



Navigating through a Pandemic-the CARES Act And Its' Effects On Your Retirement And Investment Plans





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The Cares Act and Your Retirement Plan

- Plan Design Considerations we will discuss today
 - Terminated vs. Furloughed employees
 - Stopping employee deferral contributions
 - Suspending employer safe harbor contributions
 - Extension for DB funding and Freezing DB Plans
 - The new Coronavirus Related Distribution and Loan options
 - Suspending loan payments
 - Required Minimum Distributions
 - Pre-funding employer contributions for the PPP loan

Terminated vs. Furloughed Employees

- The definition of terminated vs. furloughed could have significant impact on eligibility for contributions, eligibility for certain types of distributions and calculation of vesting.
- Furloughed Employee – Typically an employee placed on furlough is expected to return to employment at a later date
 - Typical language used by an Employer during this type of arrangement may be – “We are closing our doors until May 15th . You are expected to return at that time.”

Terminated vs. Furloughed Employees

- Terminated Employee – Typically an employee that no longer maintains a relationship with the Employer.
 - Typical language used by an Employer during this type of arrangement may be – “We have to let you go. We don’t know if we will be able to hire you back.”
- Look for signs of actual employment termination such as eligibility for unemployment, access to COBRA and no guarantee of rehire.

Terminated vs. Furloughed Employees

- Terminated Employees and Vesting
 - If more than 20% of the eligible participants are **involuntarily terminated**, this could trigger a “partial termination” requiring that all affected participants become FULLY VESTED upon distribution.
 - An affected employee in a partial termination is generally anyone who left employment involuntarily for any reason during the plan year in which the partial termination occurred and who still has an account balance under the plan.
 - “I am laying you off because of the virus” is still employer-initiated
 - Note: A furloughed employee is not considered terminated and would not be considered part of the 20% calculation.

Stopping Employee Deferral Contributions

- An active employee may **stop** their employee deferral election at *any time* by completing a new salary reduction agreement.
- If an employee is furloughed without pay the employee's deferrals obviously stop automatically. Unless a new salary reduction agreement is completed upon return to change the previous election, deferrals should start again immediately with the first payroll based on the previous election form.
- A terminated participant who is re-hired is immediately eligible to start contributing upon their re-hire date. However, they would need to complete a new salary reduction agreement.



Suspending Safe Harbor Contributions

- A Plan may suspend the safe harbor match or 3% non-elective mid-year with the proper notices and additional compliance testing.
- Things to consider first!
 - 30 Day Participant Notice
 - Contribution provided through notice period
 - Amendment to remove, Amendment to add back
 - ADP/ACP Testing
 - Top Heavy Testing
 - Can not be added back during the plan year removed

Defined Benefit Plans

- The CARES Act extended 2019 plan year funding deadline from 9/15/20 to 1/1/2021 **BUT**.....
 - Must calculate additional interest from 9/16-date of deposit
 - Any amount deposited after 9/15 is not believed to be deductible on the 2019 tax return (waiting on further guidance)
 - 10% excise tax on amounts not funded by 9/15 are waived

Defined Benefit Plans

- To Freeze or Not to Freeze??
- Things to Consider:
 - Participants will accrue their full 2020 plan year benefit once they complete 1000 hours.
 - If there is any doubt about ability to make full contribution for 2020, freezing the plan will provide flexibility to reduce the contribution
 - If amendment is not adopted 15 days prior to accruing the benefit, the mandatory contribution will be locked in.
 - 2020 contributions due 9/15/2021 for calendar year plans

Coronavirus Related Distributions (CRDs)

- The CARES Act allows for withdrawals up to \$100,000 from a retirement plan for active, furloughed or terminated **qualified individuals**.
- A qualified individual is defined as:
 - A participant diagnosed with COVID-19;
 - A spouse or dependent of a participant diagnosed with COVID-19;
 - A participant who experiences adverse financial consequences as a result of being quarantined, furloughed, laid off, having work hours reduced, being unable to work due to lack of child care due to COVID-19, closing or reducing hours of a business owned or operated by the individual due to COVID-19

Participants are required to self-certify that they are a qualified individual



Coronavirus Related Distributions (CRDs)

- The early withdrawal 10% penalty will be waived regardless of age.
- Participants will have the option of waiving the 20% withholding.
- Participants will have the option of paying the related income tax on the distribution ratably over a 3 year period.
- Participants will be allowed to repay the amount to the Plan tax-free over the next 3 years. These repayments will not reduce their annual contribution limit.

