Public Sector Retirement News & Views | Q2 2020

WASHINGTON REPORT

THE SECURE ACT PASSED – NOW WHAT DO WE DO?

In our last newsletter we reported that provisions of the SECURE Act, which included a number of changes to retirement savings plans, had passed in late 2019. Of the provisions in the Act, a few were applicable to public sector plans. As a plan sponsor, you are probably wondering, what's next? The changes generally apply to 401(k), Individual Retirement Accounts (IRAs), 403(b), and governmental 457(b) plans and apply to withdrawals after 2019, unless otherwise noted. Changes are described below, followed by NFP's recommendations for next steps.

- Modified Required Minimum Distribution (RMD) Rules: The age that triggers RMDs was changed to age 72, from age 70-1/2. This change affects distributions which would have been required for participants turning 70-1/2 after December 31, 2019 – now the requirement to take distributions will be extended. For participants who reached age 70-1/2 on or before 12/31/19, they are subject to the old rules and must take their RMDs. This change is required of subject plans.

- RMD rules for non-spousal beneficiaries changed, so that distributions must be taken generally within 10 years of the owner's death. Previously, non-spousal beneficiaries were allowed to use their own lifetime expectancy to determine the amount of the RMD. This change is required of subject plans.

- Withdrawals for qualified births or adoptions: Plans may offer participants the option of taking a distribution or loan up to $5,000, for a qualified birth or adoption. Such distribution would not be subject to a 10% early withdrawal penalty or mandatory tax withholding. This change is optional for subject plans.

- An appropriations bill that the SECURE Act was attached to also has a $100,000 disaster relief option that plan sponsors can adopt. We have few details at this time, and expect clarification from IRS and DOL when regs are drafted (see below, Timing for Changes).

- The minimum age for in-service distributions may be decreased to age 59-1/2 (prior rules allowed in-service distribution at age 70-1/2). This change is optional for subject plans.

CONCERNS

The provision of greatest concern to NFP is the last one, allowing in-service distributions at age 59-1/2. Our concern comes from our experience with previous similar changes, specifically those that first allowed roll-outs from defined benefit plans, and portability to other types of retirement savings plans. While these provisions may be advantageous for some by allowing them to consolidate assets and plan more holistically, there can be disadvantages when investment advisors, financial planners and brokers convince participants to make changes that may not be in their best interest. NFP recommends to all plan sponsors that you put tools in place to equip your participants with current, pertinent information needed to make informed decisions – including all current fees; investments and their quality, performance and other characteristics; plan services and benefits; and any other information a participant should have when considering rolling out their assets. Tools can be participant group education, written and/or online summaries of plan information, vendor-provided materials, individual education, or other forms that your participants find most useful. Your NFP advisor can help you look at information currently offered and where it may be augmented for the benefit of your participants.

In our last edition of News & Views, we included an article on Plan Leakage, which contained ideas about how to equip participants with information for when making withdrawal considerations. The article can be found here.

TIMING FOR CHANGES

When the SECURE Act passed in late December, the Department of Treasury was tasked with writing the regulations to implement the changes and is required to issue preliminary regulations within six months of passage. The law allows an extended period to formally adopt changes which are necessary to maintain compliance, and most governmental plans are required to be amended by the end of the year 2024. Because changes can occur between the time the laws change and the regulations are published and finalized, NFP recommends waiting for the final guidance to amend plan documents. We will continue to monitor developments as they occur and advise our clients on changes pertinent to your plans.

NEW PROPOSAL WOULD ALLOW COLLECTIVE INVESTMENT TRUSTS IN 403(B) PLANS

NFP has long supported the addition of Collective Investment Trusts (CITs) to public sector plans, but the law does not currently allow CITs in all 403(b) plans – only those sponsored by churches. A bipartisan bill was introduced in mid-March that would enable all 403(b) plan sponsors to offer collective investment trusts to their participants. The bill was introduced by Rep. Jimmy Panetta, D-Calif., as part of the Public Service Retirement Fairness Act, and is seen as a companion to the Retirement Security and Savings Act sponsored by Senators Rob Portman (R-Ohio) and Ben Cardin (D-Maryland).

