

# IRS PUBLISHES 2019 REQUIRED AMENDMENTS LIST FOR INDIVIDUALLY DESIGNED PLANS

*Hodgson Russ Employee Benefits Newsletter*  
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For plan sponsors continuing to maintain individually designed plan documents, the IRS provides an annual “Required Amendments List” to track a qualified retirement plan’s conformity to changes in the law. The IRS issued the 2019 Required Amendments (RA) List (Notice 2019-64) that identifies required changes for *both* individually designed qualified retirement plans and individually designed § 403(b) retirement plans. The 2019 RA List identifies the following required amendments:

- *Amendments relating to the final hardship distribution changes.* Qualified retirement plans (including individually designed § 403(b) plans) that (1) provide for a suspension of an employee’s elective deferrals or employee contributions as a condition for obtaining a hardship distribution of elective deferrals, or (2) do not require a representation from an employee who requests a hardship distribution that he or she has insufficient cash or other liquid assets reasonably available to satisfy the need, must be amended as necessary to eliminate the suspension and provide for the representation, for hardship distributions made on or after January 1, 2020.
- *Amendments relating to final regulations regarding cash balance/hybrid defined benefit plans.* Collectively bargained cash balance/hybrid defined benefit plans maintained pursuant to one or more collective bargaining agreements ratified on or before November 13, 2015, and which constitute collectively bargained plans under Treasury Regulation § 1.436-1(a)(5)(ii)(B), must be amended to the extent necessary to comply with those portions of the regulations regarding market rate of return and other requirements that first became applicable to the plan for the plan year beginning on or after the later of: (1) January 1, 2017, and (2) the earlier of (a) January 1, 2019, and (b) the date on which the last of those collective bargaining agreements terminates (determined without regard to any extension thereof on or after November 13, 2015).

December 31, 2021 generally is the plan amendment deadline for a disqualifying provision arising as a result of a change in qualification requirements that appears on the 2019 RA List, and for a form defect arising as a result of a change in § 403(b) requirements that appears on the 2019 RA List. Later dates may apply to a governmental plan.

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