

Update Regarding CARES Act and Small Business Administration Loans (SBA)

By Patrick Cole

On March 25, the U.S. Senate passed the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”) to keep American workers paid and employed. The CARES Act authorizes the Small Business Administration (“SBA”) to provide loan guarantees for up to \$349 billion in loan commitments under the SBA’s 7(a) program (the SBA’s primary program for providing financial assistance to small businesses), funding a new Paycheck Protection Program. The FAQs below will help businesses to better understand loan eligibility, benefits, and the application for the SBA loan under the CARES Act Paycheck Protection Program.

What is SBA loan eligibility?

All businesses with 500 employees or less as well as sole proprietors and eligible self-employed individuals.

What are SBA loan terms on the maximum amount?

The maximum loan amount is the lesser of \$10 million or 2.5 times the average total monthly payroll costs (only payroll costs, not the other costs the loan proceeds may cover) incurred during the one-year period before the loan date provided that each employee’s annualized salary is capped at \$100,000.

What are SBA loan terms on loan proceeds?

The loan proceeds are intended for more than just payroll and can also be used for 1) medical or family leave, 2) mortgage interest (no principal reduction) or rent, 3) utilities, 4) continuation of group health care benefits during periods of paid sick, 5) insurance premiums, and 6) interest on other business debt that was incurred before February 15, 2020.

Is personal guaranty or collateral required?

The CARES Act does not require collateral or personal guarantees for a loan, but owners will need to guarantee loan funds will only be used for the six listed categories.

Does the CARES Act include loan forgiveness?

The loan is forgivable provided that the loan proceeds are used to pay the six listed categories above during the eight-week period following the date of the loan. Owners will be required to submit documentation to have any amount of the loan forgiven. However, the amount eligible to be forgiven is reduced if there is a reduction in the number of full-time equivalent employees or employee wages over a threshold (25 percent of the total salary or wages of the Employee).

There is no reduction if an owner re-hires the employees who earlier were

terminated.

The portion of the loan not forgiven is payable over 10 years at an interest rate no more than 4%. Also, all loan payments for this loan are deferred at least 6 months and no more than 12 months.

What are the application steps for the SBA loan?

A borrower applies for the loan from a bank that is in the SBA lender network. It does not need to be a borrower's current lender. There are no application fees. The program eliminates much of the standard SBA paperwork and provides incentives for banks to close the loans quickly. A borrower will need to provide proof of payroll to determine the maximum loan amount and make certifications including a certification that a borrower has not already received funding from another source for the same purpose. A borrower can refinance if the borrower previously received SBA disaster relief funds. The loan should close in a matter of days.

Is there an emergency grant upon the completion of an application for the SBA loan?

The CARES Act includes an Emergency EIDL Grant that allows disbursement of up to \$10,000 to certain small businesses within three days after the SBA receives an application. The funding is made based on a self-certification of the applicant and the funds may only be used for providing paid sick leave, maintaining payroll, meeting the increased costs of goods, making rent or mortgage payments, and repaying obligations that cannot be made due to revenue loss.

Is there additional relief for small business?

The CARES Act modifies the provisions of the Bankruptcy Code dealing with small business reorganizations (embodied in 11 U.S.C. §1182 *et seq*) to allow companies with more outstanding debt (total noncontingent, liquidated, secured and unsecured debt of \$7.5 million vs. \$2.19 million, excluding insider and affiliate debt) to reorganize as a small business, thereby allowing additional small businesses to take advantage of truncated reorganization procedures and simpler confirmation standards.

Larkin Hoffman's lawyers are available to assist with any questions you may have regarding the CARES Act.

Patrick Cole
952-896-3263
pcole@larkinhoffman.com
8300 Norman Center Drive
Suite 1000
Minneapolis, MN 55437
www.larkinhoffman.com



**Larkin
Hoffman**
ATTORNEYS