compensation Plans include Mass Mutual, Edward Jones.

Human Resources approves of the proposed item.

Should you have any questions, please do not hesitate to contact me 281/ 341-8631.

KE/ir

Request for Change in Plan Operation (RCPO): The Coronavirus Aid, Relief, and Economic Security Act ("CARES Act")

The Coronavirus Aid, Relief, and Economic Security Act ("CARES Act" or "Act") was signed into law on March 27, 2020. Within this appropriations bill were provisions that apply to Retirement Plans.

This newly enacted law impacts the ongoing administration of your plan. The Act's provisions may be adopted at the discretion of the plan sponsor/fiduciary. Plan sponsors, should carefully consider whether or not to elect any of these provisions. MassMutual is enhancing our recordkeeping systems to help support you in the implementation of changes to your plan and its operations. We will be in touch with you in the coming months regarding any updates as regulatory guidance becomes available. If you have specific questions regarding any changes under the CARES Act and our services, please contact your Account Manager or your plan's Third Party Administrator ("TPA") as appropriate.

The CARES Act changes are summarized below. Please note the suitability of these options is dependent on your current plan design and may not necessarily apply. **You are not required to elect any optional changes for your plan, at this time.**

MassMutual, by providing this RCPO, has tried to address and provide information on the immediate changes of the CARES Act and to permit plan sponsors the ability to adopt them. However, we are still awaiting guidance from the IRS on some of the operational aspects of these changes. As a result, the materials presented here may not fully address all considerations and actions relevant to your plan. Please consult with your plan's legal counsel to help determine whether now is an appropriate time to implement CARE Act changes, or whether you will await further guidance before making any decision to adopt all or some of the CARES Act changes.

IMPORTANT: FOR PLANS THAT UTILIZE A THIRD PARTY ADMINISTRATOR ("TPA"); PLEASE CONSULT AND COORDINATE ANY CHANGE YOU WISH TO ADOPT WITH YOUR TPA. THEY ARE ABLE TO ACCESS AND UPDATE THE RCPO ON YOUR BEHALF.

Provision	Effective Date	Impacted Plan Types
Allow Coronavirus Related Distribution ("CRD") penalty free from Eligible Retirement Plans	March 27, 2020	401(a) plans, 401(k) plans, 403(b) plans and governmental 457(b) plans
Repayment of Coronavirus Related Distribution	March 27, 2020	401(a) plans, 401(k) plans, 403(b) plans and governmental 457(b) plans
Temporary Maximum Loan Amount Increases of up to \$100,000	March 27, 2020	401(a) plans, 401(k) plans, 403(b) plans and governmental 457(b) plans
One-year Extension of Loan Repayments	March 27, 2020	401(a) plans, 401(k) plans, 403(b) plans and governmental 457(b) plans
Retroactive Plan Amendments allowed as long as the plan operated as if the provisions were included in the document all along	March 27, 2020	401(a) plans, 401(k) plans, 403(b) plans and governmental 457(b) plans
Required Minimum Distributions are suspended for 2020	March 27, 2020	401(a) plans, 401(k) plans, 403(b) plans and governmental 457(b) plans

If you do not complete and return this RCPO, any changes that need your affirmative election will not be implemented for your plan. If you wish to adopt any of the optional provisions, please select the NEXT button to begin the survey.

Please note that the information contained herein is for informational purposes to help support your administration of your Plan and is not intended as, and does not serve as, legal advice.

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If you determine that you do not wish to adopt any of the optional provisions, you can bypass reviewing each provision by selecting the "I do not choose to elect any of the optional provisions at this time." Otherwise to make elections, select the "Review" option and you will review the optional election one at a time.

In completing this RCPO, in what capacity do you represent the Plan(s):

Choose only one:

The Plan Sponsor

Third Party Administrator (TPA)

For Plan Sponsors:

I do not wish to implement any of the Act's optional provisions at this time.

I will review this RCPO and select those provisions I wish implemented at this time.

For Third Party Administrators:

I represent and certify that I have been authorized, by the applicable plan fiduciaries for which I serve as a third party administrator ("Plans"), to provide the following instructions to MassMutual.

I do not wish to implement any of the Act's optional provisions for my Plans at this time.

I direct MassMutual to implement, for all of my Plans, the optional provisions indicated in my survey responses.

