

A Robinson+Cole Legal Update

Coronavirus (COVID-19)

COVID-19 Relief: Understanding SBA Loan Opportunities Under the CARES Act

On March 27, 2020, the Coronavirus Aid, Relief and Economic Security Act (CARES Act) was signed into law. The CARES Act is designed to distribute capital quickly and broadly to help alleviate the economic impact of COVID-19, including relief opportunities for small businesses through programs administered by the Small Business Administration (SBA). Among other things, the CARES Act (a) appropriates \$349 billion to small businesses as part of an expansion of the SBA's Section 7(a) loan program under the "Payroll Protection Program" (PPP), and (b) appropriates \$10 billion to small businesses as part of an expansion of the SBA's Section 7(b) economic injury disaster loan program (EIDL Program). Set forth below is an overview of the eligibility requirements and key loan terms for COVID-19 relief loans issued under the PPP and the EIDL Program under the CARES Act.

Paycheck Protection Program

The PPP enables the SBA to offer federally-guaranteed emergency loans to qualifying small businesses to assist them in dealing with the economic impact of the COVID-19 pandemic. The loans are made by SBA-approved lenders and can be up to a maximum of \$10 million. If a business complies with the CARES Act, loans issued under the PPP may be forgivable. The eligibility requirements and key loan terms under the PPP are set forth below. For a more detailed overview of the loan terms, eligibility and application process for PPP loans, please refer to Robinson+Cole's alert on PPP loans which can be found [here](#).

Qualifications

- Applicant must meet one of the following criteria:
 - A "small business" in accordance with SBA's size standard
 - A business with 500 employees or less
 - A sole proprietor, independent contractor or self-employed person
 - A food service business (NAICS 72) with multiple locations, but that employ not more than 500 persons per location
 - Affiliation rules waived for SBIC-financed small businesses, small businesses in the food service sector (NAICS 72), and franchises assigned a franchiser identifier code by the SBA
- Applicant must require the funds to operate due to the current economic disruption caused by COVID-19
- Applicant must only use the PPP loan funds for eligible purposes
- Applicant must not have applied for or received a loan duplicative of the purpose and amounts applied for under the PPP loan application (with certain exceptions)
- The "credit elsewhere" requirement is waived (i.e. PPP loans are available to businesses regardless of their ability to find alternative funding)

FAQs: Paycheck Protection Program



FAQs: Economic Injury Disaster Loan Program



Loan Terms

| | |
|------------------------------------|--|
| Maximum Loan Amount | Determined on a case-by-case basis in accordance with a formula (average monthly payroll during the 1-year period prior the date the loan is made times 2.5, plus the amount of any 7(a) loan made during the period between January 31, 2020 and the date the loan is made), subject to a maximum of \$10 million |
| Interest Rate | Up to 4% |
| Loan Term | Up to 10 years (to the extent not forgiven) |
| Prepayment Penalty | N/A |
| Use of Loan Proceeds | Payroll costs and benefits (excluding employee compensation above \$100,000), mortgage interest, rent, utility costs and interest on debt obligations incurred prior to February 15, 2020 |
| Collateral and Personal Guarantees | N/A |

Economic Injury Disaster Loan Program (COVID-19)

Since early March 2020, the SBA has offered small businesses economic injury disaster loans (EIDLs) for losses due to the COVID-19 pandemic. However, the CARES Act expanded eligibility for EIDLs and made it easier for small businesses to apply. It also established an emergency \$10,000 grant to COVID-19 EIDL applicants which, if approved, will be provided to the applicant within 3 days of the application. The eligibility requirements and key loan terms for COVID-19 EIDLs, as amended by the CARES ACT, are set forth below. For a more detailed overview of the loan terms, eligibility and application process for COVID-19 EIDLs, please refer to Robinson+Cole's alert on COVID-19 EIDLs which can be found [here](#).

Qualifications

- Applicant must meet one of the following criteria:
 - A "small business" in accordance with SBA's size standard
 - A business with 500 employees or less
 - An individual who operates as a sole proprietor or independent contractor
 - A cooperative of not more than 500 employees
 - An ESOP in accordance with SBA standards
 - A tribal small business concern in accordance with SBA standards
- Applicant must be located in a declared-disaster area (all fifty states are declared-disaster areas with respect to COVID-19)
- Applicant must have been in business on January 31, 2020
- Applicant must have incurred economic injury as a result of COVID-19
- Applicant must have a credit history acceptable to SBA
- Applicant must demonstrate to SBA an ability to repay the loan
- The "credit elsewhere" requirement is waived (i.e. COVID-19 EIDLs loans are available to businesses regardless of their ability to find alternative funding)

Loan Terms

| | |
|----------------------|---|
| Maximum Loan Amount | \$2 million (actual amount determined on a case-by-case basis depending on the economic injury suffered by the borrower and its working capital needs) |
| Interest Rate | 3.75% for small businesses; 2.75% for non-profit organizations |
| Loan Term | Up to 30 years (actual term determined on a case-by-case basis), with 6-12 month deferral (depending on lender) |
| Prepayment Penalty | N/A |
| Use of Loan Proceeds | Working capital needs, including fixed debt payments, payroll, accounts payable, employee sick leave and other bills that cannot be paid because of the impact of COVID-19. |
| Collateral | Required for loans in excess of \$25,000 (actual collateral determined on a case-by-case basis) |

This alert is being issued as of March 30, 2020. Please note that the SBA has up to 30 days following the enactment of the CARES Act to issue guidance and regulations under certain provisions of the CARES Act which could, among other things, modify eligibility and/or loan requirements.

Read more legal updates, blog posts, and speaking engagements related to this area on [Robinson+Cole's Coronavirus Response Team](#) page and feel free to contact any member of our team with questions.

[Bruce B. Barth \(Chair\)](#) | [Kenneth C. Baldwin](#) | [Michael H. Bernstein](#) | [J. Tyler Butts](#) | [Dennis C. Cavanaugh](#)

[Britt-Marie K. Cole-Johnson](#) | [Candace M. Cunningham](#) | [Andrew A. DePeau](#) | [Kathleen E. Dion](#)

[Conor O. Duffy](#) | [William J. Egan](#) | [Steven L. Elbaum](#) | [Gilbert L. Lee](#) | [Virginia E. McGarrity](#)

[Matthew T. Miklave](#) | [Endicott Peabody](#) | [Kathleen M. Porter](#) | [Taylor A. Shea](#)

[Lauren M. Sigg](#) | [Brian R. Smith](#) | [Alisha N. Sullivan](#) | [Anna Jinhua Wang](#)

[Abby M. Warren](#) | [Jeffrey J. White](#)

For insights on legal issues affecting various industries, please visit our [Thought Leadership](#) page and subscribe to any of our newsletters or blogs.

Boston | Hartford | New York | Providence | Miami | Stamford | Los Angeles | Wilmington | Philadelphia | Albany | New London



© 2020 Robinson & Cole LLP. All rights reserved. No part of this document may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, or otherwise, without prior written permission. This document should not be considered legal advice and does not create an attorney-client relationship between Robinson+Cole and you. Consult your attorney before acting on anything contained herein. The views expressed herein are those of the authors and not necessarily those of Robinson+Cole or any other individual attorney of Robinson+Cole. The contents of this communication may contain ATTORNEY ADVERTISING under the laws of various states. Prior results do not guarantee a similar outcome.