HYAS GROUP

SECURE ACT KEY PROVISIONS

MANDATORY	457	401(a)	401(k)	IRA	EFFECTIVE DATE*
RMDs age increased from 70½ to 72	✓	✓	✓	✓	12/31/2019
Elimination of the lifetime "stretch" provision; replaced by a 10-year distribution cap	✓	✓	✓	✓	12/31/2019 Govt plans: 12/31/2021
Creation of a "distributable event" for in-plan income/annuity options that are discontinued as plan investment options	✓	✓	✓		12/31/2019
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			✓		Eligibility clock begins 1/1/2021
Prohibition of 401(k) loans made via credit cards or similar arrangements			✓		12/31/2019
Annual participant statements must include lifetime projected retirement income			✓		Final rules TBD
Substantial increases in penalties for late filing of Form 5500, Form 8895-SSA and withholding election notices			✓		12/31/2019
Removal of 70 ½ age contribution limits				✓	12/31/2019
OPTIONAL	**457**	**401(a)**	**401(k)**	**IRA**	**EFFECTIVE DATE***
Participants will be able to take in-service distributions from their plans after attaining age 59½ (New provision for 457 plans)	✓	✓	✓	✓	12/31/2019
$5,000 distribution allowed for qualified birth or adoption	✓	✓	✓	✓	12/31/2019
Provisions for fiduciary protections (Safe Harbor for ERISA plans) for selecting income/annuity retirement options	✓	✓	✓		Immediate
Allowance for qualified disaster distributions up to $100,000 per disaster per participant, from all retirement accounts.	✓	✓	✓		Disasters after 2017 and ending 60-days after enactment
Tax credit up to $5,000 for small businesses that establish a retirement plan			✓		12/31/2019
Increased Auto-Enroll cap for QACA Safe Harbor plans from 10% to 15%			✓		12/31/2019
Tax credit to small businesses (up to $500 annually over 3-years) for electing auto-enrollment in newly setup retirement plans			✓		12/31/2019
Delayed deadline to elect Safe Harbor status and annual Safe Harbor notice not required. Applies only to the non-elective Safe Harbor election.			✓		12/31/2019

* Most plans will have until the 2022 plan year to amend plan documents. Government and Collectively Bargained plans will have until the end of the 2024 plan year.

KEY OPTIONAL SECURE ACT PROVISIONS

OPTIONAL PROVISION	SUMMARY	DETAIL	CONSIDERATIONS
Penalty-free withdrawals for individuals up to $5,000 in the case of a Qualified Birth or Adoption (QBOAD) **Effective date:** 12/31/2019	Individuals can take a penalty-free withdrawal of up to $5,000 from retirement plans in the case of a birth or adoption with the ability to pay back the distribution, if desired.	**Distribution:** QBOADs can be made from eligible retirement plans during the one-year period beginning on the date of the birth or when the legal adoption is finalized. Aggregate amount from all plans not to exceed $5,000 for *each* individual (parent) and for *each* qualified birth or adoption. **Repayment:** Repayments in the amount of the distribution can be made back to the plan. **Taxes and withholding:** Distributions are penalty-free. Ordinary income taxes apply. Mandatory 10% withholding unless the employee elects otherwise. **Plan sponsor responsibilities:** › **Verifying Eligibility for a QBOAD:** A certificate from an eligible birth or adoption is required. An "eligible adoptee" is anyone younger than 18 or physically/mentally incapable to support themselves. › **Employer Tracking:** Aggregate distributions from plan(s) must not exceed $5,000. Employers are not responsible for tracking IRAs or other plans. **Plan types:** 457, 401(a), 401(k), 403(b)	**Plan sponsor considerations** › Provides access to funds at a time of life when other resources are limited. › Limited dollar impact to plan assets. › May not be required due to the coverage offered by the plan sponsor's health care plan. › Could have a considerable negative impact on long-term savings for younger participants. **Hyas perspective** › In support of allowing QBOADs.
Penalty-free qualified disaster distribution up to $100,000 from qualified plans **Effective date:** Disasters after 2017 and ending February 18, 2020 (60 days after the enactment of the act). Distributions can be made up to June 17, 2020 (180 days after the enactment of the act)	Individuals who have experienced loss from a "qualified disaster" between January 1, 2018 and February 18, 2020 may be eligible for up to $100,000 in penalty-free distributions across their qualified retirement plans. Taxes may be spread out pro-rata over a three-year period. Participants can pay back the distribution during that timeframe, if desired.	**Distributions:** Distributions up to an aggregate $100,000 may be made from eligible retirement plans until June 17, 2020. **Repayment:** Distributions may be repaid at any time during a three-year period, which begins on the day after the distribution was received. **Taxes:** Distributions are penalty-free. Ordinary income taxes apply and can be spread out pro-rata over the three-year period. **Eligibility:** › **Location:** Those whose principal place of abode was in a qualified disaster area. › **Loss:** Those who sustained an economic loss by reason of such qualified disaster. › **Limitations:** Not to exceed $100,000 in aggregate, per disaster, per individual. › **Qualified Disasters:** Any area where a major disaster was declared by the President between January 1, 2018 and February 18, 2020.	**Plan sponsor considerations** › Potentially helpful for those participants who were impacted by a disaster. › Participants affected have only until mid-June 2020 to receive a distribution or loan. › Potential distribution amount could have material impact on a participant's future retirement income. **Hyas perspective** › In support of allowing qualified disaster distributions.