I will submit to MassMutual a separate survey for each of my Plans. ***I will complete and return this RCPO for each plan requiring changes, including the plan identification information that follows.***

TPA Name _____

Address _____

Phone Number: _____

Important Notes on Regulatory Plan Amendments

By completing this RCPO, you can immediately adopt these provisions, even if the plan does not currently allow for in-service withdrawals. The plan must adopt the formal regulatory plan amendment on or before the last day of the plan year beginning on or after January 1, 2022 (January 1, 2024 for governmental plans). You should communicate any changes under this RCPO to your document service provider, TPA, legal counsel and other service providers. During the interim period, this RCPO will govern how your plan is operationally administered and is intended to help provide you with a record of good faith compliance with the provisions of the CARES Act. Of course, you should consult with your legal counsel regarding any changes to the operation of your plan prior to taking any action with respect to this RCPO. MassMutual cannot and does not provide legal advice, and nothing herein is intended to serve as legal advice. **Note that, if you wish to await regulatory implementation guidance prior to implementing any optional provisions, please do not proceed with this RCPO.**

If you are utilizing MassMutual's plan document services, MassMutual will provide a formal regulatory plan amendment for your review and signature, once available. If you are not utilizing MassMutual's plan document services, please contact your plan document provider for additional information. You should communicate any changes under this RCPO to your document service provider, TPA, legal counsel and other service providers, as applicable, to help ensure plan compliance.

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Allow Coronavirus Related Distributions (“CRDs”) from Eligible Retirement Plans

Applicable Only to: 401(a) plans, 401(k) plans, 403(b) plans and governmental 457(b) plans.

Note: A CRD is not considered a hardship distribution, as a result none of a plan’s hardship restrictions apply. A plan can allow for this type of distribution even if the plan does not permit hardship distributions.

Optional Change: A plan may permit CRDs for participants who self-certify they meet one of the following conditions:

- Diagnosed with SARS-CoV-2 or COVID-19 by a test approved by the Centers for Disease Control and Prevention
- Spouse or dependent is diagnosed with SARS-CoV-2 or COVID-19
- Experiences adverse financial consequences as a result of being quarantined because of SARS-CoV-2 or COVID-19
- Being laid off or furloughed or having work hours reduced because of SARS-CoV-2 or COVID-19
- Being unable to work due to lack of child care because of SARS-CoV-2 or COVID-19
- Closing or reducing hours of a business owned or operated by the individual because of SARS-CoV-2 or COVID-19
- Other factors as determined by the Secretary of the Treasury

CRDs are subject to the following conditions:

- CRDs are capped at \$100,000 in the aggregate from all retirement plans and IRAs.
- Plan administrator may rely on self-certification by the participant that they qualify for a CRD.
- A participant may spread the taxable amount over 3 tax years.
- 10% penalty excise tax (typically for distribution made prior to age 59 ½) doesn’t apply to a CRD.
- A CRD is not an Eligible Rollover Distribution.
- CRDs are not subject to mandatory 20% tax withholding.
- CRD are subject to a 10% tax withholding unless, the participant elects no withholding.
- A CRD may be repaid over 3 year period starting from the date of the distribution.

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Effective Date: CRDs are optional and are available for distributions made on or after January 1, 2020 and before December 31, 2020.

Action for Consideration: Please complete the following:

- No, I do not wish to adopt the optional provision to permit CRDs from the Plan(s).
- Yes, I direct MassMutual to allow CRDs from the Plan(s) subject to the criteria described above.

Note: CRD distribution amounts will be made available from all money sources except those restricted by law. An example of this would be plan assets transferred from a Money Purchase plan.

Request a CRD Distribution via toll-free telephone services

Optional Change: The Plan Sponsor may direct MassMutual to allow participants to access their individual accounts to initiate a CRD Distribution via toll-free telephone services which include customer service professionals.

Action for Consideration: Please elect one of the following:

- Yes, I would like Participants to be able to request CRD distributions via toll-free telephone services.
- No, I do not want Participants to be able to request CRD distributions via toll-free telephone services.

CRD Distributions via toll-free telephone services will use participant information currently held in our recordkeeping system, which includes but is not limited to participant status and vesting. An affirmative election confirms your approval of this information as accurate for purposes of processing the requested distribution.

Increase Loan Limit for Qualified Individuals

Applicable only to: 401(a) plans, 401(k) plans, 403(b) plans and governmental 457(b) plans that have an existing participant loan provision. **If your Plan does not currently have a participant loan provision, please contact your Account Manager regarding amending the Plan to offer a participant loan provision.**

Prior Law: The amount available to take as a plans loans was generally limited to the lesser of 50% of the participant's account balance or \$50,000.

