

Federal Relief Programs Aid Businesses Affected by COVID-19

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As a result of the COVID-19 pandemic, the U.S. Senate passed multiple phases of federal Coronavirus relief legislation, including the Coronavirus Aid, Relief, and Economic Security Act (the CARES Act), the third phase of the legislation. The CARES Act, among other things, created and funded three major programs intended to provide aid to businesses facing economic hardship. These three programs were the Paycheck Protection Program (PPP), Economic Injury Disaster Loans (EIDL) and the Main Street Lending Program (MSLP).

Title I of the CARES Act created the PPP, through which the Small Business Administration (SBA) and certain lenders provided guaranteed, fully forgivable loans. These PPP loans were aimed at small businesses and were intended to keep individuals employed and to keep these businesses afloat during the COVID-19 pandemic. The PPP loans could be made for up to \$10 million, and the principal loan amount was based on the business's recorded payroll costs. In order to have the loan fully forgiven, borrowers were required to spend the loans on payroll costs (including salaries, wages, benefits, and vacation, medical, and sick leave), mortgage interest payments, rent and utilities. Throughout the program, the SBA continually released guidance and created new regulations and provisions, sometimes changing the program weekly and even daily. Examples of these changes included creating a mandatory audit for any borrower who received loans in excess of \$2 million, reducing the requirement that borrowers spend at least 75% of the loan on payroll costs to 60%, and extending the time period in which a borrower had to spend the loan proceeds in order to be eligible for forgiveness from eight to 24 weeks.

Title I of the CARES Act also delegated funds to the SBA's EIDL program which also provided loans to small businesses. Loans under the EIDL program were not forgivable, unlike PPP loans, and had terms up to 30 years and provided interest rates of 3.75% to for-profit business and 2.75% to non-profit businesses. While the EIDL could be spent on payroll costs, it was primarily a working capital loan, and even though a

borrower could obtain both a PPP and an EIDL, the loans could not be used for overlapping purposes. The EIDL's maximum principal loan amount originally was \$2 million, but was lowered to \$150,000 as the funds were depleted.

Lastly, Title IV of the CARES Act delegated funds to the United States Federal Reserve to create a new program to provide loans to medium-sized businesses. The Federal Reserve created the MSLP, which made loans to borrowers of up to \$150 million, but included a number of restrictions on the borrowers, including meeting EBITDA leverage requirements, refraining from repurchasing equity or paying certain dividends while the loans were outstanding and for 12 months thereafter, and officer and employee compensation caps.

Out of the three programs, the PPP has been the most popular, providing over 5 million loans, totaling in excess of \$525 billion from over 5,000 lenders according to the most recent SBA Loan Report. As many PPP borrowers are reaching the end of their "covered period" in which they must spend the PPP funds in order to be eligible for loan forgiveness, their attention is turning to the forgiveness aspect of the program. In order to apply for forgiveness, PPP borrowers must be able to provide evidence of, among other things, how their loans were spent and how many employees they kept employed. Each borrower's forgiveness application will be reviewed by both their originating bank and the SBA.

As the CARES Act funds run out, Congress has been working on another stimulus program to further assist businesses and to stimulate the economy, including the hotly debated HEROES Act. As these economic programs evolve, Vorys has conducted since March, and continues to conduct, regular webinars and has counseled clients of all sizes and in various industries in both making and obtaining federal relief loans to help weather the economic storm in this unprecedented time of uncertainty.

If you have any questions about the various federal relief programs, please contact your Vorys attorney and learn more from the Vorys Coronavirus Task Force at vorys.com/coronavirus.