



Coronavirus Aid, Relief, and Economic Security Act: Highlights for Small Businesses

Coronavirus Aid, Relief, and Economic Security Act

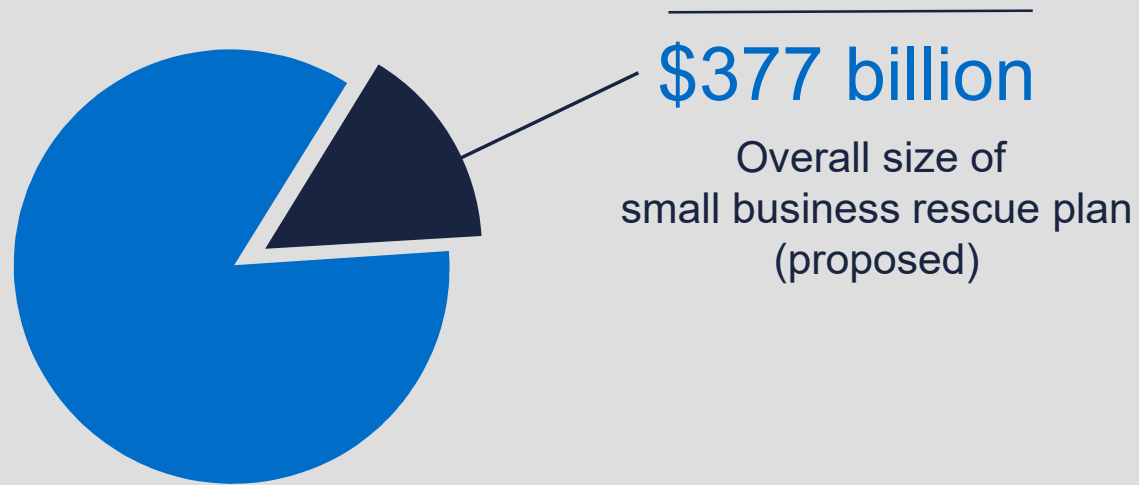
Legislative background

- The Coronavirus Aid, Relief, and Economic Security Act or CARES Act is a comprehensive \$2 trillion emergency assistance program for individuals, families and businesses impacted by the coronavirus disease 2019 (COVID-19) pandemic.
- The CARES Act was passed by the Senate on Wednesday, March 26 and is scheduled for vote in the House on Friday, March 27.
- Key components of this program would prevent workers from losing their jobs and small businesses from going under due to economic losses caused by the COVID-19 pandemic.
- The plan would provide cash-flow assistance through [100 percent federally guaranteed loans to employers who maintain their payroll during this emergency](#).
- [If employers maintain their payroll, the loans would be forgiven](#), which would help workers to remain employed and affected small businesses and our economy to quickly snap back after the crisis and would be [retroactive to February 15, 2020](#), to help bring workers who may have already been laid off back onto payrolls.



Keeping Workers Paid and Employed Act

Key components



- 1 Paycheck Protection Program (“PPP loan” or “PPP”)
- 2 Modifications to SBA 7(a) Program
- 3 Entrepreneurial assistance

1 Paycheck Protection Program (“PPP loan” or “PPP”)

Profile

Small businesses, 501(c)(3) nonprofit, 501(c)(19) veterans’ organizations, or Tribal business concerns described in section 31(b)(2)(C) of Small Business Act (“SBA”) – eligible if 500 employees or fewer or if they are the applicable size standard for the industry as identified in the SBA. Sole proprietors, independent contractors, and other self-employed individuals are eligible. Borrowers who have already applied for COVID-19 support under section 7(a) may not apply for these loans.

Eligibility

\$349B

Program size

\$10M

Maximum
loan amounts
through 12/31/20

Highlights

- **Loan size:** Size of loan granted under this Act to each entity to be determined based on a **formula related to entity’s payroll costs. 2.5 times the average monthly payments for payroll cost incurred in the prior year.**
- **Permitted uses of funds:** Allowable uses of PPP loans include: **payroll support** (employee salaries and paid sick or medical leave), **insurance premiums, and mortgage, rent, and utility payments.** Borrower must make good faith certification that loan is necessary due to uncertain economic conditions caused by COVID-19; that the entity will use the funds to retain workers and maintain payroll, lease, and utility payments; and that the entity is not receiving duplicative funds from another SBA program.
- **Covered loan period:** February 15, 2020 – June 30, 2020.
- **No personal guarantees or collateral required.**
- **Loan forgiveness provisions.**