Coronavirus Related Distributions (CRDs)

- Plans that do not currently have in-service withdrawal features (hardships, age 59 ½ early withdrawal) may still allow for a CRD.
- An amendment to the plan is not necessary at this time to allow for a CRD. An amendment will be required under the CARES Act by the end of 2022.
- CRDs are only available until December 30, 2020
- Note: These withdrawal features do not apply to Pension Plans before age 59 ½.

Coronavirus Related Loans (CRLs)

- The CARES Act allows for qualified individuals to take Coronavirus Related Loans (CRLs) equal to the lesser of 100% of their vested account balance or \$100,000.
- An active or furloughed qualified individual is eligible for a CRL.
- Terminated participants that are not expected to return to employment with your company are typically not eligible for loans as they have no mechanism for payments without payroll. They may still be eligible for the CARES Act Distribution Option mentioned above if they are a qualified individual.

Coronavirus Related Loans (CRLs)

- You may choose to allow for CRLs now even if your plan does not currently allow for loans.
- If your plan has never allowed for loans in the past, it is thought that an amendment will be needed by December 31, 2020. Awaiting further guidance.
- A participant with an outstanding loan balance will have this amount subtracted from the \$100,000 limit before calculation
- CRLs are only available until September 23, 2020.
- If you are only adding CRLs and not a permanent loan feature, the loan option in your plan will sunset September 23, 2020.

Suspension of Loan Payments for CRLs

- Plan Administrators may suspend participant loan repayments for qualified individuals due from March 27, 2020 through December 31, 2020.
- Regular payments will be required to resume January 1, 2021. All payments deferred during the suspension period will be re-amortized with accrued interest after the suspension period.
- Failure to resume payments January 1, 2021 will result in your loan going into default effective March 31, 2021. Defaulted loans are considered to be a deemed distribution and you will be required to pay applicable taxes when you file your 2021 federal income taxes.



Suspension of Non CRL Payments

- A Participant who had an outstanding loan prior to 4/1/2020 for non Coronavirus reasons may delay loan payments until 7/15/2020. Loan will go into default if required payments not made by end of next quarter 12/31/2020.



Required Minimum Distributions

- CARES Act waives all required minimum distributions for 2020
- Participant can choose to take it if they like but it would be based on 12/31/19 which is a much higher value in most cases
- The RMD is completely waived. It does not get added to the 2021 requirement.
- RMDs in 2021 will be based on the 12/31/2020 account balance.

Pre-Funding Employee Contributions for PPP Forgiveness

- The Paycheck Protection Program provides for a potential forgiveness of employer contributions “incurred” and funded during the covered period (2 months from receiving the loan until 6/30/2020)
 - What does this include?
 - Employer safe harbor contributions, discretionary match or profit sharing and cash balance contributions for the employees.
 - Two month’s worth of retirement plan expenses “incurred” during the covered period.
- Note: There is a lot of discussion about whether 2019 employer contributions deposited during covered period in 2020 would be eligible. Conservative approach is NO. Need to discuss with your CPA.

Pre-Funding Employee Contributions for PPP Forgiveness

- What does this NOT include?
 - Can't pre-fund match before deferrals made.
 - It is not currently believed that this includes the Owner or Partner share of the employer company contribution
 - Non-payroll costs can't exceed 25% of loan
 - MAY not be able to forgive entire year's worth of contributions even if deposited during covered period. May be limited to 2 months of calculated contribution.
 - IRS has said that if you use PPP funds to make this deposit, those 2 months worth would NOT be eligible for deduction.



Pre-Funding Employee Contributions for PPP Forgiveness

- Things to consider before pre-funding employer contributions:
 - Discretionary Matching Contributions with allocation conditions
 - Failing ACP Test for Matching Contributions
 - Discretionary Profit Sharing Contributions that have not yet met the non-discrimination tests
 - Triggering a mandatory top heavy contribution
 - Can not return the money to the employer once deposited – must be allocated
 - Difficulty with Record-Keepers allocating funds
- Alternative – Open a separate brokerage account in the **NAME OF THE PLAN** to hold the employer contribution until it can be allocated correctly.

Note: Be sure to tell your TPA about this new account.



THANK YOU FOR YOUR TIME!

Please feel free to reach out to me directly at smorse@carpentermorsegroup.com with any additional questions.

