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Coming Soon: CARES Act Relief for Mid-Sized Businesses



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While much attention has been focused on the relief provided in the recently enacted CARES Act that targets individuals and small businesses impacted by the COVID-19 pandemic, many mid-sized businesses are still waiting for help from the government. Despite expanded eligibility requirements under the CARES Act, many companies are too big to take advantage of a variety of small business loan programs.

The CARES Act, however, does allocate \$454 billion for relief that will include a mid-size business loan program. However, details on the mid-sized program, to be created by the U.S. Treasury Department, have not yet been released.

The mid-sized business loan program is part of a larger \$500 billion of funding to certain industries and businesses that have been severely impacted by the COVID-19 pandemic and who aren't considered small businesses. About \$46 billion of that funding is specifically allocated to certain industries such as passenger air carriers and related businesses, cargo air carriers, and businesses critical to the maintenance of national security. The remaining money has been set aside for relief programs to be established by the Federal Reserve System to assist a combination of direct lending and guarantees for businesses and to support lending through banks or non-bank lenders.

Although we're awaiting more guidance on how the mid-sized business loan program will actually work, the CARES Act does provide some preliminary details:

Eligibility

The CARES Act contemplates that these loans may be provided to an "eligible business" or nonprofit organization (to the extent practicable) with between 500 and 10,000 employees.

An eligible business includes "a United States business that has not otherwise received adequate economic relief in the form of loans or loan guarantees provided under this Act." Many mid-sized businesses that do not qualify for the Small Business Loan programs (like the [Paycheck Protection Program](#)) would thus likely qualify for the new mid-sized business loan program.

Similar to the SBA loan programs, the mid-sized business loan program will only be available to "businesses that are created or organized in the United States or under the laws of the United States **and** that have significant operations in **and** a majority of its employees based in the United States."

Loan Terms

The CARES Act provides that the maximum interest rate for these loans is 2%, with no principal or interest due for at least the first 6 months (which the Treasury Secretary may extend in the expected forthcoming guidance).

Unlike the Paycheck Protection Program, the CARES Act does not contemplate any loan forgiveness for the mid-sized business loan program, and the loans will be treated as indebtedness for tax purposes.

Required Recipient Certifications

The CARES Act also specifies the following good-faith certifications that recipients will be required to make to participate in the program:

1. the uncertainty of economic conditions makes the loan request necessary to support ongoing operations;
2. funds received will be used to retain at least 90% of the recipient's workforce, at full compensation and benefits, through Sept. 30, 2020;
3. the recipient intends to restore not less than 90% of its workforce that existed as of Feb. 1, 2020, and to restore all compensation and benefits to the workers no later than four months after the termination date of the public health emergency declared by the Secretary of Health and Human Services in response to COVID-19;
4. the recipient is domiciled in the United States with significant operations and employees located in the United States;
5. the recipient is not a debtor in a bankruptcy proceeding;
6. the recipient is created or organized in the United States or under the laws of the United States and has significant operations and a majority of employees based in the United States;
7. the recipient will not pay dividends with respect to the common stock of the business or repurchase an equity security that is listed in the national securities exchange of the recipient or any parent company while the loan is outstanding (unless it is required to do so under a contractual obligation that predates the CARES Act);
8. the recipient will not outsource or offshore jobs for the term of the loan and two years after repayment of the loan;
9. the recipient will not abrogate existing collective bargaining agreements for the term of the loan and two years after repayment of the loan; and
10. the recipient will remain neutral in any union organizing effort for the term of the loan.

Loan Timing

As noted above, no other details on the program are available yet, and the CARES Act does not include a timeline for implementation of this program. However, the CARES Act states that these loans must be made before Dec 31, 2020.

Separate from the CARES Act, the Federal Reserve on March 23, 2020, announced that it expects to establish a Main Street Business Lending Program soon "to support lending to eligible small-and-medium sized businesses, complementing efforts by the SBA." The CARES Act specifically states its support of the establishment of such a program, but no further details have been announced yet.

We will keep updating the details on all relief programs established by the CARES Act, including the mid-sized business loan program. In the meantime, if you have any questions or want to discuss these matters further, please don't hesitate to contact the Gould & Ratner attorney with whom you work regularly.