RETIREMENT PLAN LEGISLATIVE AND REGULATORY UPDATE

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Agenda

- **Discussion of Recently Implemented Changes**
  - **SECURE Act—including implications and opportunities**
  - **CARES Act**
- **Review of Other Legislative Proposals**
- **2020 Industry Trends and COVID-19s Impact on Investor Sentiment**
  - **Financial Wellness**
  - **Student Loan Repayment Assistance**

Overview of HB Retirement

Our Vision

As trusted advisors, we hold ourselves to the highest standard of care.
We seek to empower plan sponsors and participants to protect today, secure tomorrow

- Full-service <u>independent</u> institutional retirement consulting and investment advisory firm
- Specializing in all areas of retirement plan and financial wellness consulting
- Provide investment advisory services on over 275 retirement plans
- 27 Full time retirement plan professionals
- Staff designations include CFA®, CIMA®, AIF®, CFP®, JD, CPFA®, CRPS®
- Headquartered in Pittsburgh, PA
- Nominated for PlanAdviser Magazine's "Adviser Team of the Year" since 2006
- Supported by the strength and resources of LPL Financial and Global Retirement Partners (GRP)

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Disclosure

- For Plan Sponsor Use Only – Not for Use with Participants or the General Public.

- This information was developed as a general guide to educate plan sponsors, but is not intended as authoritative guidance or tax or legal advice. Each plan has unique requirements, and you should consult your attorney or tax advisor for guidance on your specific situation. In no way does advisor assure that, by using the information provided, plan sponsor will be in compliance with ERISA regulations.

- Securities and Retirement Plan Consulting Program advisory services offered through LPL Financial, a registered investment advisor, member FINRA/SIPC. Other advisory services offered through HB Retirement, a registered investment advisor. HB Retirement and Global Retirement Partners are separate entities from LPL Financial.

SECURE Act

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What is the SECURE ACT?

