

KANSAS BOARD OF REGENTS
Retirement Plan Committee (RPC)
MINUTES
April 16, 2020

Regent Bangerter called the April 16, 2020, video conference meeting of the Kansas Board of Regents Retirement Plan Committee to order at 1:00 p.m.

Members Participating:

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| Regent Shane Bangerter, Chair | Mike Barnett, FHSU |
| Dipak Ghosh, ESU | Diane Goddard, KU |
| Dr. Rick Lecompte, WSU | President Steve Scott, PSU |
| Michele Sexton, PSU | Stacey Snakenberg, KUMC |
| Jay Stephens, KSU | Madi Vannaman, KBOR |

Participating from Advanced Capital Group, were consultants Brad Tollander and Justin Dorsey. Also participating, from TIAA: Nicolette Dixon, Senior Relationship Manager; and Gary Herzlich, Senior Director and Associate General Counsel; from Voya: John O'Brien, Regional Vice President; Cindy Delfelder, Client Relations; and Linda Segal Blinn, Vice President, Technical Services; from the Board Office: Natalie Yoza, Associate General Counsel, and Elaine Frisbie, Vice President Administration and Finance; and from KUMC: Kim Barksdale.

Minutes

Jay Stephens moved and President Scott seconded the motion to approve the minutes from the March 17, 2020. The motion was approved unanimously.

TIAA Money Market

The RPC reviewed information provided by Brad Tollander about the impact of Federal Reserve Rate Reductions on TIAA Money Market funds. ACG recommended that the "TIAA-CREF Money Market" fund be used instead of the "CREF Money Market" fund in the new employer-controlled KBOR Voluntary Plan beginning Plan Year 2021. This will not impact the current Mandatory or Voluntary Plan fund lineups.

Natalie Yoza clarified that the RPC makes recommendations about fund lineup changes to the Board. Yesterday, the Board approved the new voluntary plan lineups beginning Plan Year 2021. And, if today's recommendation is approved, it will be taken to the Board for their approval.

Rick LeCompte clarified that TIAA Money Market cannot be annuitized but those funds can be transferred into another account and then be annuitized.

Mike Barnett moved that the ACG recommendation be approved. After a second by Diane Goddard, the motion was approved unanimously.

CARES Act

The RPC reviewed information in the issue paper and power point prepared by Natalie Yoza outlining the CARES Act options available for the KBOR Mandatory and Voluntary Retirement Plans. The core issues were 1) whether the CARES Act's elective options (Coronavirus Related Distributions and Loans) should be adopted by either/both the Mandatory/Voluntary plans and 2) whether the Act's Administrative "employee self-certification" would need to be monitored for compliance?

Natalie Yoza provided a correction to the issue paper stating that the Required Minimum Distributions suspended under CARES Act will be treated the same by TIAA and Voya as both companies will continue giving participants the minimum distributions unless the participant asks otherwise.

Regarding the employee's certification that he or she is a qualified individual under the CARES act, it is currently unknown whether an individual qualifies if his or her spouse suffers an adverse financial experience such as a furlough. Linda Segal-Blinn stated that while Voya would love to see that eligibility definition clarified and broadened, the way Voya currently reads the statute is that it covers the "individual" and not a spouse or dependent. Voya is working with others in the industry to seek broader definition and guidance from the Secretary of the Treasury. In contrast, Gary Herzlick from TIAA stated this question is swirling around the industry and there is no clear consensus about what was intended or how to interpret it as the Act is drafted very broadly and the language is not ideal. TIAA, he said, thinks a reasonable argument could be made that because Congress authorized self-certification there is "no need to look under the cover." Therefore, if a participant applicant certifies he/she meets the criteria, TIAA will accept it on its face and without further inquiry. And he added that TIAA also is actively involved in industry efforts to get that clarified.

Regarding the CARES Act and the Coronavirus Distribution provision, Regent Bangerter asked if a \$100,000 Coronavirus Distribution is taken and sometime within the first 3 years it is repaid how does taxation work? Gary Herzlick responded that the \$100,000 is taxed pro-rata each year unless the participant elects to have it fully taxed the first year. If within year 3 it is repaid, the participant would not be taxed on the \$33,333 that year and would file an amendment to be repaid the prior year taxes. Linda Segal Blinn stated that the plan document should allow repayment of the distribution as currently there is not a lot of guidance whether about the legislative intent requiring the option to make repayment. But this is a complex question and will require input from the Participant's own tax consultant.

Regarding the CARES Act and the Coronavirus Loan provision, various questions were raised:

1. Dipak Ghosh asked if a Coronavirus Loan is not repaid, will it be treated as a distribution and subject to taxes? Gary Herzlick responded, yes, that distribution would be subject to standard taxation if the loan went into default. Whether the distribution would be subject to the 10% penalty will depend on the timing, as a defaulted loan could conceivably be converted into a Coronavirus distribution and not be subject to the 10% early withdrawal penalty
2. Justin Dorsey, ACG, stated that a decision on all options does not need to be finalized today. ACG is fully supportive of the Coronavirus distributions for both plans but not as supportive of the Coronavirus loans for the Voluntary Plan. Allowing employees to access \$100k is a prudent goal but that might not be true for accessing \$200k. If it is decided those loans should be made available, that decision can be made later, understanding the September 23, 2020 deadline for such loans.
3. Regent Bangerter stated that all universities are hopeful there will not be a need for layoffs or furloughs but that is a possibility. If such actions were required, they would occur at a later date that might be past the September 23, 2020, window for loans. President Scott concurred that depending on any state rescissions and the impact to enrollment, the picture might not be known until after the September date.