1 Paycheck Protection Program (“PPP loan” or “PPP”)

Key benefits and considerations

- **Duplicative borrowing:** Borrowers under the PPP may not also borrow under the economic injury disaster loan (“EIDL”) SBA for COVID-19 purposes. Existing EIDL borrowers for other reasons may borrow under the PPP with an option to refinance their EIDL loans into PPP loans, but would subtract \$10,000 EIDL from the total PPP eventually forgiven under this Act.
- **Borrowers eligible for loan forgiveness** equal to the amount spent over an 8-week period from origination on payroll costs; interest payments on any mortgage begun prior to February 15, 2020; rent payments on any leases in force prior to February 15, 2020; payment of any utility in service prior to February 15, 2020.
- Amounts forgiven may not exceed the principal amount of the loan.
- Compensation of individual salary above \$100,000 for one year, as pro-rated for the covered period, not refunded.
- **Any loan amounts not forgiven** at the end of one year **is carried forward as an ongoing loan** with terms of a max of 10 years, at max 4 percent interest. The 100 percent loan guarantee of the federal government will remain for these loans through to their term.

Implementation

- Loans to be **immediately available through existing SBA-certified lenders**, including banks, credit unions, and other financial institutions, and SBA would be required to streamline the process to bring additional lenders into the program.
- The Secretary of the Treasury would be authorized to **expedite the addition of new lenders and make further enhancements to expedite delivery of capital**.

2 Loan Guarantee Program

Profile

Modification to existing SBA 7(a) loan program

Program focus

\$10M max

7(a) loan amounts

Highlights

- Expands the allowable uses for the existing 7(a) SBA loan program to permit payroll support, including paid sick leave, supply chain disruptions, employee salaries, mortgage payments, and other debt obligations to provide immediate access to capital for affected small businesses. Expands the max loan amount from \$5 million to \$10 million.
- The maximum loan amount for SBA Express loans would be increased from \$350,000 to \$1 million. These loans provide borrowers with revolving lines of credit for working capital purposes.

Implementation

- Leverages existing program administered by the SBA and existing SBA-certified lenders, including banks, credit unions, and other financial institutions.
- The cost of participation in the 7(a) program would be reduced for both borrowers and lenders by providing fee waivers, an automatic deferment of payments for one year, and no prepayment penalties.

3 Entrepreneurial assistance

Profile

Grants to offer training and assistance to small businesses impacted by COVID-19

Program Focus

Implementation

- Leverages existing resource partners and establishes grants to support programs that support small business education and navigation of COVID-19 assistance programs

Highlights

- Authorizes SBA to provide [additional financial awards to resource partners](#) (Small Business Development Centers and Women's Business Centers) to provide counseling, training, and education on SBA resources and business [resiliency](#) to small business owners affected by COVID-19.
- Authorizes SBA to provide an association or associations representing resource partners with [grants to establish: one online platform that consolidates resources and information available across multiple Federal agencies for small business concerns related to COVID-19](#); and a training program to educate Small Business Development Center, Women's Business Center, Service Corps of Retired Executives, and Veteran's Business Outreach Center counselors on the various federal resources available to ensure counselors are directing small businesses appropriately

Considerations for PE and VC portfolio companies

Qualification rules

To be eligible to receive a loan under these programs, a business must be considered “small business” by SBA standards.

The business size must not exceed the maximum value set by the SBA, though under the Paycheck Protection Program businesses may be considered “small” if they employ fewer than 500 people.

The business is also aggregated with its “affiliates.” The size of the business combined with its affiliates must not exceed the size standard set by the SBA.

Key considerations

- Aggregation/Affiliation rules will make it difficult for PE portfolio companies and some VC portfolio companies to qualify – analysis depends on specific facts.
- Entities are “affiliates” when one controls or has the power to control the other, or a third party or parties controls or has the power to control both. It does not matter if control is actually exercised.
- “Control” is defined expansively under the SBA regulations to include majority ownership of voting equity, contractual control rights, management control, economic dependence, and a number of other types of “control” that can exist in majority and minority ownership scenarios.
- Aggregation waived in certain cases: Under the Paycheck Protection Program, the aggregation rules are specifically waived for businesses in the accommodation and food services sector, certain franchises, and any business that receives financial assistance from a Small Business Investment Company.

A look ahead

What next?

- The Coronavirus Aid, Relief, and Economic Security Act or CARES Act, if enacted, is positioned to provide critical assistance to US businesses.
- The Paycheck Protection Program (“PPP”) is a centerpiece of the current legislation and is a potential game changer for most small businesses.
- The CARES Act has passed the Senate and is scheduled for vote in the House on Friday.
- DLA Piper continues to closely monitor the legislation in order to develop practical considerations and guidance for small businesses. If you have questions, please contact your DLA piper relationship partner.
- For more information, please visit our [Coronavirus Resource Center](#) and [subscribe to our mailing list](#) to receive timely alerts, webinar invitations and other publications to help you navigate this challenging time.



Thank you