

ZIEGLER INVESTMENT BANKING

CARES ACT OVERVIEW FOCUS ON PAYCHECK PROTECTION PROGRAM

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CORONAVIRUS AID, RELIEF AND ECONOMIC SECURITY ACT (THE CARES ACT)

OVERVIEW OF THE CARES ACT

- Provides stimulus to individuals and businesses in response to the economic distress caused by COVID-19
- \$500 billion “Exchange Stabilization Fund” for assistance to businesses, states and municipalities (specifically mentions air and national security)
- \$100 billion “Public Health and Social Services Emergency Fund” for healthcare industry
- Creates \$349 billion Paycheck Protection Program

PROGRAMS MOST APPLICABLE TO NOT-FOR-PROFIT CCRCs

- Accelerated/Advanced Payment for Medicare Providers and Suppliers
- Telehealth – provision to expand telehealth services under Medicare
- Families First Coronavirus Response Act
- Deferral of employer payroll tax
- Business interruption insurance
- **Paycheck Protection Program**

PAYCHECK PROTECTION PROGRAM

PAYCHECK PROTECTION PROGRAM OVERVIEW

- The Paycheck Protection Program (“PPP) is a loan designed to provide a direct incentive for small businesses to keep their workers on the payroll
- PPP will be administered by the Small Business Administration (“SBA”)
- SBA will forgive loans if all employees are kept on the payroll for eight weeks and the money loaned was used for payroll, rent, mortgage interest or utilities
- The PPP will be available through June 30, 2020

PPP ELIGIBILITY...WHO WE KNOW IS ELIGIBLE

- Small businesses, 501(c)(3) nonprofits, tribal business concerns and veteran's organizations that:
 - Have **less than 500 employees** or applicable size standard for industry as provided by SBA
 - Sole proprietors, self-employed or independent contractors
 - Were in business on February 15, 2020
- Any business concern that employs not more than 500 employees per **physical location** and are:
 - In the hotel and food service industry
 - Are franchises In the SBA Franchise Directory
 - Are small businesses that receive financial assistance from small business investment companies

PPP ELIGIBILITY

- To determine 500-employee limit include all individuals employed on a full-time, part-time or other basis (i.e. **NOT** FTE's)
- As of today, the following are **NOT** eligible:
 - Multi-site, non-profit senior living organizations with more than 500 employees in aggregate but no more than 500 employees per campus
 - Single-site providers with more than 500 employees in aggregate but not more than 500 employees per business unit (child care, home health, pharmacy etc.)

PPP QUALIFICATION CERTIFICATION REQUIREMENT

- To qualify, applicants must certify to the following:
 - Current economic uncertainty makes loan request necessary to support ongoing operations
 - The funds will be used to retain workers and maintain payroll or make mortgage payments, lease payments and utility payments
 - Documentation verifying the number of employees on payroll as well as dollar amount of payroll, mortgage, lease and utilities for eight weeks following loan are provided
 - During period beginning February 15, 2020, through December 31, 2020, the applicant has not received another loan under the program
 - Certify that information being provided is true and accurate
 - Acknowledge that lender will calculate the eligible loan amount using tax documents that have been previously submitted

PPP LOAN SIZE

- Maximum loan is the lesser of 250% of average monthly payroll or \$10 million
- What costs are eligible for payroll?
 - Compensation (salary, wage, commission)
 - Payment for vacation, parental, family, medical or sick leave
 - Allowance for dismissal or separation
 - Payment required for group health and retirement benefits
 - Payment of state or local tax assessed on employee compensation
- What cost are **not** eligible for payroll?
 - Employee compensation over \$100,000
 - Taxes imposed or withheld 21, 22 and 24 of IRS code
 - Employees whose principal residence is outside of U.S.
 - Qualified leave for which credit is allowed under Families First Coronavirus Response Act

PPP LOAN SIZE

- For purposes of calculating “Average Monthly Payroll”:
 - Use average monthly payroll for 2019, however:
 - Be prepared to have compensation from January 2019 – February 2020 available
 - Excludes costs **over** \$100,000 on an annualized basis for each employee
 - **Question:** Do you reduce total amount of compensation or just compensation over \$100,000?
 - **Answer:** Recently published application states “excluding costs over \$100,000” so for an employee making \$125,000 only \$25,000 would be excluded
 - Be prepared to quantify both total compensation of those making over \$100,000 and amount of compensation over \$100,000

PPP LOAN FORGIVENESS

- Loan recipients will be eligible for loan forgiveness based on:
 - Loan forgiveness equal to the sum of the following costs incurred over the 8-week period after the loan's origination date:
 - Payroll costs excluding compensation above \$100,000
 - Payment of interest on mortgage obligations
 - Payment of rent obligations
 - Utilities payments
 - The amount forgiven can be 100% of amount borrowed but can not exceed amount borrowed
- Due to the anticipated number of requests, it is anticipated that no more than **25%** of the forgiveness can come from non-payroll costs

PPP LOAN FORGIVENESS

- The amount of loan forgiven is reduced if:
 - The number of employees are reduced
 - Calculated based on formula taking into account average FTEs from February 15, 2019, through June 30, 2019, FTEs at beginning of loan origination and FTEs eight weeks after loan origination
 - There is a reduction greater than 25% in wages paid to employees
- What if I have already laid off employees or reduced compensation?
 - Reductions in employment or wages that occurred between February 15 and April 26 will not reduce forgiveness **IF** by June 30, 2020, the borrower eliminates the reduction in employees or wages

PPP OUTSTANDING LOAN

- For the portion of the loan that is not forgiven:
 - All payments are deferred for six months, but interest will accrue from date loan is received
 - Maximum term of the loan is 10 years and maximum interest rate is 4.00%
 - Preliminary indication is loan term will be **2 years** at a fixed interest rate of **1.00%**
 - Loan can be prepaid anytime prior to maturity with no prepayment penalties or fees
 - Loan is unsecured

PPP IMPACT ON EXISTING DEBT

- Provided the PPP is structured as a loan, it is likely borrowers with existing outstanding debt will need to meet one of their existing additional debt tests
- The following are the most likely additional debt provision that will allow for PPP:
 - Historic pro-forma test
 - Funds available for debt service from most recent audit
 - Maximum annual debt service taking into account existing debt and new PPP debt incurred
 - Balloon provision may prove helpful
 - Basket/other additional debt
 - Most indentures include ability for borrow an amount not to exceed 10% of Total Revenues
 - While the PPP loan is unsecured, subordinate debt provisions are unlikely to be satisfied due to loan not mentioning subordination

WHAT SHOULD I DO IF I WANT TO EXPLORE A PPP LOAN?

- Contact primary operating bank and ask for their help in facilitating loan
 - The SBA will facilitate PPP loans only through SBA qualified lenders
 - Your lender may only accept applications via online portal
 - If current bank is NOT a qualified SBA lender, reach out to other relationship banks asking for their assistance
- Banks will likely have the ability to accept online applications beginning Friday April 3, 2020
 - It is important to contact banks **NOW** even before they can accept applications
 - This loan will be extremely popular and some banks will not be taking new clients

WHAT SHOULD I DO IF I WANT TO EXPLORE A PPP LOAN?

- What documentation/information should I start gathering in anticipation of submitting an application?
 - Tax identification number
 - 501 (c)(3) determination letter
 - Most recent IRS form 941 (quarterly federal income tax return)
 - January 2019 through February 2020 payroll expenses
 - Identify employees making over \$100,000
 - Gather debt payment and/or rent schedules
 - Gather utilities bills

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