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Dear Client and Friend of the Firm,

The \$2 trillion Coronavirus relief package signed last week, officially known as the CARES Act, includes nearly \$350 billion for a federal small business loan program called the Paycheck Protection Program (PPP). The program is designed to get cash in the hands of suffering small businesses quickly, with less red tape and fewer restrictions than the SBA's existing loan programs.

## SBA COVID-19 Programs

We ask you to understand this information is preliminary and is subject to change. As the SBA continues to publish program guidance about the Paycheck Protection Program (PPP), and the Emergency Injury Disaster Loan program (EIDL). We suggest you check the resource links and your bank for updates.

**We suggest that you apply immediately for the Economic Injury Disaster Loan (EIDL) Advance using the Link below.** The Advance can be applied toward either the Paycheck Protection Program Loans or the Economic Injury Disaster Loan.

**The Advance is distributed in 3 days and, per the SBA, "this loan advance will not have to be repaid, even if the subsequent loan applications are denied".**

**Economic Injury Disaster Loan Emergency Grant Application Link:**

<https://covid19relief.sba.gov/#/>

The EIDL Advance application is very simple. All they want is basic identifying information for your business, the sales and cost of sales for the one year period from February 1, 2019 through January 31, 2020 and your bank routing number and account number. It takes about 15-20 minutes.

Our impression is that this is to provide baseline information about your revenue for the year prior to the beginning of this crisis to later determine your economic loss.

This process has been expedited on-line on the Federal SBA site with the Advance application to get some money in the business's hands very quickly.

The Paycheck Protection Program (PPP) is to be applied for through banks which are SBA 7(a) lending program approved lenders (Most Major Banks).

### **Important Summary Recommendation:**

Our banking contact suggested that our clients contact their current bank or the one of larger banks sponsoring the program, such as Bank of America, PNC Bank or Wells Fargo Bank. He said it would be Thursday before he would have application documents, but suggested gathering the documents from the required documents checklist (attached), which would be the same for any bank. He also said that of the two programs, the EIDL and the PPP, **the PPP is the more desirable, because the entire PPP loan is forgivable, while only the \$10,000 advance on the EIDL is forgivable. Therefore, we are suggesting that you apply for the PPP loan and not get any more than the \$10,000 on the EIDL. He also said that eligible businesses should apply as soon as possible, because the funding will run out.**

## Paycheck Protection Program:

<https://www.pnc.com/en/customer-service/paycheck-protection-program.html>

<https://www.sba.gov/page/coronavirus-covid-19-small-business-guidance-loan-resources#section-header-0>

<https://steinsperling.com/paycheck-protection-loan-program/>

Economic Injury Disaster Loans: <https://www.sba.gov/disaster-assistance/coronavirus-covid-19>

## Economic Injury Disaster Loan Advance

This Advance must be applied for on-line at: <https://covid19relief.sba.gov/#/>

The CARES Act establishes an Emergency Advance to allow eligible entities that apply for an Emergency Injury Disaster Loan (EIDL) to request an advance of the loan of not more than \$10,000, which does not have to be repaid even if the application for the EIDL is ultimately denied. The applicant must submit a certification for the advance and, if approved, it is distributed within 3 days.

Small business owners (generally those with less than 500 employees) in all U.S. states, Washington D.C., and territories are eligible to apply for an Economic Injury Disaster Loan advance of up to \$10,000.

This advance will provide economic relief to businesses that are currently experiencing a temporary loss of revenue. Funds will be made available within three days of a successful application. Per SBA, this loan advance will not have to be repaid.

## Paycheck Protection Program Loan Eligible for Forgiveness

**This loan needs to be applied for through an SBA approved lender bank and may be up to 100 percent forgiven.**

The Coronavirus Aid, Relief, and Economic Security (CARES) Act was recently passed to provide emergency relief for small- to medium-sized businesses disrupted by COVID-19. The Act created the Paycheck Protection Program, which will serve as an extension of the Small Business Administration (SBA) 7(a) loan program, allowing financial institutions to provide federally-backed, forgivable loans to eligible businesses.

