

# Hardship Amendment

## Frequently Asked Questions

The IRS recently finalized regulations that changed the rules relating to hardship distributions. An amendment is required for any plan that offers hardship distributions. The required amendment is included in your plan document package.

### **1. Is a signature required on the hardship amendment?**

Yes. An amendment to the document called the **Hardship Distribution Addendum** is attached to the back of the Adoption Agreement. Following this document is a page called the Addenda Execution Page. This page must be signed to adopt the Hardship Distribution Addendum. Retain the signature page with the amendment and other plan documents.

### **2. When does this amendment take effect?**

Proposed regulations were issued in 2018 that allowed plans to take advantage of the new rules beginning with the first plan year that began on or after January 1, 2019. Goldleaf Partners worked with our recordkeeping partners in 2019 to operationally comply with these new rules on behalf of your plan. The amendment adopts all changes retroactively on the earliest effective date possible.

### **3. How does this amendment change the hardship distribution options under my plan?**

The hardship amendment brings your plan into compliance with the new regulations for hardship distributions and includes the following changes to your plan:

- Earnings on deferrals are available for hardship distributions (this change is not available for 403(b) plans).
- Safe harbor contributions, as well as other QNECs and QMACs, are available for hardship distributions.
- A participant will not be required to take a loan from the plan, if available, before taking a hardship distribution.
- A participant can indicate in writing (or electronically) that he or she does not have cash or other liquid assets available to satisfy his or her needs.
- A participant's elective deferrals will not be suspended for six months following a hardship distribution.
- Expenses and losses incurred by the participant due to a disaster in a federally-declared disaster area may be eligible for a hardship distribution.

### **4. What should be provided to plan participants to inform them of these changes?**

A revised summary plan description (SPD) or a summary of material modifications (SMM) must be provided to participants to inform them of the changes to your plan. This must be provided to current plan participants within 210 days of the end of your plan year in which the amendment is adopted. In addition, if your plan is an ADP/ACP safe harbor plan, a revised Annual Notice must be provided. This is generally due within 30 days of the adoption of the amendment, or 30 days prior to the effective date of the amendment, if later.

### **5. Should we sign this amendment if our plan did not adopt the changes listed above?**

No. If you did not adopt the changes listed above in the first plan year beginning on or after January 1, 2019, please contact your Client Relationship Manager at Goldleaf Partners. A revised amendment will be prepared for your plan.