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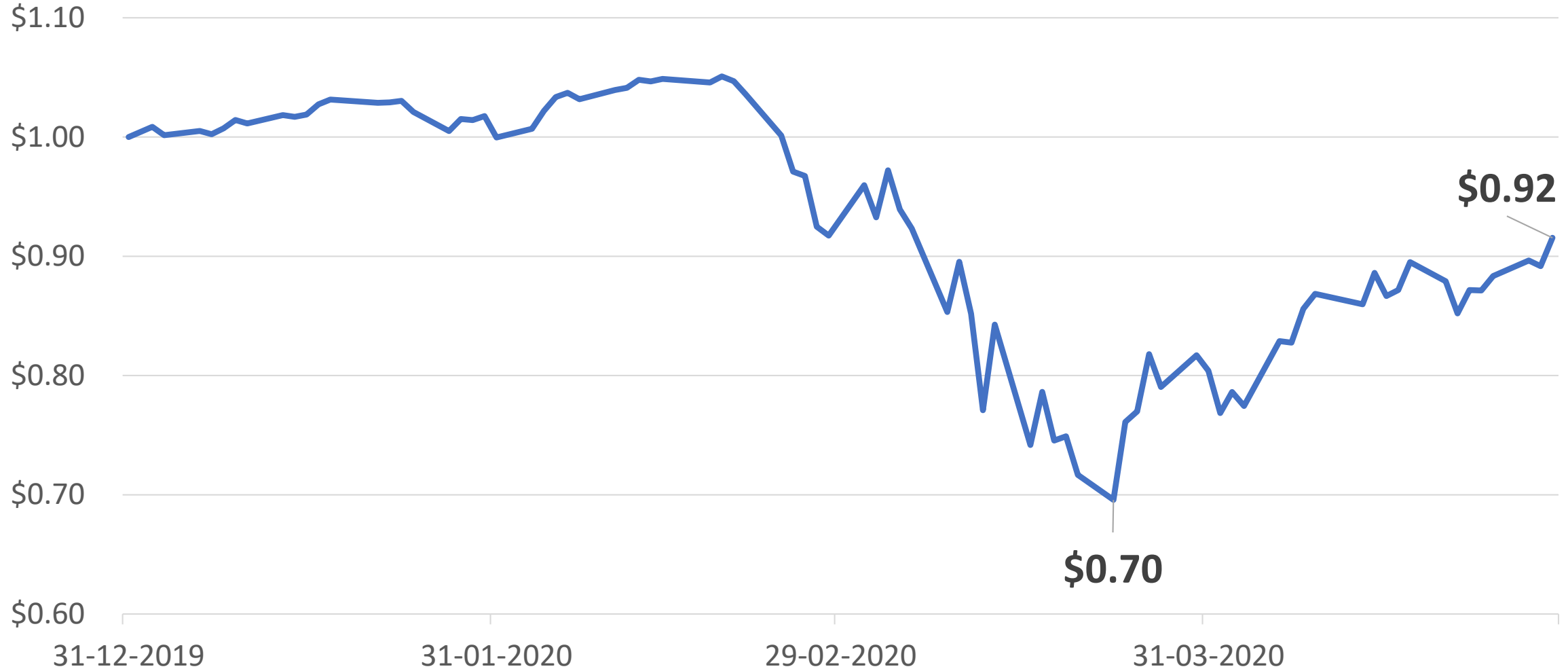
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S&P 500 Index, Year to Date Performance

