

SAFEGARD ADVISORY – CARES Act and Payment Protection Programs

April 8, 2020

Dear Valued Safeguard Customers:

A cornerstone of the \$2 trillion CARES Act is designed to keep employees and some business expenses such as mortgage interest, rent and utilities paid even if a business is temporarily closed. Insurance companies have come under significant pressure due to their stance on Business Interruption (BI) claims. As your broker, consultant and advocate, we continue to monitor the situation closely, and our primary mission is to fight for your respective interests. If we foresee this situation changing or legislative actions making an impact, we will notify you immediately. Right now, however, we are advising clients to turn their attention to the Payment Protection Programs (PPP).

PPP which kicked off on Friday, April 3, is designed to back \$349 billion in loans to businesses with 500 or fewer employees through the Small Business Administration. Loans are being issued through lenders approved by the SBA. Think of it as the small business version of the \$1,200 in stimulus checks heading to individual taxpayers.

The program works by giving a small business a loan equal to 250% of its average monthly payroll, and the loan can be forgiven if 75% of the proceeds are spent on payroll in the first eight weeks of the loan. If you run a small business that has struggled because of COVID-19 — and what small business hasn't — this is your lifeline to provide liquidity and we strongly encourage you to apply for a PPP loan.

Unfortunately, the PPP is on a first-come, first-serve basis. And so far, many of the smallest of small businesses — the coffee shop around the corner, or your favorite neighborhood food truck or nail salon — are finding themselves at the back of the line.

Congress is dispensing the PPP \$350 billion through a network of approximately 2,000 banks authorized to make Small Business Administration loans. The CARES Act instructs these banks to approve PPP applications quickly regardless of a business' credit risk. But the banks are still required to abide by certain long-standing rules, and Department of Treasury going back to the 1970s require that they meet "know your customer" regulations meant to prevent money-laundering and terrorist financing, i.e. to prevent fraud and abuse.

Many banks say they expect to accept PPP applications from new customers in the coming days and weeks, but there are questions as to whether the funds will still be available, because of the first in, first out nature of the program.

On Friday, Bank of America reported that in its first day for PPP applications, its customers submitted applications for \$22.2 billion of PPP loans. Wells Fargo on Sunday said it would accept no more applications from businesses known or new to the bank causing an uproar from the small business community. While the likes of BOFA, Wells, Chase and Citigroup drag their feet, smaller independent banks and credit unions have been lauded for stepping up and expediting the process for many.

If you haven't already – it is important to understand key provisions of the programs and prepare the required loan documents in advance of meeting with your local bank branch and/or applying online:

1. Funding for up to eight weeks of payroll

The Paycheck Protection Program provides small businesses with funds to pay up to 8 weeks of payroll costs including benefits. Funds can also be used to pay interest on mortgages, rent, and utilities. (Source: Treasury Department)

2. \$349 billion in total federally backed loans

The CARES Act has authorized commitments to the SBA 7(a) loan program, as modified by the CARES Act, in the amount of \$349 billion. The Paycheck Protection Program covers the period beginning February 15, 2020 and ending on June 30, 2020 (the Covered Period).

3. Loans forgiven if they are used to keep employees paid

Funds are provided in the form of loans that will be fully forgiven when used for payroll costs, interest on mortgages, rent, and utilities (due to likely high subscription, at least 75% of the forgiven amount must have been used for payroll). Loan payments will also be deferred for six months. No collateral or personal guarantees are required. Neither the government nor lenders will charge small businesses any fees. (Source: Treasury Department)

4. Firms with 500 or fewer employees, and self-employed can apply

Small businesses with 500 or fewer employees—including non-profits, veterans organizations, tribal concerns, self-employed individuals, sole proprietorships, and independent contractors—are eligible. Businesses with more than 500 employees are eligible in certain industries.

Starting April 3, 2020, small businesses and sole proprietorships can apply.

Starting April 10, 2020, independent contractors and self-employed individuals can apply. There is encouragement to apply as quickly as you can because there is a funding cap.

5. Relaxed loan vetting

For eligibility purposes, requires lenders to, instead of determining repayment ability, which is not possible during this crisis, to determine whether a business was operational on February 15, 2020, and had employees for whom it paid salaries and payroll taxes, or a paid independent contractor. (Source: Legislative synopsis)

6. Calculating the loan value

During the Covered Period, the maximum loan amount permitted for an eligible Covered Entity is the lesser of \$10,000,000 and an amount calculated based on a payroll formula that essentially equals 2.5 x the average total monthly payroll cost incurred in the one-year period before the loan is made.

The interest rates for loans borrowed by a Covered Entity under the program may not exceed four percent (4%).

Any Paycheck Protection Loan that has a remaining principal balance after any applicable loan forgiveness (as covered in detail below) must have a maturity date no later than 10 years from the date on which the borrower applied for loan forgiveness.

The SBA will direct lenders to defer all payments (principal, interest and fees) otherwise due under a Paycheck Protection Loan for a minimum of 6 months and a maximum of 12 months.

7. Loan forgiveness tied to keeping employees on books

During the 8-week period beginning on the date a Paycheck Protection Loan is funded (the Forgiveness Period), a borrower will be eligible for forgiveness and cancellation of indebtedness for up to the full principal amount of such loan. The amount eligible for forgiveness (the Total Eligible Forgiveness Amount) is equal to the total costs incurred and payments made during the Forgiveness Period for (1) payroll, (2) mortgage interest, (3) rent and (4) utilities.

The loan forgiveness amount available to a borrower is subject to reduction if the borrower terminates employees or reduces employee salary and wages during the Forgiveness Period. There is, however, relief from the forgiveness reduction if the borrower rehires employees or makes up for wage reductions by June 30, 2020.

8. The loan application

A copy of the loan application has been made available through the Treasury Department. ***We have attached a copy of the loan application*** as well as a list of documents the bank will require to review your loan application.

9. How to find an approved lender

The SBA can direct employers to an approved lender here: <https://www.sba.gov/funding-programs/loans>.

Please visit our Coronavirus Resource Library for a full menu of documents related to CARES and various Loans available to small businesses: safeguardgroup.com/coronavirus/#cares