WHAT ARE CITS?

CITs are similar to mutual funds and are often run by mutual fund companies, yet there are significant differences. Both types of investments are pooled and follow specific investment strategies. Mutual funds may be offered to the general public or within a plan; CITs are designed to be part of a retirement plan and can be custom designed. CIT assets are typically collectively managed and are made up of stocks, bonds, and other types of investments. CITs generally will have lower costs than other retirement investment options, and may have more flexibility. Finally, neither CIT nor mutual fund assets are insured by the FDIC.

WHY IS THIS CHANGE BEING PROPOSED NOW?

Adding CITs to public sector 403(b) plans would allow teachers and public sector health care workers the same flexibility and cost savings offered to other public sector plans. The Vanguard Group recently estimated that the cost savings to 403(b) participants in plans that offer CITs could amount to as much as $250 million per year. NAGDCA placed the addition of CITs to 403(b) plans high on their priorities for working with Capitol Hill to make improvements to public sector retirement plans.

HOW CAN CITS BE ACCESSED?

NFP has been on the leading edge of CIT integration for our clients as their utilization has increased in recent years. By leveraging our size and scale, NFP is able to offer our clients exclusive access to top-performing asset managers in most asset classes at significantly lower fees. This exclusive value-add offering has saved millions of dollars for plan participants over time. We use our fund scoring process to identify funds within a plan's selected investment categories that score well and have competitive net investment costs. Additionally, every fund recommendation we bring forth to our clients is thoroughly vetted by NFP's internal Investment Committee. The vetting process includes an initial quantitative screen of the entire asset class, further quantitative due diligence (e.g., longer time periods), and a formal review with the investment manager. Once a fund is approved by the committee, NFP can negotiate directly with the investment manager for a lower investment management fee.

NFP will closely monitor this legislation as it develops and continue to keep you informed as your options and requirements change. Please consult your NFP advisor if you would like to learn more about Collective Investment Trusts and whether they are appropriate for your plan.

STUDENT LOANS & RETIREMENT PLAN DEFERRALS STILL ON THE RADAR

In May 2019, Senator Ron Wyden (D-OR) introduced legislation to allow employers to make contributions to defined contribution plan accounts to match their employee's student loan payments, as if the loan payments were retirement contributions. In mid-March, Reps Danny Davis (D-IL) and Darin LaHood (R-IL), introduced The Retirement Parity & Student Loan Act of 2020, keeping the proposal alive.

The matching contribution would only be allowed for student loan debt incurred for higher education. The employee would be required to provide proof of the loan payments to the plan sponsor in order for the matching contributions to be made.

NAGDCA LEGISLATIVE PRIORITIES

In the spring of every year, the NAGDCA Board works with key representatives in Washington DC to discuss priorities for improvements to public sector retirement savings plans. In addition to the addition of CITs to 403(b) plans, NAGDCA identified the following priorities for consideration, some of which are included in current proposed legislation:

- Preserve unique plan features, including pre- and post-tax savings options, special catch up provisions, and elimination of plan flexibilities
- Permit non-spousal beneficiaries to roll assets to their governmental plan
- Bi-partisan Congressional support for National Retirement Security Month in 2020
- Allow governmental plan participants to roll Roth IRA assets into their plan; exempt plan Roth assets from the RMD rules
- Eliminate the "first of the month" rule in 457(b) plans to ease enrollments and contribution changes
- Allow qualifying charitable contributions from governmental plans, same as IRAs

