



**KLEHR HARRISON
HARVEY BRANZBURG_{LLP}**

Coronavirus (COVID-19) Task Force

How the CARES Act Loan Program Can Help Your Small Business or Nonprofit

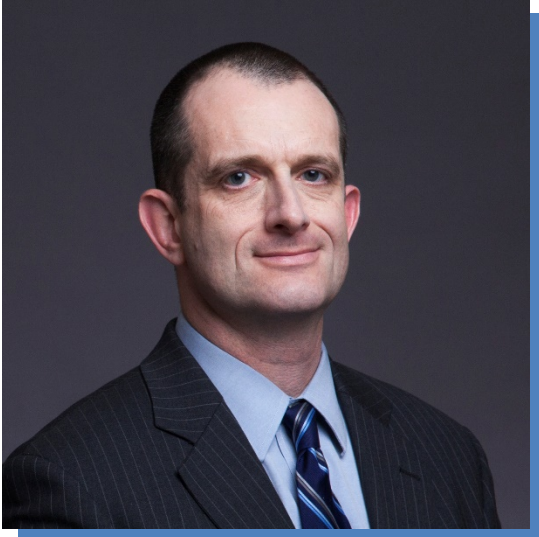
Presented by:

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April 2, 2020

Today's Presenters



Matt McDonald

- Corporate & Securities Partner
- Emphasis on M&A, investments, securities compliance and corporate governance
- Former Deputy General Counsel



Lisa Lori

- Litigation Partner
- Represents clients in high stakes commercial litigation, employment and intellectual property matters, as well as representing them in internal and external investigations and white-collar criminal defense matters



Nothing in this presentation should be interpreted as legal advice. This presentation is intended to be informational only and to help you identify certain legal issues that may arise due to COVID-19. You should consult with your attorney to understand the specific legal issues and potential solutions for your circumstances. Your time to act may be limited and this could substantially reduce your rights and options.

At the time of the presentation (4.2.2020), the SBA has not issued its guidance and that guidance may change some statements made in this presentation.

DISCLAIMER



CARES Act and PPP



The Coronavirus Aid, Relief, and Economic Security Act, or CARES Act, was signed into law on March 27, 2020



Includes a \$349 billion small business loan program known as the Paycheck Protection Program (PPP)



The PPP provides for forgivable, low interest, no-fee loans to eligible small businesses to fund payroll and other qualifying expenses



Loan Terms

2-YEAR MATURITY

0.5% INTEREST RATE


PAYMENTS DEFERRED FOR 6 MONTHS

FORGIVABLE IF USED FOR PAYROLL AND QUALIFYING EXPENSES
DURING 8-WEEK PERIOD FOLLOWING LOAN ISSUANCE




Who is Eligible for a PPP Loan?

Business concerns either located in the United States or that operate primarily within the United States, including 501(c)(3) nonprofit organizations, that satisfy the employee size restrictions



Eligible employers must employ no more than the greater of (i) 500 employees or (ii) the number of employees in the industry size standard designation



“Employee” is defined as any individual employed on a full-time, part-time or other basis



Exceptions to Size Restrictions

Restaurant and hotels look to number of employees at each physical location

SBA affiliation rules may apply, with certain exceptions (with more to come?)

Check your NAICS industry code size standards

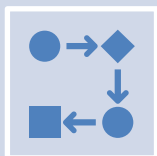
“Small business concerns” should also qualify



How To Apply



Applications must be submitted through a participating SBA lender



Application processing for businesses and nonprofits will begin April 3 (April 10 for sole proprietorships and independent contractors)



Sample application has been issued by the SBA, although individual lender requirements may vary



Certification

Borrower and each 20% owner will be asked to certify:

Current economic uncertainty makes the loan necessary to support ongoing operations

Funds will be used to retain workers and maintain payroll or cover other eligible expenses

The recipient has not received and will not receive another loan under the PPP from February 15, 2020 to June 30, 2020

How Much Can Be Borrowed?



The lesser of (i) 2.5 times the borrower's average monthly "payroll costs" for the one-year period before the loan is made or (ii) \$10 million



Special rules apply for employers that were not in business from February 15, 2019 to June 30, 2019, and for seasonal businesses



What Are “Payroll Costs”?

“Payroll costs” are defined very broadly and include:

Employee salaries, wages, commissions

Payment for vacation, parental, family, medical or sick leave (with exceptions)

Allowance for severance or dismissal

Group health insurance

Retirement plan contributions

State and local taxes assessed on such compensation



What Are Not “Payroll Costs”?

Compensation over \$100,000 per employee

Federal tax withholdings

Compensation for non-US residents

Sick leave and family leave provided by the new Families First Coronavirus Response Act for which there are tax credits



Independent Contractors

“Payroll costs” also include up to a pro-rated \$100,000 in payments of compensation to an independent contractor that is a wage, commission, income, net earnings from self-employment or similar compensation



If including independent contractor payments in your loan calculation, confirm with your lender that these are forgivable payroll costs



What Can the Loans Be Used For?

Payroll costs, as defined above

Rent payments

Utility payments

Payments of mortgage interest (not principal or prepayments)

Interest payment on any other debt incurred before February 15, 2020



Loan Forgiveness

Payments of the following amounts during 8-week period following loan issuance may be forgiven:



Payroll costs (expected to be 75% of total amount forgiven)



Rent payments



Utility payments



Payments of mortgage interest (not principal or prepayments)



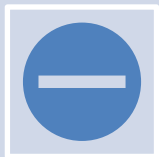
Reductions in Forgiveness



Forgiveness may be reduced based on reductions in number of monthly full-time-equivalent employees as compared to past periods in early 2019 or 2020



Forgiveness may also be reduced based on reductions in wages of 25% as compared to the most recent full quarter (excluding employees making \$100,000 or more)



Some reductions may be reversed before June 30, 2020



Related Topics



Employee
Retention
Payroll Tax
Credits (Section
2301 of CARES
Act)



SBA EIDL
Loans



Documentation
Requirements



Credit
Agreements
and Debt
Covenants



Thank You

Questions? Contact:

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