



CARES Act SBA loan program

March 30, 2020

Updated on March 31, 2020

On March 27, 2020, the President signed into law the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), which provides broad economic relief to U.S. individuals and businesses impacted by the COVID-19 virus. Specifically, Title I of the CARES Act, Keeping American Workers Paid and Employed Act, establishes the Paycheck Protection Program. Under this program, approximately \$349 billion has been allocated to fund federally backed small business loans through the expansion and modification of the Small Business Administration (SBA) 7(a) loan guaranty program in order to keep employees of small businesses employed during this time.

This program covers the period from February 15, 2020, through June 30, 2020, for loans made by the SBA or a qualified lender pursuant to the Paycheck Protection Program. Businesses that employ no more than 500 employees (or more than 500 employees depending on the NAICS industry code of any such employer) may qualify for a loan under this program. If a business is classified under a NAICS code beginning with 72 (i.e., Accommodation and Food Services Industry), then such business may be eligible even if it employs more than 500 employees, provided that it employ no more than 500 employees at each physical location. Generally, employees of affiliated entities will be counted together for purposes of determining if a business is qualified for a loan under this program.

The CARES Act expands the types of businesses that may qualify for loans under this program (including not-for-profit entities). The amount of a loan will be calculated based on a formula, which generally is 2.5 times the average payroll monthly payments of a business (with certain restrictions) up to \$10 million. Loan proceeds may be used for (i) payroll costs, (ii) costs related to

continuation of health care benefits during periods of paid sick leave, medical or family leave, and insurance premiums, (iii) employee salaries, commissions or similar compensation, (iv) payments of interest on any mortgage obligation (excluding payment or prepayment of principal), (v) rent, (vi) utilities, (vii) interest on debt obligations other than mortgages incurred before February 15, 2020. The loans available under this program will have a term of 2 years and an interest rate of 0.5%.

Importantly, for loans under this program, the CARES Act waives the following usual SBA loan requirements: (i) the requirement that the business is unable to obtain credit elsewhere, (ii) the requirement of a personal guaranty, and (iii) the requirement that collateral secure the loan. Additionally, all or a portion of the loan may be forgivable and debt service payments may be deferred for up to 12 months.

Subject to certain limitations, loans under this program are eligible for forgiveness up to an amount equal to the amount spent on the following items during the first 8 weeks of the loan term: (i) payroll costs, (ii) interest on a mortgages, (iii) rent, and (iv) utilities. The amount forgiven may not exceed the principal. Based on the new guidance issued on March 31, 2020, in anticipation of substantial interest in the CARES Act loans, at least 75% of the amount forgiven must have been used for payroll costs.

The Treasury and SBA issued guidance regarding the application process on March 31, 2020, which is available on the SBA's website. Applications may be submitted starting on April 3, 2020.

Authors