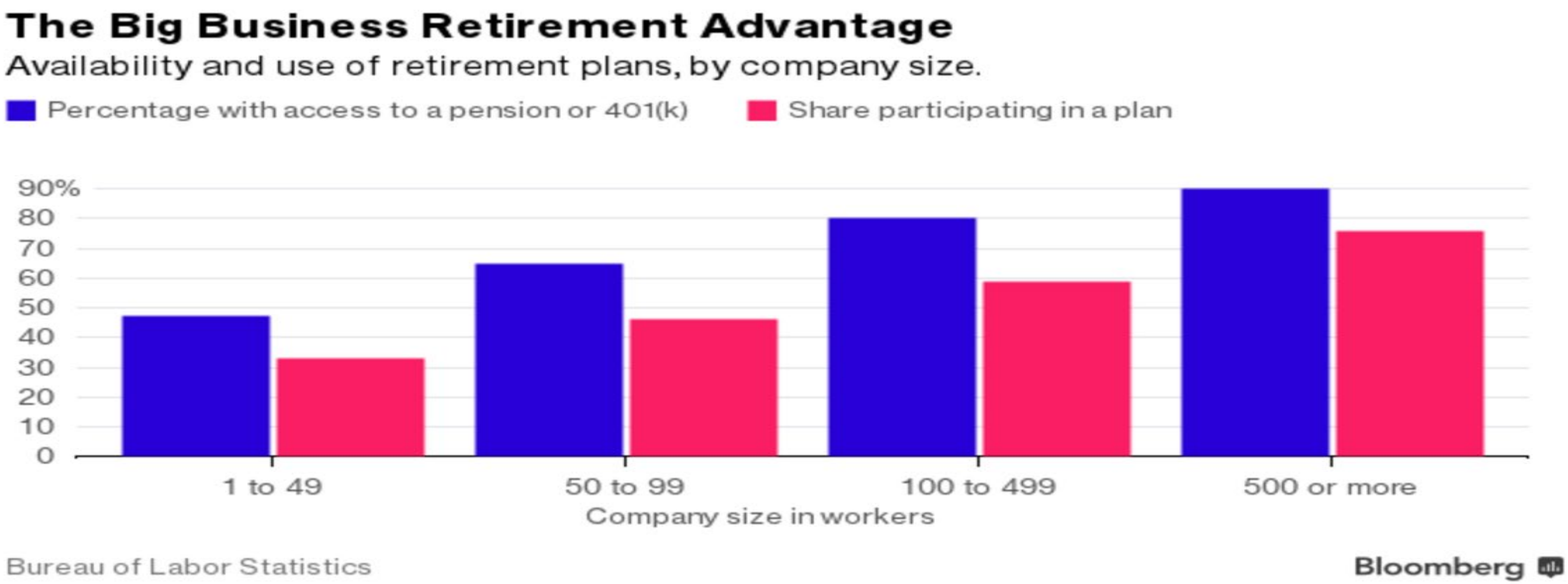
SETTING
EVERY
COMMUNITY
UP FOR
RETIREMENT
ENHANCEMENT

- In February 2019 the Senate introduced the "Retirement Enhancement and Savings Act" or RESA, aimed at fixing America's retirement savings problem – both in the public and private sectors
- In May 2019 the House passed the SECURE Retirement bill with a 417-3 vote. The SECURE Act contains many of the same provisions as RESA which both had bipartisan support
- Legislation passed by the House (in May), Senate (December 19), and President Trump (December 20)

- Part of an end-of-year appropriations act and accompanying tax measure to keep the government running
- Broadest piece of retirement legislation passed in 13 years
- The far-reaching bill includes significant provisions aimed at **increasing access to tax-advantaged accounts** and **preventing older Americans from outliving their assets**

Why Was This Legislation Passed?

- Most U.S. workers will need to supplement Social Security with personal savings now that pensions are mostly a thing of the past.
- Only 55% of the adult population participates in a workplace retirement plan according to the U.S. Bureau of Labor Statistics in 2018 and only 47% of small businesses offer a retirement plan.
- In early 2019 the median 401(k) balance for those ages 65 and older is just $58,035
- Retirees are living substantially longer, and a greater portion of their lives are actually spent in retirement



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SECURE Act Implications for Retirement Plan

Individual/Participant Provisions	DC Provisions
• RMDs for IRAs required to start beginning at age 72 (instead of 70 ½) • Removal of 70 ½ contribution age limit • Elimination of the lifetime "stretch" provision for non-spouse beneficiaries of inherited IRA's and other retirement accounts, replaced by a 10 year distribution cap* • $5,000 Qualified Birth or Adoption Distribution (still taxed; no penalty) • Expansion of 529 plans (can be used to cover registered apprenticeships and qualified education loan repayments)	• Provision of ERISA fiduciary Safe Harbor for selecting an annuity provider for retirement plans; Portability of lifetime income options • Requirement placed on recordkeepers to show a potential lifetime income on participant statements for either single or joint annuity options • Tax Credit for small businesses that establish a 401(k), 403(b), SEP IRA, or Simple IRA; Up to $5,000 from $500** • Tax Credit for adoption of auto-enrollment or auto-escalation in 401(K) plans ($500) • Maximum contribution for 401(k) auto enrollment increased to 15% • Long-Term, part-time employees who work at least 500 hours in at least three consecutive years will be eligible to participate in their employer's 401(k) plan • Creates an open MEP (Multiple Employer Plans); Common ownership or business purpose is no longer needed (Economies of Scale); One 5500 ; Removal of "Bad Apple" Rule

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Malito, Alessandra. "The SECURE Act Is Changing Retirement - Here Are the Most Important Things to Know." MarketWatch, MarketWatch, 8 Jan. 2020

Open and Closed MEPs and PEPs

A Multiple Employer Plan (MEP) and a Pooled Employer Plan (PEP) are retirement plans in which several unaffiliated employers may participate.

- **"Open" MEP**: Participating employers are treated as maintaining individual retirement plans. Currently, each participating employer must file its own Form 5500 and may need to employ an accountant to perform an audit of the plan. Each employer must establish a trust, although a group trust may be used to pool assets.

- **"Closed" MEP**: Treated as a single retirement plan. It files a single 5500, undergoes a single audit, determines ERISA bonding requirements based on aggregate MEP assets, and has one inclusive trust.

- **PEP**: Treated as a single retirement plan. It files a single 5500, undergoes a single audit, determines ERISA bonding requirements based on aggregate PEP assets, and has one inclusive trust.

SECURE Act: New MEPs

- The SECURE Act expanded access to MEPs allowing unrelated and unaffiliated employers to pool assets in a single plan, regardless of their industry or geographic location.

