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WHAT BUSINESS OWNERS SHOULD KNOW ABOUT THE SBA 7(A) LOAN PROGRAM EXPANSION UNDER THE CARES ACT

On March 24, 2020, the US Senate passed the Coronavirus Aid, Relief and Economic Security Act in the Senate (the "CARES Act") in response to the COVID-19 pandemic. It is likely to be signed into law by Friday, March 27, 2020. The CARES Act, should it become law, has significant relief for small business, including $349 billion in Small Business Administration (SBA) loan guaranties and subsidies and additional funding for SBA Programs.

Highlights of the CARES Act include:

Enhancements to the SBA's 7(a) Loan

The SBA's existing 7(a) loan program will be enhanced as follows:

- Eligible borrowers will be allowed to borrow up to the lesser of (i) $10 million or (ii) the business's average total monthly payroll costs during the one-year period prior to the loan being made multiplied by 2.5.
- Allowable uses expanded to include:
    - Payroll support (including paid sick or medical leave);
    - Employee salaries;
    - Mortgage, rent and utility payments;
    - Insurance premiums; and
    - Other debt obligations.

Special Terms for SBA Loans

- No personal or collateral guarantee will be required.
- No requirement to evaluate the borrowers' ability to repay the loan or that the borrower cannot find credit elsewhere.
- Eligible borrowers must make a good faith certification that the loan is necessary due to the current economic conditions caused by COVID-19; that funds will be used for a permitted purpose; and that they are not receiving funds from another SBA program for the same use.
- Maximum term of loan is 10 years.
- Interest rate cannot exceed 4% and interest payments are completely deferred for 1 year.
- No prepayment penalty.
- Borrower and lender fees for 7(a) loans would be waived.

Eligibility

The CARES Act program covers businesses, private nonprofit or public nonprofit organization with 500 or fewer employees (unless the covered industry's SBA size standard allows more than 500 employees) who were (i) operational on February 15, 2020, (b) had employees for whom the borrower paid salaries and payroll taxes, or paid independent contractors, and (iii) are substantially impacted by the public health restrictions related to COVID-19. Sole proprietors, independent contractors, and other self-employed individuals are also potentially eligible as well.

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Loan Forgiveness

Certain borrowers would be eligible for loan forgiveness equal to the amount (not to exceed the principal amount of the loan) spent during any eight-week period after the original date of the loan on:

- Payroll costs (excluding compensation of individual employees in excess of annual salary of $100,000, as prorated for the relevant period, and sick and family leave wages for which credit is allowed under the **Families First Coronavirus Response Act**);
- Interest payments on any mortgage incurred before February 15, 2020;
- Rent on any lease in force before February 15, 2020; and
- Utilities for services which began before February 15, 2020.

The amount forgiven would be reduced proportionally by any reduction in employees retained compared to the previously year and by the reduction in pay of any employee beyond 25% of the prior year's compensation; however, reductions in pay for employees who have an annualized salary of more than $100,000 are not considered in this calculation.. Borrowers that rehire workers previously laid off or increase salary or wages for workers that were previously cut from February 15 through 30 days after passage of the law shall not have those reductions counted against them during such period for loan forgiveness purposes, so long as they are rehired or their salary and wages increased to the prior levels by June 30, 2020. There will not be cancellation of indebtedness income recognized upon forgiveness for tax purposes.

Loans will be made by lenders who are participants in the SBA's Section 7(a) program. Those lenders will also decide whether to accept a borrower's application for forgiveness. Such decisions must be made within 60 days of receipt of the application for forgiveness.

Any loan amount not forgiven at the end of the one year period is carried forward as an ongoing loan with a maximum term of 10 years and a maximum interest rate of 4%.

Subsidies for Existing SBA Loan Repayment

The SBA will pay the principal, interest and any associated fees that are owed on existing 7(a) loans for a six-month period starting on the next payment due date. Loans currently in deferment would include an additional 6 months of payment by the SBA beginning with the next payment. Loans made during this period until 6 months after enactment of the CARES Act would also qualify for six months of deferral payment by the SBA.

Once the CARES Act is passed by Congress and signed into law by President Trump, the SBA will have 30 days to provide guidance and regulations implementing the provisions of the Bill. Please look for updates from the Schlossberg team to bring you additional details on the above or feel free to reach out to a member of the Schlossberg team with any questions you may have.

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