4. Mike Barnett asked of the two, is the distribution or the loan most tax advantageous to the individual? Linda Segal Blinn stated that it depends upon the participant. If a loan is taken and is repaid, without a default, the result is there would be no taxes. But if there is a default, those dollars will be treated as a taxable distribution. The Coronavirus distributions are taxed when received, over a three-year period, but the participant has the ability to repay in 3 years which would offset taxes.
5. Dipak Ghosh asked if the Coronavirus loans are not approved, can a participant apply using the COVID criteria for a higher loan limit? Natalie Yoza responded that under the current loan provisions in the Voluntary Plan that do not reflect the higher CARES Act limits, the participant does not have to meet the COVID qualifications to take out a loan.
6. Michele Sexton stated that having been through the housing collapse and the financial needs experienced then, she is fully on board with the Coronavirus distributions and she asked if there is a strong enough argument not to approve the higher loan limits to both plans? Jay Stephens responded that he, as we all, are hoping this will be a shorter-term issue and sometimes we can attempt to protect individuals from taking action out of nervousness and fear. Rick LeCompte agreed, especially regarding the Mandatory Plan as this would severely impact the Plan and therefore he is not supportive of doing that right now.

Three CARES Act Distribution motions were considered and voted upon:

1. Mike Barnett moved that the RPC **approve** the amendment of the **Voluntary Retirement Plan** to permit the CARES Act's Coronavirus-related **Distributions** effective today, or as soon as administratively practical thereafter, for the recordkeepers that meet the following conditions. These coronavirus-related distributions are only available to participants enrolled with one of the six recordkeepers that are currently approved for new enrollments—TIAA, Voya, VALIC, Ameriprise Financial Services, Security Benefit Life Insurance Co., and Waddell & Reed Financial Services—or the seven recordkeepers that are frozen to new participants—American Century Investments, Lincoln Investment Planning, Inc., Lincoln Life, Lincoln National Life Insurance Co., Modern Woodmen of America, ReliaStar Life Insurance Co., and Thrivent Financial for Lutherans. And those recordkeepers are only approved if they have the ability to properly administer the distributions in conjunction with PlanWithEase and obtain the two required self-certifications that the participant is a qualified individual under the CARES Act and that the participant has not exceeded the monetary limitations for the coronavirus-related distributions. The recordkeepers that have been deselected are not approved to offer the coronavirus-related distributions. The Board's President and CEO, is authorized to enter any agreements necessary to implement this amendment. And Board staff are authorized to hire counsel to memorialize those amendments in the Voluntary Plan Document before December 2024.

This motion was seconded by Diane Goddard and approved unanimously.

2. Mike Barnett moved that the RPC **approve** the amendment of the **Mandatory Retirement Plan** to permit the CARES Act's Coronavirus-related **Distributions** effective today, or as soon as administratively practical thereafter, for the recordkeepers that meet the following conditions. These coronavirus related distributions are only available to participants enrolled with one of the two approved recordkeepers—TIAA and Voya—or the frozen recordkeepers—Lincoln National and Security Benefit Insurance Co. And those recordkeepers are only approved if they have the ability to properly administer the distributions in conjunction with PlanWithEase and obtain the

two required self-certifications that the participant is a qualified individual under the CARES Act and that the participant has not exceeded the monetary limitations for the coronavirus-related distributions. The Board's President and CEO, is authorized to enter any agreements necessary to implement this amendment, and Board staff are authorized to hire counsel to memorialize those amendments in the Mandatory Plan Document before December 2024.

This motion was seconded by Diane Goddard and approved unanimously.

3. Mike Barnett moved that the RPC not approve the Coronavirus-related Loans for the Voluntary Retirement Plan.

This motion was seconded by Diane Goddard and approved unanimously.

Concluding Discussions:

Mike Barnett asked how TIAA and Voya plan to distribute information to participants about availability. Cindy Delfelder stated that Voya does not plan to provide a broad communication on this but information will be available to participants on the website when they log in and also be discussed by the Call Center Representatives when contacted. Voya's local advisers also will be notified. Nicolette Dixon responded that is the same for TIAA. Also, participant webinars are available that are not specifically CARES Act-related, but address market volatility and how to weather the storm. When participants log into their accounts, they will see information about distribution options. TIAA is trying to educate participants about the impact distributions will have to their retirement plan and helping them to walk through consideration of other options.

The Board Office will provide information from the Board Office to the KBOR university HR directors and ask that they share that information with Mandatory and Voluntary Plan participants on their campuses. Natalie Yoza confirmed that the RPC has the authority to amend the Plan documents and the RPC has fully authorized the Coronavirus Distributions for both plans.

Next RPC meeting:

The next regular RPC meeting will be scheduled for September 2020 TBD.