Small Business Loan Provisions

A completely new, temporary lending program to aid small business The bill will provide $349 billion to support loans through a new Paycheck Protection Program, which Congress designed to keep employees on the payroll and save small businesses. The Small Business Administration (SBA) will stand up a completely new program that will only nominally be part of the existing SBA Section 7(a) loan program. To expedite the funding of the new loans, the Treasury Department and SBA will expand the number of participating banks and credit unions, and captive finance companies may also be included.

Minimal eligibility requirements Any business operational on February 15, 2020, that paid salaries and payroll taxes will be eligible, but there is a limit of no more than 500 employees. Fortunately, the bill includes provisions to waive normal affiliation rules which should be applicable to many dealers. For dealers, there will be no test for total revenue.

Borrower certification to obtain loan Borrowers will be required to make a good-faith certification that the loan is necessary due to economic conditions caused by COVID-19 and that it will use the funds to retain workers and maintain payroll, lease and utility payments.

Loans have terms NOT found in traditional bank loans Lenders will not require application fees, closing costs, collateral or personal guarantees. The maximum interest rate will be 4%, and the first six months' payments (principal and interest) will be automatically deferred. Finally, the lenders are not expected to perform credit analysis, because the loans will be 100% guaranteed by the SBA.

Maximum loan amount The maximum amount will be 250% of an employer's average monthly payroll (based on a 12-month look back from the date of the loan), but NOT MORE than $10 million.

Permitted uses of the loan The loan can be used for "payroll costs," which include salary, commission, or similar compensation (up to an annual rate of pay of $100,000 per employee); employee group health care benefits, including insurance premiums; retirement contributions; and covered leave from February 15, 2020, to June 30, 2020. Permitted uses also include payments of interest on mortgages, rent, utilities and interest on any other debt obligations that were incurred before February 15, 2020.

Loans may be forgiven In general, borrowers will be eligible for loan forgiveness equal to the amount of certain expenses spent during an eight-week period after the origination date of the loan. These expenses are payroll costs, interest payments on any secured debt incurred prior to February 15, 2020, payment of rent on any lease in force prior to February 15, 2020, and payment on any utility for which service began before February 15, 2020.

Percentage of employee retention related to amount of loan forgiveness The amount forgiven will be reduced proportionally by any reduction in employees retained compared to the prior year, and by the reduction in pay of any employee in excess of 25% of the employee's prior-year compensation. However, to encourage employers to rehire any employees who have already been laid off due to the COVID-19 crisis, borrowers that rehire previously laid-off workers by June 30, 2020, will still qualify and not be penalized for having a reduced payroll during the loan period.

No effect on federal Income tax Canceled indebtedness under this program will not be included in the borrower's taxable income.

Loan amounts not forgiven Any loan amounts not forgiven at the end of one year will be carried forward as an ongoing loan with terms of a maximum of 10 years at 4% interest or less.