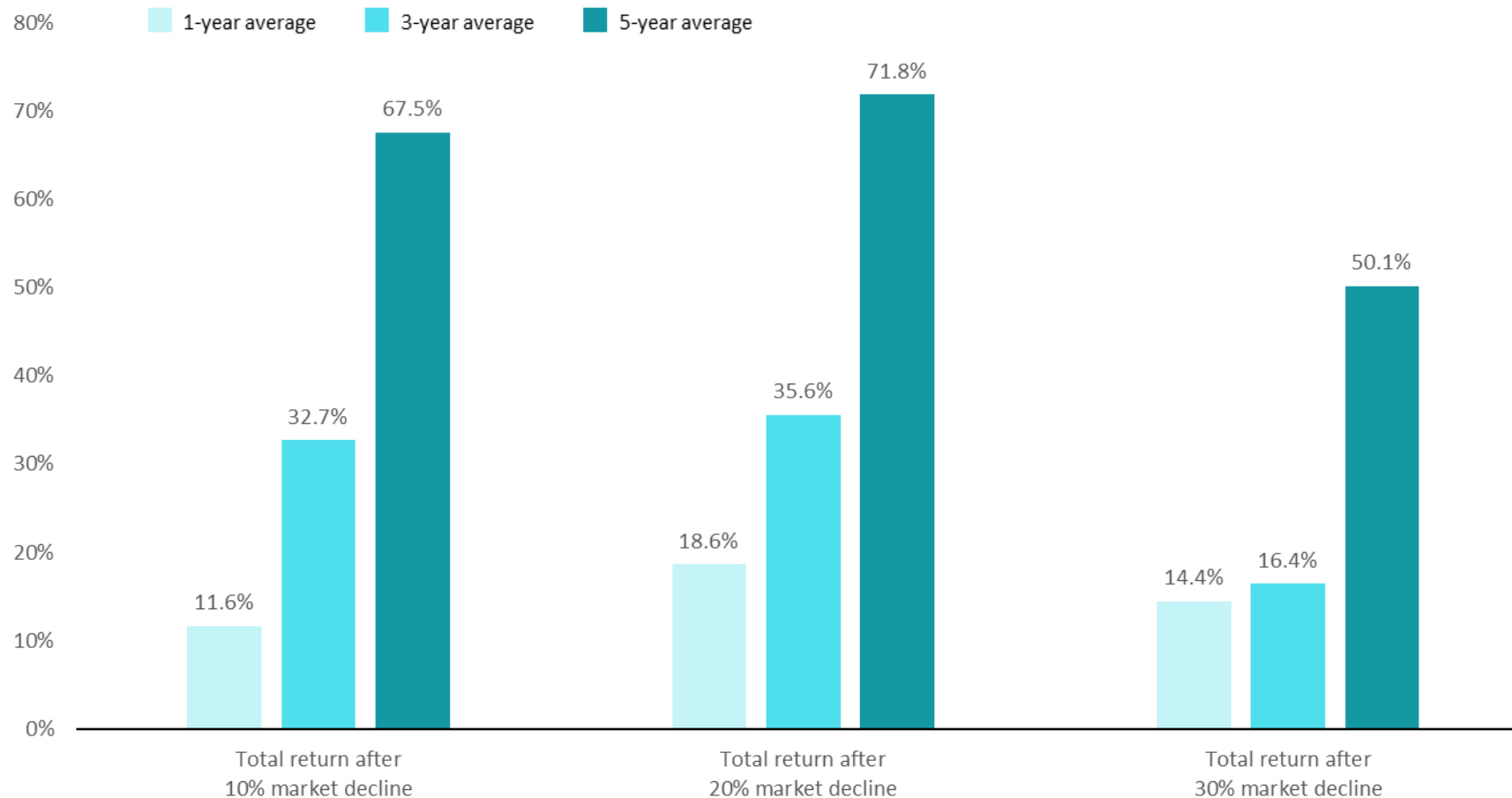
Growth of \$1: January 1, 2020 - April 29, 2020



Source: Morningstar. Past performance is no Guarantee of future returns. For illustrative purposes only.

Stock Performance After Recessions

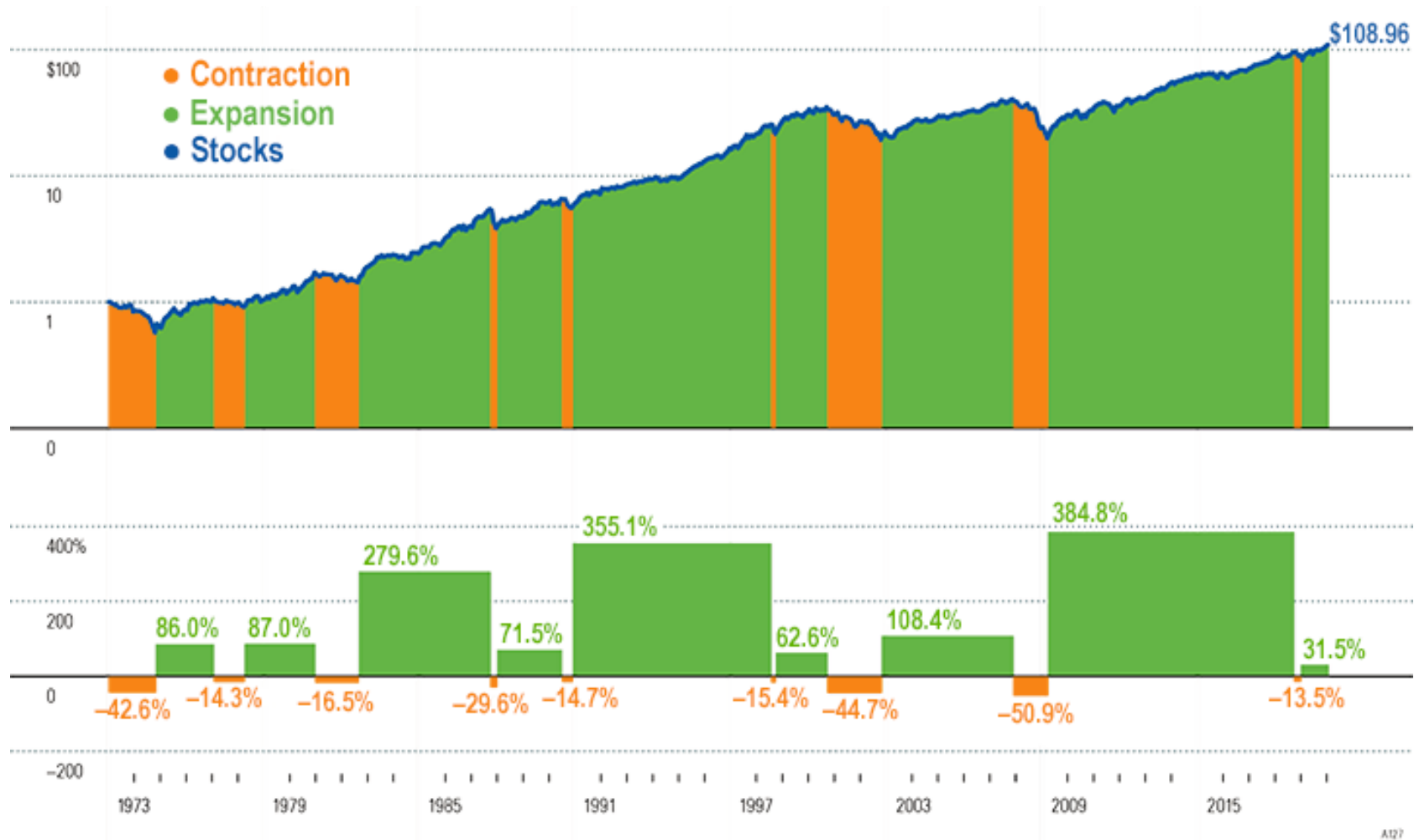
Fama/French Total US Market Research Index Returns, July 1, 1926–December 31, 2019



