Alert

April 24, 2020

Small Business Relief Programs Receive Additional Funding

On April 24, President Trump signed into law the Paycheck Protection Program and Health Care Enhancement Act, which appropriates an additional $310 billion in funding to the Paycheck Protection Program (PPP) and an additional $60 billion to the Economic Injury Disaster Loan (EIDL) program. **As the demand for these programs has been incredibly high, and this program is likely to also be "first come first serve," you should take steps now to be ready to seek support once they reopen.**

PAYCHECK PROTECTION PROGRAM

Many small businesses sought to obtain a PPP loan when the program opened on April 3, 2020, but they did not receive a PPP loan before the SBA ran out of funds on April 16, 2020. Since the SBA will imminently be provided with an additional $310 billion in funding for the PPP, there will soon be an opportunity for small businesses that already applied for a PPP loan to have their lender transmit their applications to the SBA and for small businesses that did not apply to now work with a lender to apply. **While many small businesses applied through their banks previously, it does not appear that the SBA kept a "queue" of applications and will instead be opening the PPP loan process for lenders to start submitting a new round of applications**. To the extent that you applied through an eligible lender previously but did not receive a loan, you should contact your lender to ensure that they are ready to transmit your application to the SBA once the program reopens. Many lenders kept their own internal lists of applications, so it may be prudent to ask your lender where you stand with respect to their ability to transmit your loan to SBA. For any small business that did not apply in the first round, you may now apply once the SBA again begins to accept applications either through your existing lender relationship or through another lender that is accepting new customers. It is important to note that Congress specifically set aside $60 billion of the $310 billion for PPP loan disbursement through smaller lenders, including credit unions and community banks, which, in addition to certain larger lenders, may be accepting new customers for PPP purposes.

The PPP provides a loan to eligible businesses for up to 2.5 times an applicant's monthly average payroll costs from the prior year (but not to exceed $10 million). The eligibility criteria for a PPP loan remains the same: either a company has less than 500 total employees or otherwise meets the definition of the "small business concern" under the SBA's size standards. However, the Act specifically adds a new category of eligible business — small business concerns engaged in the production of food and fiber, ranching, and raising of livestock, aquaculture, and all other farming and agricultural-related industries, with not more than 500 employees.

Payroll is defined as payments of no greater than $100,000 in salary and wages per employee, health care and retirement benefits, family and medical leave, and state and local compensation on taxes. 75 percent of the PPP loan money must be used to cover payroll, and the other 25 percent can be used on non-payroll expenses like rent, utilities, and mortgage interest in the eight-week period after funds are dispersed. In addition to traditional small businesses, the CARES Act allows many entities in the accommodations and food services sector, as well as eligible franchises, to qualify for PPP loans, and the affiliation rules do not apply to those entities. Borrowers are eligible for loan forgiveness on payroll, mortgage interest, rent, and utility costs that are paid during the eight-week period following the PPP loan origination date. Loan forgiveness on the total amount of these costs will be reduced if a borrower decreases the amount of salaries and wages by more than 25 percent and decreases the average monthly number of employees compared to past benchmarks. Any full-time employees and salary levels restored by June 30, will not be counted against companies for the February 15 to April 26 time period. Any amounts forgiven are not federally taxable as income, but accepting PPP loan forgiveness means that a company may not

Steven J. Dickinson

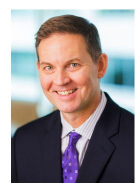
Co-Chair, International Practice

sdickinson@cozen.com
Phone: (612) 260-9051
Fax: (612) 260-9080

Robert K. Magovern

Co-Vice Chair, Transportation & Trade

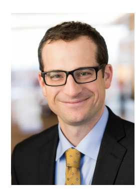
rmagovern@cozen.com
Phone: (202) 463-2539
Fax: (202) 912-4830



Martin T. Schrier

Chief Strategy Partner

mschrier@cozen.com
Phone: (305) 704-5954
Fax: (786) 220-0209



James F. Van Orden

Member

jvanorden@cozen.com
Phone: (215) 665-4625
Fax: (215) 665-2013

Related Practice Areas

- Corporate

also utilize the COVID-19 emergency payroll tax credit (which, if eligible, is capped at $5,000 tax credit per employee). Amounts not forgiven convert to a loan with an interest rate of 1 percent and a term of two years. Payments will be deferred for six months while interest accrues. There is no prepayment penalty, personal guarantees, or collateral requirements are not required, and it does not matter if you have access to other credit. Treasury has provided a PPP Borrower Information Sheet, a PPP Application Form and a Frequently Asked Questions.

ECONOMIC INJURY DISASTER LOANS

Like the PPP loan program, the EIDL program ran out of money on April 16, 2020. The SBA will soon receive an additional $50 billion for EIDL loans and $10 billion for emergency EIDL grants. To the extent that a small business previously applied directly to the SBA for EIDL support, your application may now be processed and funded by the SBA. In addition, if you are interested in now seeking relief under the EIDL program, you may wish to monitor whether the SBA reopens the EIDL application at the SBA website.

The EIDL program, provides non-forgivable loans of up to $2 million, at an interest rate of 3.75 percent and a term of up to 30 years, to cover ordinary and necessary operating expenses and reductions in working capital due to COVID-19, including fixed debts, payroll, accounts payable, and other bills disrupted due to the COVID-19 disaster. Applicants seeking EIDL funds may request a “grant advance” of up to $10,000, payable three days after application, to pay eligible and imminent operating costs related to the crisis such as increased costs of materials, payroll, or rent or mortgage payments. An applicant is not required to repay any amount of the grant advance, even if it does not receive an EIDL. Personal guarantees are not required for loans up to $200,000; collateral may be required for loans over $25,000.

CONCLUSION

Since the demand for the PPP loan and EIDL programs has been incredibly high, it is critical to be ready to seek the necessary relief as soon as possible once these programs are reopened, which means you should take steps now to be prepared by, for example, talking with your lender about the status of any existing PPP loan application or working with a new lender on an application to be submitted as soon as possible after the PPP program reopens. We recommend that you carefully evaluate with your advisers whether to utilize these SBA options, confirm that you meet eligibility requirements, determine how best to utilize these potential funds during this difficult time, and determine how best to be ready to seek small business assistance as soon as possible after these programs reopen.