The Paycheck Protection Program will make available up to \$349 billion in loans by banks and other lending institutions to small businesses and other eligible entities.

- Small Businesses (Generally, with fewer than 500 employees), includes self-employed individuals. Link to listing of size requirements for limited exceptions for specific industries [https://www.ecfr.gov/cgi-bin/text-idx?SID=b919ec8f32159d9edaaa36a7eaf6b695&mc=true&node=pt13.1.121&rgn=div5#se13.1.121\\_1201](https://www.ecfr.gov/cgi-bin/text-idx?SID=b919ec8f32159d9edaaa36a7eaf6b695&mc=true&node=pt13.1.121&rgn=div5#se13.1.121_1201)

- All eligible entities impacted by COVID-19 between February 15, 2020 and June 30, 2020 may apply.
- Loans will be available through June 30, 2020, although program funding limitations may impact loan availability for those businesses applying later in the availability timeframe. (i.e. they may run out of money)
- Maximum loan size is 2.5 times the average monthly payroll costs over the prior 12 months, not to exceed \$10 million.
- Loan payments will be deferred for six months.
- If you maintain your workforce, keeping all your employees on the payroll for eight weeks, SBA will forgive the portion of the loan proceeds that are used to cover the first 8 weeks of payroll and certain other expenses (rent, mortgage, utilities) following loan origination. Up to 100 percent of the loan is eligible for forgiveness. Special rules exist for season employers and businesses not in existence beginning February 15, 2019 and ending on June 30, 2019.
- **Borrower Requirements and Certifications:**
  - A good-faith certification that:
    - The loan is needed to continue operations during the COVID-19 emergency;
    - Funds will be used to retain workers and maintain payroll or make mortgage, lease, and utility payments;
    - The applicant does not have any other application pending under this program for the same purpose and amount; and
    - From February 15, 2020 until December 31, 2020, the applicant has not received duplicative amounts under this program.
    - During the covered period, the requirement that a small business concern is unable to obtain credit elsewhere shall not apply to covered loans.
  - The interest rate on balances remaining after forgiveness is not to exceed 4% and interest payments are deferred for at least six months and not more than one year.
  - The loan forgiveness program offers guaranteed deferment periods of at least 6 months and up to one year with no prepayment penalties.
  - Forgiveness Reductions - The amount of a COVID-19 Paycheck Protection Loan to be forgiven will be reduced as follows.
    - Any reduction in the average number of full-time equivalent employees employed by the borrower during the eight-week measurement period beginning upon origination of the loan, as compared to one of the following (at the borrower's election):
      - The average number of full-time equivalent employees per month employed between Feb. 15, 2019, and June 30, 2019, or
      - The average number of full-time equivalent employees per month employed between Jan. 1, 2020, and Feb. 29, 2020.
    - Compensation reductions per employee of more than 25% versus compensation during the most recent full quarter for which the employee was employed before the eight-week measurement period, subject to the following exceptions and adjustments:
      - Employees who received compensation of more than \$100,000 per annum during 2019 are excluded from this calculation.
      - Additional forgiveness is provided for additional wages to tipped workers and allowances are available for seasonal employers.
  - To encourage employers to rehire any employees who have already been laid off due to the COVID-19 crisis, borrowers that re-hire workers previously laid off will not be penalized for having a reduced payroll at the beginning of the period.
  - The portions of COVID-19 Paycheck Protection Loans that are forgiven in accordance with the CARES Act are excluded from gross income for federal taxation purposes of each applicable borrower.