Past performance is no guarantee of future results. Short term performance results should be considered in connection with longer term performance results. Indices are not available for direct investment. Their performance does not reflect the expenses associated with the management of an actual portfolio.

Downturns are defined as periods in which the cumulative return from a peak is -10%, -20%, or -30% or lower. Returns are calculated for the 1-, 3-, and 5-year look ahead periods beginning the day after the respective downturn thresholds of -10%, -20%, or -30% are exceeded. The bar chart shows the average total returns for the 1-, 3-, and 5-year periods following the 10%, 20% and 30% thresholds. For the 10% threshold, there are 28 observations for 1-year look ahead, 27 observations for 3-year look ahead, and 26 observations for 5-year look ahead. For the 20% threshold, there are 14 observations for 1-year look ahead, 13 observations for 3-year look ahead, and 13 observations for 5-year look ahead. For the 30% threshold, there are 6 observations for 1-year look ahead, 3-year look ahead, and 5-year look ahead. Peaks and downturns are patterns that are developed by the price action experienced by all securities. Peak is a new all-time high prior to a downturn. Data provided by Fama/French. Eugene Fama and Ken French are members of the Board of Directors of the general partner of, and provide consulting services to, Dimensional Fund Advisors LP. Please see Appendix Index Descriptions for a description of the Fama/French index data.

Stock Market Contractions and Expansions 1973–2019



Past performance is no guarantee of future results. This is for illustrative purposes only and not indicative of any investment. An investment cannot be made directly in an index. © Morningstar 2020. All Rights Reserved. Large stocks are represented by the Ibbotson® Large Company Stock Index. An investment cannot be made directly in an index. The data assumes reinvestment of all income and does not account for taxes or transaction costs.

20-Year Portfolio Performance 2000-2019



Past performance is no guarantee of future results. Hypothetical value of \$1 invested at the beginning of 2000. Assumes reinvestment of income and no transaction costs or taxes. This is for illustrative purposes only and not indicative of any investment. An investment cannot be made directly in an index. © Morningstar 2020. All Rights Reserved. Stocks are represented by the Ibbotson® Large Company Stock Index. Bonds are represented by the five-year U.S. government bond. An investment cannot be made directly in an index. The data assumes reinvestment of income and does not account for taxes or transaction costs.

Thoughts to consider

- Does your Investment advisor provide education to plan participants?
- Do you have an understanding of the fees and performance of the funds within your retirement plan?
- Does your advisor alleviate stress for you and your participants when it comes to investing?
- Does your advisor assist you in seeing the full picture of your retirement plan assets and your personal assets?



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Please feel free to reach out to me directly at

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with any additional questions.

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Questions?





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Pandemic-the CARES
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THANK YOU!