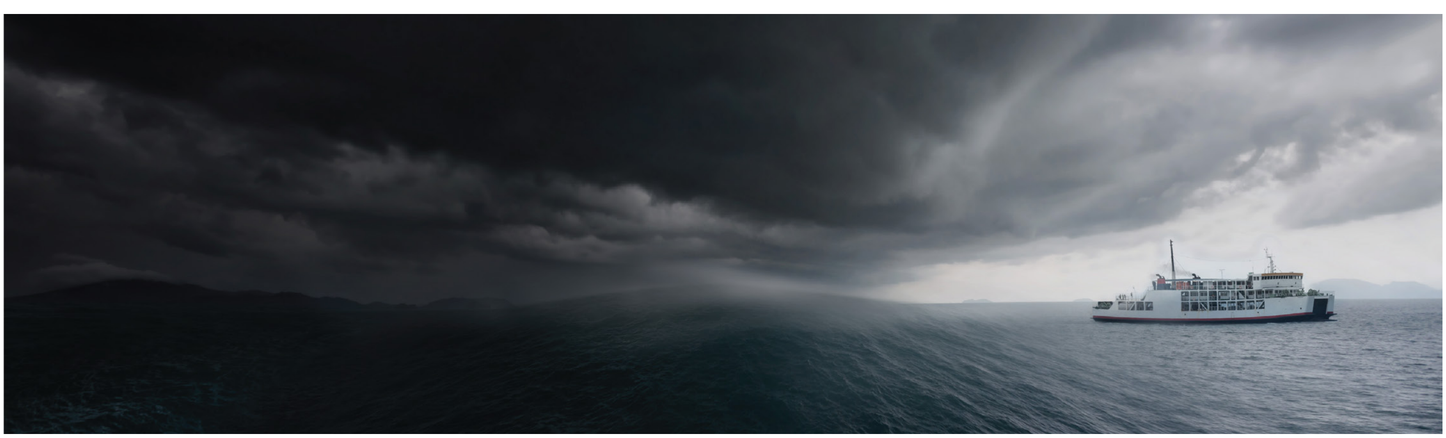
NAGDCA is always interested in your ideas for improvements to governmental plans. Your NFP advisor can assist you with developing and/or communicating your ideas to NAGDCA. For more information on NAGDCA's legislative priorities, click here.

HELPING PARTICIPANTS THROUGH TURBULENT MARKETS

As a plan sponsor, you are often the first person your participants reach out to when markets are turbulent, as we've seen recently. Understandably, participants are concerned about their savings and what market volatility means for their future. Your plan provider can be your best resource for answering questions, providing account analyses, and helping employees maintain focus on their overall goals and time frame.

With the recent market volatility, most of the providers have published timely resources to help participants manage their investment strategy during major fluctuations. You can ask your provider representative to provide flyers, email hyperlinks, or otherwise bring education to your workplace that addresses the current influences and their effect on the market and on planning for retirement.

NFP recently published a commentary, "Staying the Course – Coronavirus and Past Epidemics." Our commentary was sent out widely so you should have received it in early March, but it can also be accessed here.



About NFP

NFP is a leading insurance broker and consultant that provides employee benefits, property and casualty, retirement, and individual private client solutions through our licensed subsidiaries and affiliates. Our expertise is matched by our commitment to each client's goals and is enhanced by our investments in innovative technologies in the insurance brokerage and consulting space.

NFP has more than 5,400 employees and global capabilities. Our expansive reach gives us access to highly rated insurers, vendors and financial institutions in the industry, while our locally based employees tailor each solution to meet our clients' needs. We've become one of the largest insurance brokerage, consulting and wealth management firms by building enduring relationships with our clients and helping them realize their goals.

For more information, visit **nfp.com**.

NFP GOVERNMENTAL RETIREMENT PLAN EXPERTISE

Bill Tugaw is the governmental plan practice leader for NFP. He has assisted public sector employers in meeting the fiduciary obligations associated with operating their plans for more than 30 years. Bill is a faculty instructor for the International Foundation of Employee Benefit Plans (IFEBP) on public sector 457(b), 401(a) and 403(b) plans. Bill is frequently invited to lecture on employee benefits, post-employment health plan options, requests for disclosure and requests for proposals. Bill is co-author of two books: *Deferred Compensation / Defined Contribution: New Rules / New Game for Public and Private Plans,* and *Defined Contribution Decisions: The Education Challenge.*

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