OPTIONAL PROVISION	SUMMARY	DETAIL	CONSIDERATIONS
(continued)		**Loan option:** Includes a loan option as part of the provision. Loan amounts are $100,000 or 100% of a vested account balance, whichever is less. **Plan types:** 457, 401(a), 401(k), 403(b)	
Option to reduce in-service distribution age to a minimum of 59 ½ years (formerly 70 ½) **Effective date:** 12/31/2019	Plan sponsors of government 457 plans now have the option to reduce the age of in-service distributions to a minimum of 59½, bringing government 457 plans more in-line with 401(k) and 403(b) plans.	The internal revenue code is modified to allow plan sponsors of 457(b) governmental plans and 401(a) pension plans to establish a minimum age for distributions at 59 ½ years or older. Adjustments to the minimum age are plan amendments and may be 59 ½ or higher. Participants that meet the minimum distribution age, and remain employed, will be able to either take a distribution from the plan or roll their assets to another plan, such as an IRA. Ordinary income-tax rates apply to any distributions from the plan. **Plan types:** 457, Defined Benefit pension	**Plan sponsor considerations** › Flexibility in accessing funds may encourage participation › Provides relief to those participants who require access to funds › Potentially results in plan leakage **Hyas perspective** › In support of reducing minimum age.

Portability of lifetime income options
 	
Effective date: 12/31/2019
	This provision protects a participant's accumulated benefit by creating a "distributable event" when in-plan income/annuity options are discontinued as plan investment options. This applies when a plan sponsor determines to either terminate an income annuity option or change plan recordkeepers, thereby losing the accumulated benefits of the income annuity option.
	
	This provision permits both in-service trustee-to-trustee transfers of lifetime income product interests to other eligible plans, including IRAs, and the purchase of annuities for purposes of preserving a participant's accumulated benefit.
		Transfer details: In the event an investment option with lifetime income features is terminated as an option from the plan, the plan may allow:
		› A direct trustee-to-trustee transfer to an "eligible retirement plan," or individual retirement account.
		› An annuity contract purchased for a participant and distributed to the participant by a plan or contract.
		› Transfers must be made within a 90-day period after the investment is terminated.
		
		Definitions:
		› **Lifetime Income Investment:** A plan investment option providing participants with election rights which relate to a lifetime income feature available under the plan, and which are not uniformly available with respect to other investment options in the plan.
		› **Lifetime Income Feature:**
		  › Guarantees a minimum level of income annually or more frequently for at least the remainder of the life of the participant or the joint lives of the participant and his/her designated beneficiary.
		  › Is an annuity payable on behalf of the employee under which payments are made in substantially equal periodic payments over the life of the participant or the joint lives of the participant and his/her designated beneficiary.
			Plan sponsor considerations
			› This provision offers a path to eliminate guaranteed income products from a plan while protecting the participant's accumulated benefits.
			› Whether a plan sponsor chooses to utilize this provision will largely depend on the capabilities of the plan record keeper and the type of investment offerings in the plan.
			
			Hyas perspective
			› This provision provides welcome flexibility to the plan sponsor whether updating an investment line-up or changing recordkeepers.

OPTIONAL PROVISION	SUMMARY	DETAIL	CONSIDERATIONS
(continued)		**Plan types:** 457, 401(a), 401(k), 403(b)	

Fiduciary safe harbor (ERISA) for selection of lifetime income provider
 	
Effective date:
Immediate
	This provision amends ERISA by adding a safe harbor for selecting an insurer to provide a guaranteed retirement income contract as a plan investment offering or as an individual contract.
	
	Key components to this provision include:
	› A fiduciary satisfies their responsibility upon completing the required due-diligence and is not responsible on an ongoing basis. If the guaranteed income option remains in the plan, the fiduciary must receive representation annually to satisfy ongoing fiduciary responsibilities.
	› Fiduciaries are not required to select the lowest-cost contract and may consider the value (additional features and benefits) of the contract in conjunction with cost.
	› Where fiduciaries satisfy all conditions, they are relieved from all liability for any loss that may result due to an insurer's inability to satisfy their obligations under the contract.
		Requirements for satisfying safe harbor obligations:
		Selecting an insurer:
		› Engage in an objective, thorough, and analytical search for identifying insurers
		› Consider the financial capability of the insurer and the cost and benefits of the contract
		› Conclude that the insurer is financially capable to satisfy their obligation and the cost of the contract is reasonable
		
		Determining the financial capability of the insurer:
		The fiduciary must obtain written representation from the insurer that:
		› The insurer is licensed to offer guaranteed retirement income contracts.
		› The insurer, at the time of selection and for each of the immediately preceding seven plan years:
		  › Operates under a certificate of authority from the insurance commissioner of its domiciliary state that has not been revoked or suspended
		  › Has filed audited financial statements in accordance with the laws of its domiciliary state
		  › Maintains and has maintained reserves which satisfy all the statutory requirements of all states in which the insurer does business
		  › Is not operating under an order of suspension, rehabilitation, or liquidation
		› The insurer undergoes, at least every five years, a financial examination by the insurance commissioner of its domiciliary state.
		› The insurer will notify the fiduciary of any change in circumstances after providing the above representations which would preclude the insurer from making such representations at the time of issuance of the contract.
		
		Definitions:
		› **Insurer:** "an insurance company, insurance service, or insurance organization, including affiliates of such companies."
		› **Guaranteed Retirement Income Contract:** "an annuity contract for a fixed term or a contract (or provision or feature thereof) which provides guaranteed benefits annually (or more frequently) for at least the remainder of the life of the participant or the joint lives of the participant and the participant's designated beneficiary as part of an individual account plan."
			Plan sponsor considerations
			› If a plan sponsor already has a guaranteed income option in their plan or wishes to include one, this provision provides steps to protect the fiduciaries of the plan.
			› Although the safe harbor applies to ERISA plans, adhering to this provision can provide safe harbor protections for non-ERISA plans.
			
			Hyas perspective
			› In support of following the safe harbor guidelines, in the case where guaranteed retirement income options are considered or used in a plan.