  This new MEP is referred to as a **Pooled Employee Plan** (PEP).

- **Key characteristics of PEPs:**
  - Available for plan years beginning after December 31, 2020 and limited to defined contribution plans
  - Must designate a "pooled plan provider" as a named fiduciary
  - Must designate one or more trustees (other than a participating employer) responsible for collecting plan contributions
  - Participating employers retain fiduciary responsibility for selecting the pooled plan provider and other fiduciaries, and for investing and managing plan assets when not delegated to another fiduciary
  - No requirement to include the sponsor's employees in the PEP
  - Files a single 5500, undergoes a single plan audit, ERISA bonding requirements are based on total MEP assets, has a single trust
  - Starting with 2021 plan years, "bad apple rule" – one employer's failure disqualifying the entire MEP – does not apply to defined contribution PEPs

Timing of Changes

Immediate or Plan/Tax Years Beginning After 12/31/2019

- Tax Credit for Small Employers to start a retirement plan
- Tax Credit for adding auto-features to retirement plan
- Permits the increasing of auto-escalation up to 15%
- Safe-Harbor for addition of lifetime income options within a retirement plan
    - Very complex; educating participants on products will take some time
- Penalty-free withdrawals for Qualified Birth or Adoption Distribution
- Removal of Stretch IRA for non-spousal beneficiaries
- Removal of 70 ½ contribution limit for IRAs
- RMDs to start at age 72

Plan/Tax years Beginning After 12/31/2020

- Record-keepers will need include lifetime income projections (single and joint life) on participant statements
- Create an open MEP (more guidance to come); One 5500; Removal of "Bad Apple" Rule
- Long term, part-time employee provisions (not required to count years prior to 2021)

Plan/Tax Years Beginning After 12/31/2021

- Removal of Stretch IRA for Governmental Plans

Coronavirus Aid, Relief, and Economic Security Act (CARES Act)

CARES Act

Legislation impacting plan sponsors & participants

Overview

The Coronavirus Aid, Relief and Economic Security Act (CARES Act) is a federal law intended to address the economic fallout of the COVID-19 pandemic. The CARES Act contains many provisions meant to provide financial relief to workers and employers, including several provisions related to retirement plans (Section 2202). Many (but not all) of these provisions are highlighted on the following slides.

Plan sponsors are NOT required to offer all CARES Act provisions in their plan, or any. Plan sponsors choosing to offer CARES Act provisions may do so immediately but must amend their plan document no later than the last day of plan year beginning on/after January 1, 2022. Participants MUST be considered a “qualified individual” to take advantage CARES Act provisions (other than RMD waiver).

CARES Act

Legislation impacting plan sponsors & participants

Timeline

- **March 27, 2020 – CARES Act signed into law**
  - Initial provisions are rolled out; recordkeepers / TPAs determine whether they will treat provisions as "opt-in" vs. "opt-out;" sponsors decide whether to adopt provisions

- **May 4, 2020 – IRS publishes 14 Q&A addressing Section 2202**
  - Provides confirmation, clarification and new information concerning technical aspects of CARES; cites Notice 2005-92 as precedent; states that more guidance will be forthcoming

- **June 19, 2020 – IRS issues Notice 2020-50**
  - Significantly expands definition of "qualified individual;" offers safe harbors for loan repayment issues; provides model self-certification

- **June 23, 2020 – IRS issues Notice 2020-51**
  - Allows individuals who have already taken RMDs in 2020 (from defined contribution plans and IRAs only) to roll these funds back into a retirement plan if done so by August 31, 2020

CARES Act

Legislation impacting plan sponsors & participants

Summary of Key Provisions

- **Definition of Qualified Individual**
  - Participant, spouse, or dependent who has been diagnosed with COVID-19
  - Participant who has experienced adverse financial consequences, due to virus, resulting from:
    - Being quarantined, furloughed or laid-off
    - Reduction in work hours
    - Inability to work due to lack of childcare
    - Closing or reduction of hours of a business owned/operated by individual
    - Reduction in pay / self-employment income **(new with Notice 2020-50)**
    - Having job offer rescinded / start date delayed **(new with Notice 2020-50)**
  - Participant who has experienced adverse financial consequences, due to virus, because their spouse or a member of the participant's household has experienced one of the situations listed above **(new with Notice 2020-50)**
- **Certification of Qualified Status**
  - Plan sponsor may rely on participant's self-certification unless possessing knowledge to contrary (sponsor has no obligation to inquire/investigate)
  - IRS reserves the right to reject participant's self-certification and associated favorable tax treatment; however, plan generally will not be liable for a participant's misrepresentation / invalid self-certification