Optional Change: A 401(a) plan, 401(k) plan, 403(b) plan or governmental 457(b) plan may increase its maximum allowable amount for participant loans to the lesser of 100% of the participant's account balance or \$100,000.

Effective Date: This change is optional for loans taken between March 27, 2020 and September 22, 2020.

Some Considerations: The Plan Sponsor may wish to also consider participants' ability to repay larger loans.

Action for Consideration: Please indicate whether you wish to increase your plan's loan limit to the maximum allowed by the Act:

- No, I do not wish to increase my Plan's loan limits.

Yes, I direct MassMutual to implement the increased loan limits described above.

Request a loan under the Coronavirus pandemic increased loan limits via toll-free telephone services

Optional Change: The Plan Sponsor may direct MassMutual to allow Qualified Individuals to initiate a loan under the CARES Act via toll-free telephone services which include customer service professionals. **Action for Consideration:** Please elect one of the following:

Yes, I would like Participants to be able to initiate a loan under the Coronavirus pandemic increased loan limits via toll-free telephone services.

No, I do not want Participants to initiate a loan under the Coronavirus pandemic increased loan limits via toll-free telephone services.

For loans initiated via toll-free telephone services MassMutual will rely on participant information currently held in our recordkeeping system, which includes but is not limited to participant status and vesting. An affirmative election confirms your approval of this information as accurate for purposes of processing the requested distribution.

Certain Loan Repayments can be Delayed for up to One Year

Applicable only to: 401(a) plans, 401(k) plans, 403(b) plans and governmental 457(b) plans that have an existing participant loan provision. **If your Plan does not currently have a participant loan provision, please contact your Account Manager regarding amending the Plan to offer a participant loan provision.**

Existing Law: Participants are required to repay loans in full within 5 years (except for loans used to purchase a primary residence) and repayments must be made in substantially equal installments paid at least quarterly. The only way a Plan could suspend loan payments was in the event of a bona fide leave of absence or for the employee performing military duties.

Optional Change: A plan may permit participants to suspend loan payments for up to one year with respect to payments due on or after March 27, 2020. Re-amortization of the loan will be allowed due to extra interest accrued during the suspension.

Effective Date: This change is optional for loans suspended between the enactment of the Act and December 31, 2020.

Action for Consideration: Please choose one of the following elections:

No, I do not want to adopt the optional change to allow participants to extend the due date for loan repayments for up to one year without penalty.

Yes, I want to change the plan loan repayment schedule to allow participants to extend the due date for loan repayments for up to one year without penalty.

Required Minimum Distributions not applicable for Calendar Year 2020

Applicable to: 401(a) plans, 401(k) plans, 403(b) plans and governmental 457(b) plans.

Prior Law: Anyone with a balance in one of the above plans who was over the age of 70½ (or age 72, as per recent law changes) who met the other criteria for a Required Minimum Distribution was required to take their minimum distribution each year from their balance under the above plans.

What has Changed: The CARES Act has waived Required Minimum Distributions for 2020. However, plan participants may still elect to receive a payment in 2020.

Default Operation of Provision: In order to avoid any undue hardship for plan participants and beneficiaries, MassMutual has stopped making automated Required Minimum Distributions to Participants and Beneficiaries who are otherwise required to receive a Required Minimum Distribution for the 2020 Distribution Calendar Year.

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Amending your Plan to adopt the CARES Act Changes

Plan sponsors can start administering the Plan according to any of the optional CARES Act provisions elected in this RCPO. However, the plan must be formally amended for the adopted changes, no later than the last day of the first plan year beginning on or after January 1, 2022. Plans sponsored by governmental entities have until no later than the last day of the first plan year beginning on or after January 1, 2024.

If you wish to add a loan provision to your retirement plan effective April 1, 2020, then the plan will need to amend no later than December 31, 2020 for a calendar plan year to allow for this change.

Signed by Plan Administrator or Authorized Signer:

Plan Name: FORT BEND COUNTY 457(B) DEFERRED COMP PLAN

Contract/Plan Number: 0150323 (GROUP #)

Full Name of Authorized Signer: _____

Email of Authorized Signer: _____

Title: _____

Date: _____

Name of Signer on behalf of TPA: _____

Email of Signer on behalf of TPA: _____

Title of Signer on behalf of TPA: _____

Effective Date: _____

TPA Numbers: _____

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This page will summarize the information provided in the RCPO and will give the submitter the opportunity to edit or submit the RCPO