- Between February 15, 2020 and ending on June 30, 2020, no personal guarantee is required for the covered loan AND no collateral is required for the covered loan.
- The SBA has no recourse against any individual, shareholder, member, or partner of an eligible loan recipient for non-payment, UNLESS loan proceeds are used for unauthorized purposes.
- Between February 15, 2020 and ending on June 30, 2020, with respect to covered loan, the Borrower and Lender Fees usually payable under an SBA Loan are now waived.
- Impacted businesses may only receive one Paycheck Protection Program loan.
- The principal amount of a COVID-19 Paycheck Protection Loan that is not forgiven in accordance with the CARES Act will continue as a loan guaranteed by the SBA with a maturity not to exceed 10 years.
- **Payroll costs:**
  - **Includes:** salary, wage, commission, or similar compensation; payment of cash tip or equivalent; payment for vacation, parental, family, medical or sick leave; compensation for dismissal or separation; payment required for the provision of group health care benefits, including insurance premiums; payment of retirement benefits; or payment of state or local tax assesses on the compensation of employees; and compensation to sole proprietors or independent contractors (including commission-based compensation) **up to \$100,000 in 1 year**, prorated for the covered period;
  - **Excludes:** individual employee compensation above \$100,000 per year, prorated for the covered period; taxes imposed or withheld under FICA (Social Security and Medicare), Railroad Retirement Act, and IRC Chapter 24; compensation to employees whose principal place of residence is outside of the U.S.; and qualified sick leave or family leave wages for which a credit is allowed under the Families First Coronavirus Response Act.
- **Eligible recipient can use the proceeds from the loan for:**
  - Payroll costs;
  - Costs related to the continuation of group health care benefits during periods of paid sick, medical, or family leave, and insurance premiums;
  - Employee salaries, commission, or similar compensations;
  - Payments of interest on any mortgage obligation (excludes prepayment);
  - Rent (including rent under a lease agreement);
  - Utilities;
  - Interest on any other debt obligation that were incurred before the period.
- **Other COVID-19 Emergency Loans:**

If an applicant obtained an Economic Injury Disaster Loan (“EIDL”) Loan between Jan. 31, 2020, and the date a COVID-19 Paycheck Protection Program Loan is made available to it, but the EIDL is for a purpose other than paying payroll costs, mortgage interest, rent, utilities, etc., the CARES Act does not prohibit the borrower from obtaining both loans. An EIDL made on or after January 31, 2020, may be refinanced as part of a covered loan under the Paycheck Protection Program. For EIDLs during the covered period, the SBA will approve and offer loans based solely on the applicant’s credit score.

## Economic Injury Disaster Loan

**This loan is only eligible for forgiveness in the amount of the advance, to a maximum of \$10,000**

Small business owners in all U.S. states and territories are currently eligible to apply for a low-interest loan due to Coronavirus (COVID-19).

The SBA's Economic Injury Disaster Loan program provides small businesses with working capital loans of up to \$2 million that can provide vital economic support to small businesses to help overcome the temporary loss of revenue they are experiencing.

The interest rates for the loans are 3.75% for small businesses and 2.75% for not-for-profits. The SBA determines terms on a case-by-case basis, based on each borrower's capacity for making monthly loan repayments. The maximum loan term is 30 years.

For eligibility purposes, the CARES act 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.

The loans also offer a one-year deferment on payments. This means that the first payment isn't due until a year after the official date of the loan. However, interest starts accruing on the loan the moment the funds are disbursed.

Small businesses can apply for the loans at [disasterloan.sba.gov/ela](https://disasterloan.sba.gov/ela). (This application is the Emergency Advance Application). The SBA usually provides assistance in the field after natural disasters, but to comply with social distancing, all assistance is being moved online. Online webinars and training videos will provide businesses with information on how to complete the applications. Staff that usually would be on location will be working to support applicants virtually.

As of March 30, all U.S. states and territories are eligible for COVID-19 SBA disaster loans.

Please contact me if you have any questions about the impact of the new law and these loan programs on you or your business.

Sincerely,

*Foucault & Associates*