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CARES Act

Legislation impacting plan sponsors & participants

Summary of Key Provisions (cont'd)

- **Coronavirus-Related Distributions (CRDs)**
  - CRDs are available to qualified individuals in an amount up to $100,000 (including 401(k)/403(b) deferrals), across all plans of all related employers in which an individual is a participant, prior to December 31, 2020 **(12/30/2020 deadline re-confirmed in Notice 2020-50)**
  - 10% premature withdrawal penalty is waived
  - CRDs may be repaid within 3 years
    - Repayments are treated as a rollover contribution
    - Plan is not required to accept repayments (i.e., if plan does not accept rollovers)
  - CRDs are taxed as ordinary income ratably over 3-year period, unless participant chooses to pay taxes on full amount in the year of distribution
    - Standard 20% federal withholding on cash distributions does not apply
    - Taxes reported on Form 8915-E (not yet released)
    - Participant decides how to be taxed but this decision is irrevocable
  - CRDs are available from qualified plans, 403(b) plans, governmental 457(b) plans, and IRAs
    - Pension plan distribution rules not superseded by CARES Act

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CARES Act

Legislation impacting plan sponsors & participants

Summary of Key Provisions (cont'd)

- **Loan Provisions**
  - Increased loan limits for qualified individuals up to the lesser of $100,000 or 100% of vested account balance
  - Increased loan limits are appliable to loans taken prior to September 23, 2020 **(9/22/2020 deadline confirmed in Notice 2020-50)**
  - Plans can choose to allow participants with outstanding loans and repayments due between March 27, 2020 and December 31, 2020 to suspend these repayments (interest continues to accrue)
    - Plan may choose actual suspension period – no earlier than March 27, no later than December 31
  - **Safe harbor guidance offered in Notice 2020-50 (examples provided in Notice):**
    - Loan term can be extended by 1 year from end of original term (regardless of length of suspension)
    - No suspended repayments prior to March 27; repayments start at end of suspension, but no later than January 2021
    - Loan would be re-amortized at end of suspension period to account for suspended payments, accrued interest, and extended loan term
- **Required Minimum Distributions (RMDs)**
  - RMDs are waived/suspended for participants in defined contribution plans, regardless of whether they are a qualified individual (including an individual's first RMD which was due by April 1, 2020)
  - Individuals who did receive RMDs in 2020 (prior to waiver) may roll those funds back into a retirement account by August 31, 2020 **(Notice 2020-51)**

Legislative Update – other proposals

Portman/Cardin: Retirement Security and Savings Act

- Permit Collective Investment Trusts (CIT) and Insurance Co. separate accounts in 403(b)
- Permit matching contributions for employees who repay student loans
- Increase the catch-up contribution to $10,000 for individuals 60+

Richard Neal: Automatic Retirement Plan Act

- Employers with greater than 10 employees maintain plan with:
- Auto enrollment at 6% and auto escalation at 1%/year to 10%
- Participants must be able to elect guaranteed lifetime income stream for 50% of their account

Coons/Klobuchar: Saving for the Future Act

- Require employers to contribute $.50/hour worked to a plan
- Universal Personal (UP) Savings Accounts for the first $2,500 of savings – Rainy Day Fund

Legislative Update – other proposals

Paul: Higher Education Loan Repayment and Enhanced Retirement(HELPER) Act

- Allow for tax and penalty free withdrawals for college or student loan repayments
- Individual and both parents can each withdraw up to $5,250 annually for a total of $15,750
- Permit participants to elect to have employer contributions made to Roth accounts
- Increase the participant contribution limit to $25,000, indexed to 401(k), 403(b) and 457 Plans

2020 Industry Trends

Our Clients' Top 5 Priorities

- Based on the HB Retirement 2018 Client Satisfaction Survey

1. **Compliant plan administration**
2. **Understand and manage their fiduciary responsibilities**
3. **Monitoring their plan's investments**
4. **Achieving satisfactory plan statistics**
   Participation rate, deferral rate, investment diversification, loan utilization
5. **Financial Wellness support of their employees**

Financial Wellness

Employees Are Worried

TOP FINANCIAL CONCERNS

41% Not being able to retire when I want to

59% Not being able to meet monthly expenses

57% Not having enough emergency savings for unexpected expenses

Stress Is Universal

Millennials	57%
Gen X	59%
Baby Boomers	41%

By generation: The majority of Millennial and Gen X employees are stressed about their finances.

