



LEGAL ALERT

March 30, 2020

CARES Act Highlights for Banks: Small Business Relief Will Flow Through Financial Institutions!

On March 27, 2020, President Trump signed into law H.R. 748, the Federal “Coronavirus Aid, Relief and Economic Stimulus Act” (the “CARES Act”). Aside from some important regulatory relief provisions for financial institutions and the other economic stimulus and relief provisions, the CARES Act provides \$349 billion in loan funds available to small businesses. These loan funds will be administered by the U.S. Small Business Administration (“SBA”), and it is the intention that these loan funds will flow through financial institutions.

Small Business Loan Program

This new small business loan program allows the SBA to provide 100% federally-guaranteed loans to eligible businesses from February 15, 2020, to June 30, 2020 (the “Covered Period”), to help pay operational costs incurred due to the COVID-19 pandemic. **Financial institutions that are currently SBA-authorized lenders are automatically approved to make and approve loans under this new program.**

In addition to existing SBA-loan-eligible small business concerns, businesses eligible for the new program include any business concern, nonprofit organization, veterans’ organization, or tribal business if it employs not more than 500 employees or the size standard for the industry in which the entity operates.

Loan proceeds may be used by eligible businesses for payroll costs, group health care benefits, payments of interest on mortgage obligations, rent/lease payments, utilities and interest on any debt obligations incurred before the Covered Period. These loans are eligible for payment deferrals and ultimate forgiveness by the SBA. Finally, a loan made under the SBA’s Disaster Loan Program on or after January 31, 2020, may be refinanced as part of a loan originated under this new program.

All financial institutions should pay close attention to the SBA’s COVID-19 website <https://www.sba.gov/page/coronavirus-covid-19-small-business-guidance-loan-resources> for updates regarding this new program, as the SBA intends to be ready to launch the program almost immediately. It is highly likely that your small business customers will be contacting you about this program in order to help weather the COVID-19 economic storm.

Regulatory Relief for Financial Institutions

Among the regulatory relief provisions of the CARES Act, the Federal banking agencies are required to adopt an interim final rule reducing the community bank leverage ratio from 9% to 8% and providing a grace period for qualifying community banks to satisfy the requirement. The interim final rule will expire the earlier of (i) the expiration of the national emergency declaration, or (ii) December 31, 2020.

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Additionally, the CARES Act allows financial institutions to make loan modifications related to COVID-19 or its effects without being categorized as a troubled debt restructuring. This is applicable for the term of the loan modification, and may be made from March 1, 2020, through the earlier of 60 days after the expiration of the national emergency declaration or December 31, 2020.

The CARES Act also allows the Comptroller of Currency to exempt any transaction or series of transactions from the total maximum amount of loans and extensions of credit upon a finding by the Comptroller that the exemption is in the public interest and consistent with the purposes of 12 U.S.C. § 84. While this provision does not specifically apply to state-chartered banks, parity authority may be available to Pennsylvania state-chartered banks consistent with the past practice of the Pennsylvania Department of Banking and Securities regarding lending limit issues.

Finally, the CARES Act provides that financial institutions that were required to adopt CECL for the period beginning January 1, 2020, may delay CECL implementation until 60 days after the expiration of the national emergency declaration or December 31, 2020.

The CARES Act is extensive and historic legislation that will require much fine-tuning by Federal government agencies in the weeks ahead, so certainly pay close attention to SBA and regulator communications that you receive regarding this legislation. Bybel Rutledge LLP stands ready to assist any financial institution that may have questions regarding the implementation of the CARES Act.

If you would like additional information, please contact any of the following members of Bybel Rutledge LLP:

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