Meeting Minutes – 457 Deferred Compensation Committee

Date: **Thursday, April 16, 2020**

Time: **11:00 a.m. – 11:40 a.m.**

Location: **Conference Call**

Status: A – Attended | X – Did Not Attend

Status	Invitees	Title
A	Graciela Gutierrez	Chair
A	Troy Kidd	Vice-Chair
A	Eric Schroth	Secretary
A	Brenda Sallade	Member
A	Sheri Waters	Human Resources Director
A	Raeshell Forrester	Human Resources
A	Vincent Galindo	Hyas Group
A	Leanne Luttges	Nationwide – Retirement Specialist
A	Jake Sours	Nationwide – Investment Advisor Representative

A special meeting was called between the regular quarterly meetings to discuss possibly adopting provisions of the CARES Act. Nationwide needs direction to implement the provisions.

Business:

1. Nationwide presented three provisions of the CARES Act to consider:
   a. Tax-favored withdrawals up to $100,000 can be made until December 31, 2020. The additional 10% early withdrawal tax is waived (although it is not applicable to 457 Plans because no penalty currently exists). Participants will have up to three years to pay taxes on the withdrawal. Participants can repay all or a portion of the distribution within three years; the repayments are not subject to contribution limits.
   b. Expanded access to loans will be offered for 180 days after enactment of the law. New loans are normally due within a 5-year period, and payments normally begin within the first year. The Act allows participants to delay payments for one year, which defers payments on the loan to years 2 through 6 of the loan period. The Act also doubles the current retirement plan loan limits to the lesser of $100,000 or 100% of the participant's vested account balance. Existing loans will also be able to delay repayment for up to one year.
   c. The CARES Act would waive RMD payments for retirement plans (including 401(k), 403(b), governmental 457(b), and IRAs) in calendar year 2020. Waiving of the RMD payments for

retirement plans and IRA’s is automatic due to the CARES Act, so no action by the committee is necessary.

2. The Committee asked Hyas to opine on the pros and cons of authorizing tax-favored withdrawals. Hyas responded that it is both a benefit and a drawback to provide easy access to retirement savings with a low bar for qualification. Withdrawals could affect fund balance and retirement planning into the future.

3. The meeting group discussed the pros and cons. Eric was concerned not only with protecting the plan, but protecting participants from making withdrawals they may later regret. Eric asked if there was a way to raise the bar for withdrawal. Vincent responded that the qualifications are self-certification. He said that some other deferred compensation committees have considered lowering the maximum amount eligible for withdrawal. Rae asked how the requests would be processed. Jake responded that requests would be processed through Nationwide. He was not sure how withdrawals would be processed through payroll at this time. Jake said that in addition to tax-favored withdrawals, loans are currently available up to $50,000 with a possibility up to $100,000, are not as easy to access, and are required to be paid back. He added that there is incentive to pay back tax-favored withdrawals due to tax consequences. However, it was noted that the withdrawal proceeds could be used to pay the taxes. Troy asked if there was a form for participants to understand the consequences of a withdrawal and asked if one could be implemented into the requirements. Nationwide did not have an immediate response, but provided an answer later in the meeting. Eric asked the Committee to consider reducing the maximum amount of withdrawal. Sheri thought that participants should be able to access funds to the extent allowed. Brenda agreed that many participants are suffering hardship. Sheri asked that if the amount were reduced, what it would be reduced to. Vincent said that determining a maximum amount is partly based on the number and balances of participant accounts and part art form. There were no suggestions from the Committee to reduce the maximum amount.

   MOTION: Graciela made motion and Sheri seconded it to approve the CARES Act provision of tax-favored withdrawals up to $100,000.

   VOTE: Troy Yes, Eric No, Brenda Yes.

4. The Committee asked Hyas to opine on the pros and cons of expanded access to loans. Hyas reported that it opens the plan up to increased leakage. However, the current pandemic may be a once in a lifetime occurrence.

   MOTION: Brenda made motion and Sheri seconded it to approve the CARES Act provision of expanded access to loans.

   VOTE: Approved unanimously.

5. Nationwide said that a signature is required to implement the provisions of the CARES Act. A plan amendment will also be required by 2024. Nationwide will provide further guidance for the plan amendment at a future time.

6. The Committee discussed counseling participants regarding provisions of the CARES Act. Nationwide will counsel individuals about types and implications of withdrawals. Applying for a tax-favored withdrawal or loan cannot be done through the website alone. The process requires interaction with Nationwide, which provides an opportunity for counseling. Hyas can work with Nationwide on messaging participants about withdrawal capability and recommends that they work with Leann. Nationwide cautioned that a lengthy and formal review process, which is currently under strain, is required to implement messaging. Nationwide cannot therefore commit to a timeline.

7. The Committee confirmed that RMD's under the provision are automatically stopped until 2021. Participants will have to notify Nationwide if an RMD distribution is desired. If a distribution has already been taken, the participant has the option of paying it back.

Action Items

1. Chair to sign implementation documents.

Meeting Adjourned