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Additional Assistance Available: Certain SBA Loan Subsidies Under the CARES Act

The Coronavirus Aid, Relief and Economic Security Act (CARES Act) provides various types of assistance to small businesses impacted by the novel coronavirus (COVID-19) pandemic. In addition to the establishment of the widely publicized Payroll Protection Program (the PPP) and the expansion of the Economic Injury Disaster Loan Program, the CARES Act also appropriated an additional \$17 billion to the Small Business Administration (the SBA) to subsidize payments due under certain SBA loans.

Small Business Debt Relief Program

Under the Small Business Debt Relief Program (the Program), the SBA will pay six months of principal, interest and associated fees otherwise owed by borrowers on loans established under the following SBA programs (Covered Loans):

- >> **7(a) Loan Program (excluding PPP loans)** — The SBA guarantees short-term and long-term loans of up to \$5 million made by approved lenders (including banks, credit unions and other financial institutions) to for-profit small businesses who are unable to obtain credit elsewhere. 7(a) loan proceeds may be used for a variety of purposes including purchasing equipment, managing inventory and supplies or general working capital. For more information on the 7(a) Loan Program, please refer to our [SBA Flyer](#).
- >> **504 Loan Program** — The SBA's nonprofit community partners (known as Certified Development Companies) together with approved lenders provide long-term loans of up to \$5.5 million to for-profit small businesses. 504 loan proceeds may be used to acquire fixed assets (including real estate, buildings and

The Bottom Line

For small businesses impacted by COVID-19 looking for additional financial assistance, the CARES Act set aside \$17 billion for the SBA to subsidize payments of principal, interest and fees for six months under certain existing and new SBA loans. Notably, this benefit does not apply to PPP or EIDL loans.

The program relieves borrowers from the obligation to make the loan payments otherwise subsidized by the SBA.

To be eligible, loans must be established no later than September 27, 2020.

machinery) for expansion or modernization. More information on the 504 Loan Program can be found [here](#).

>> **Microloan Program** — The SBA makes direct loans to its nonprofit community partners (known as Intermediaries) that, in turn, provide for-profit small businesses (and certain nonprofit child care centers) long-term micro-level loans of up to \$50,000. Microloan proceeds can be used for the purchase of furniture, fixtures, supplies, materials, equipment or other working capital purposes. More information on the Microloan Program can be found [here](#).

Covered Loans in existence prior to the enactment of the CARES Act on March 27, 2020 as well as new Covered Loans made after the enactment of the CARES Act (with maturities of more than six months) are eligible for the subsidy benefits under the Program, subject to certain requirements.

In order to take advantage of the Program, the Covered Loan must be in “regular servicing status” no later than September 27, 2020. A Covered Loan is considered in “regular servicing status” once the final loan disbursement has been made or, in the case of revolving loans, the initial loan disbursement has been funded. No application is required from the borrower for participation in the Program and instead, the lender or SBA partner will interface directly with the SBA to coordinate all payments.

All amounts paid by the SBA will relieve the borrower from its obligation to make the applicable payment under the Covered Loan. In fact, subject to certain limited exceptions, to the extent a lender or SBA partner receives any regular loan payment from a borrower during the period in which the SBA is making the loan payments, such payment must either be returned to the borrower or applied to further reduce the loan balance after application of the SBA’s payment, at the borrower’s option.

For any Covered Loan made between March 27, 2020 and September 27, 2020, the SBA will automatically begin making loan payments for the six-month period on the date the first payment is due and thereafter in accordance with the payment terms stated in the loan documents. As lenders are encouraged to provide payment deferrals, to the extent an immediate deferment is granted, the SBA loan payments will instead begin once the deferment ends. However, funds under the Program will remain available only until September 30, 2021, and so in order to receive the maximum six months of payments, any deferment period must end by March 30, 2021.

Obtaining a Covered Loan

A threshold requirement to apply for a Covered Loan is to qualify as a small business in accordance with the SBA’s size standards. Generally, applicants must meet each of the following two tests:

1. The size of the applicant alone (without affiliates) must not exceed the size standard designated for the applicant’s primary industry; and



2. The size of the applicant when combined with its affiliates must not exceed the size standard designated for the primary industry of either the applicant alone or the applicant and its affiliates, whichever is higher.

The applicable threshold for each industry as well as the SBA's size standards tool can be found [here](#).

An applicant seeking a 7(a) loan or 504 loan may also be eligible to apply for a Covered Loan if it meets the SBA's alternative size standard, which requires that, together with its affiliates, the applicant's:

1. Maximum tangible net worth is not more than \$15 million; and
2. Average net income (after Federal income taxes) for the 2 full fiscal years before the date of the application is not more than \$5 million.

Applicants must also be located in the United States, operate in any industry other than as an [ineligible business](#) and be able to demonstrate an investment by the business owner of time or money and a need for the desired credit. In connection with establishing a need for the desired credit, applicants must demonstrate that the desired credit is unavailable on reasonable terms and conditions from other sources. Additional eligibility requirements may also be established by the lender or SBA partner providing the Covered Loan.

To apply, an applicant should contact:

- >> For a 7(a) Loan, an approved lender (a list of approved 7(a) lenders is available [here](#));
- >> For a 504 Loan, the applicant's local Certified Development Company (a list of Certified Development Companies is available [here](#)); or
- >> For a Microloan, the applicant's local Intermediary (a list of Intermediaries is available [here](#)).

Interested businesses should reach out within the coming weeks, as Covered Loans must be disbursed no later than September 27, 2020 in order to be eligible for the Program.

For More Information

Please contact the attorneys listed below or the D&G attorney with whom you have regular contact.

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