Why Employers Take Action

REASONS FOR CREATING OR EXPANDING WELLNESS PROGRAMS

85% It's the right thing to do

80% Increase employee engagement

58% Improve retirement statistics

44% Decrease employee time spent addressing financial issues

33% Employees are asking for programs

26% Decrease medical costs

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Source: PwC's 2017 Employee Financial Wellness Survey

More recent data may alter this assessment

COVID-19's Impact on Investor Sentiment

Section 1. COVID has reshaped the world as we know it; finances are no exception:

- More than half (54%) of all respondents had their income directly impacted as a result of COVID-19 and three-quarters said they are at least somewhat more stressed due to COVID-19 when it comes to their financial position and outlook.
- Over a third of investors (34%) indicated they did not come into the COVID-19 pandemic with a sufficient emergency fund (i.e. three-six months of expenses in savings built up).
- Most investors reported some form of increased uncertainty in their financial situation: more than half (52%) of respondents believe they'll need to tap into their long-term savings in a year or less and 43% believe it will take 6 months or longer to recover financially from the financial impacts of the pandemic.
- As a direct result of COVID-19, 18% of respondents have stopped saving and 21% have withdrawn from their savings account to cover regular expenses.

Methodology:

- An online survey was conducted with a panel of potential respondents. The recruitment period was April 14 – April 16, 2020
- A total of 5,005 respondents living in the United States, who are invested in the markets completed the survey.

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"COVID-19's Impact On Investor Sentiment." *Betterment*, 30 May 2020, www.betterment.com/resources/covid-impact-investor-sentiment-report/.

COVID-19's Impact on Investor Sentiment

Section 2. Spending Habits and Stimulus Checks:

- Investors who expect to receive a federal stimulus check indicated a variety of ways they plan to use that money: 27% plan to use their stimulus check to cover rent and/or utility bills, 28% plan to use it to pay off debt, and 41% plan to put their stimulus check into an safety net fund.

Top ways investors plan to spend their stimulus check

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"COVID-19's Impact On Investor Sentiment." *Betterment*, 30 May 2020, www.betterment.com/resources/covid-impact-investor-sentiment-report/.

COVID-19’s Impact on Investor Sentiment

Section 3. Investor Reactions to COVID and Recent Market Events:

- 20% of investors surveyed report that they took money out of the market. When asked to select all the reasons they took money out of the market, investors were equally likely to select “to cover bills/necessary payments” as they were to select “to keep money safe from further losses,” showing these sell-offs are not primarily need-based, but also fear-based.

- The average bear market period lasted 1.4 years with an average cumulative loss of -41%, while the average bull market period lasted 9.1 years with an average cumulative return of 476%.

When do you plan to reinvest the money you took out?

48%

say they will only reinvest when the market either is fully corrected or begins to correct

39%

of those that pulled out will reinvest when they’re financially secure again

7%

unsure/other

6%

have no plans to reinvest at all

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“COVID-19's Impact On Investor Sentiment.” *Betterment*, 30 May 2020, www.betterment.com/resources/covid-impact-investor-sentiment-report/.

COVID-19

Plan Sponsor Pulse Survey Results

Has the COVID-19 crisis changed your priorities or thinking on the following?

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The DCIIA Retirement Research Center (RRC) conducted its first pulse survey of DC plan sponsors' reactions to the COVID-19 crisis the week of April 20, 2020 among members of its Plan Sponsor Steering Committee.

Their responses revealed the actions they have already taken or intend to take in response to the COVID-19 crisis. Nine committee members from large plans provided a unique, qualitative, first-look response to the crisis.

The week of May 18, a second pulse survey of 31 additional large plan sponsors was conducted. The results were similar in both waves and are combined in the data reported on the following pages, bringing the total to 40 respondents.

Thank You

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