



# IRS MODIFIES REGULATIONS FOR FINANCIAL HARDSHIP DISTRIBUTIONS

Last month, the IRS amended the regulations for hardship distributions from 401(k) and 403(b) plans. The amendments affect plan administrators, employers, plan participants and their beneficiaries.

Two notable changes are that the IRS revised the standards regarding hardship distributions for “immediate and heavy financial need,” and the six-month suspension has been lifted for plan sponsor and employee contributions to 401(k) and 403(b) plans to encourage ongoing plan participation following a hardship distribution.<sup>1</sup>

In general, 401(k) plans will need to be updated to reflect these regulations by Dec. 31, 2021, but operational changes, such as the elimination of the six-month suspension on contributions, need to comply with the new regulations on or after Jan. 1, 2020. Note that certain 403(b) plans may have an earlier amendment deadline.<sup>2</sup>

**The IRS has eliminated the need for certain facts and circumstances and have adopted a more general standard for “immediate and heavy financial need” if the following requirements are met:<sup>1</sup>**

- “The employee has obtained all other currently available, non-hardship distributions under plans maintained by the employer (including both qualified and nonqualified plans and including ESOP dividends available for the employee to receive in cash).”

- “The employee represents to the plan administrator in writing that the employee has insufficient cash or other liquid assets that are ‘reasonably available’ to satisfy the financial need. (The regulatory preamble confirms that this representation may be made by telephone, provided it is recorded.)”
- “The plan administrator does not have “actual” knowledge that is contrary to the employee’s representation. (The plan administrator is not required to inquire into the employee’s financial condition for purposes of this rule.)”

**Change to safe harbor events:**

- A hardship distribution can now be received to repair a plan participant’s primary residence if it qualifies as a federally declared disaster.<sup>2</sup>

To better understand how these updated regulations affect your plan, consult with your Mariner Wealth Advisors’ Retirement Plan Solutions team.

<sup>1</sup> “Final Hardship Distribution Regulations, Part Two,” The National Law Review. <https://bit.ly/2ng7JiK>

<sup>2</sup> “Final Hardship Distribution Regulations, Part One,” The National Law Review. <https://bit.ly/2newOus>

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