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SMALL BUSINESS STIMULUS UNDER THE C.A.R.E.S. ACT (2020) **Short, Mid and Long-Term Assistance to Small Businesses**

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Paycheck Protection Program – Immediate/Short-Term Assistance

The CARES Act provides short-term eligibility to nearly all small businesses for payroll and other necessary operating costs by making for Small Business Administration (“SBA”) 7(a) loans available to businesses and nonprofit organizations with less than 500 employees and who were operating as of February 15, 2020. The loans are intended to cover costs for which the business cannot pay due to COVID-19 pressured and which are incurred between February 15, 2020 and June 30, 2020 (the “covered period”).

Under the Paycheck Protection Program (“PPP”), the federal government will provide \$349 billion in loans which will not require personal guarantees, pledges of collateral or credit/ability to repay approval. Each loan will carry a two-year term, interest at 0.5%, payments deferred for six (6) months and, so long as the funds are used as mandated, forgiven without any penalty or income tax liability for such forgiveness.

The loans are calculated based upon 250% of the employer’s prior average monthly payroll costs for the prior year/term (the “base period”) and capped at \$10 million. Payroll costs for determining the maximum loan amount include salaries (excluding the pro-rata portion of salaries above \$100,000.00); vacation, parental, family or medical sick leave; payment of group health care benefits; commissions, tips or similar compensation and state and local taxes for compensation of employees.

So long as the borrower utilizes the funds for payroll costs (defined above) and rent, utilities, and interest on mortgage payments during the eight (8) week period following the funding date, 100% of the loan obligation will be forgiven, subject to the following:

Forgiveness will be reduced if there is a reduction in the number of employees over the base period, a reduction in wages paid to employees greater than 25% of the wages paid to employees during the base, or more than 25% of the loan funds are used on non-payroll costs.

The intent is to keep at or near the same wage level the same number of employees in the covered period as in the base period. Applications will begin to be received on April 3, 2020 and all current SBA Lenders may issue these PPP loans. See <https://www.sba.gov/document/sba-form--paycheck-protection-program-ppp-sample-application-form>.

Emergency EIDL Grants - Mid-term Assistance

Act appropriates \$10 billion to administer Economic Injury Disaster Loan (“EIDL”) grants through December 30, 2020. The following are considered eligible for these grants: businesses, cooperatives, employee stock ownership plan (ESOPs), and tribal small business concerns with fewer than 500 employees; sole proprietorships; independent contractors; and small business concerns, private nonprofit organizations, and small agricultural cooperatives. EIDL loans made in response to COVID-19 will waive

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personal guarantee on advances and loans up to \$200,000.00, the requirement that an applicant was in business for 1 year prior to the application (provided they were in business as of January 31, 2020), and the “credit elsewhere” requirement.

Loan advance of up to \$10,000.00 are to be distributed within three days (upon verification of eligibility) for paid sick leave, payroll, increased costs, making rent or mortgage payments, and repaying obligations that cannot be met due to revenue losses. Advance payments will not be considered in the loan forgiveness amounts if the loan is converted to an SBA 7(a) loan.

EIDL Loans require a slightly more in depth application than a PPP loan; however, the application process is intended to be streamlined. See <https://covid19relief.sba.gov/>

Development and Trade Programs – Long-Term Assistance

Subsidy for Certain Loan Payments

The Act provides for the appropriation of \$17 billion to incentive lenders to defer certain existing loans. The SBA is authorized to pay principal, interest, and fees owed on deferred existing loans for a 6 month period. The FDIC, the Office of Comptroller of the Currency, and state regulators are encouraged to not require increased reserves as a result of payments made by SBA, waive limits on maximum loan maturities, and extend lender site visit requirements.

Entrepreneurial Development

The Act provides for appropriation of \$265 million in grants to small business development centers and women’s business centers to provide education, training, and advising to covered small business concerns for responding to COVID-19.

State Trade Expansion Program

The Act provides for reimbursement for participants in the State Trade Expansion Program for losses due to cancellations of a foreign trade mission or a trade show exhibition in response to COVID-19, to the extent reimbursement does not exceed the amount of the recipient’s grant.

Waiver of Matching Funds Requirement Under the Women’s Business Center Program

The Act provides for a waiver of the requirement of the Women’s Business Center Program to obtain matching funds from a non-federal source.

Minority Business Development Agency

The Act provides \$10 million in grants for the U.S. Department of Commerce’s Minority Business Development Agency to assist minority business centers and minority chambers of commerce in providing education, training, and advising to covered small business concerns for accessing federal financial resources and responding to COVID-19. The requirement of matching of funds for these grants is waived.

Bankruptcy

The Act expands eligibility for the Chapter 11, Subchapter V small business bankruptcy process by increasing the debt limit for business and individual filers to \$7,500,000.00, excluding debt owed to affiliates or insiders; provided that such filer is not a “reporting company” under Section 13 or 15(d) of the Securities Exchange Act of 1934 or an affiliate of an issuer, as defined in section 3 of the Exchange Act. With respect to Chapter 13 bankruptcies, the amendment excludes federal aid from income in new filings and allows for plan modifications for previously confirmed Chapter 13 plans if income is lost due to COVID-19.

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