# CARES Act Provisions to the 7(a) Loan Program

## Government Support for Businesses

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# Overview of CARES Act Provisions

*Support for Small Businesses*

**The CARES Act expands coverage of the SBA 7(a) loan program to support businesses impacted by COVID-19.**

- Title I is the Keeping American Workers Paid and Employed Act, driving the intent for the first part of the law
- 7(a) loans under this provision are called "Paycheck Protection Loans"
  - Many restrictions have been removed on eligibility
  - Banks provide these loans with authority delegated by the Small Business Administration
- Forgives loan amounts based on headcount to incentivize maintaining employment
  - Appropriates $349B to go to lenders on forgiven loans
- Loans under this law need to be provided in the "covered period" from February 15$^{th}$ to June 30$^{th}$, 2020

# Eligibility for the 7(a) Loans

*Criteria to Meet*

**The intent of the law is to keep employees paid, and companies need to certify that the current economic situation will make this loan necessary to do that.**

- An eligible recipient applying for a covered loan shall make a good faith certification—
  - "that the uncertainty of current economic conditions makes necessary the loan request to support the ongoing operations of the eligible recipient;
  - acknowledging that funds will be used to retain workers and maintain payroll or make mortgage payments, lease payments, and utility payments;
  - that the eligible recipient does not have an application pending for a loan under this subsection for the same purpose and duplicative of amounts applied for or received under a covered loan; and
  - during the period beginning on February 15, 2020 and ending on December 31, 2020, that the eligible recipient has not received amounts under this subsection for the same purpose and duplicative of amounts applied for or received under a covered loan."

# Eligibility for the 7(a) Loans

*Criteria to Meet*

**In general, any firm with less than 500 employees is eligible for a 7(a) loan between February 15th and June 30th, 2020.**

- The law removes any revenue restriction of eligibility
- A firm is eligible if it employs no more than the <u>greater</u> of:
  - 500 employees
  - The size standard for that company's NAICS industry code (if a standard has been set)
    - Every manufacturing industry with a NAICS code prefix of 31-33 has a standard, and they are typically more than 500
  - Firms with a code prefix of 72 (Accommodation and Food Services) can have up to 500 employees per physical location
- The law defines "employee" as an individual "employed on a full-time, part-time, or other basis."
- Final guidance is still pending, however general consensus among law firms is that affiliates will be included in employee count

SBA NAICS Code List

# Loan Amount

*Based on Payroll Expenses*

**The loan amount authorized is based on payroll expenses and is capped at $10MM.**

- The loan amount will be the <u>lesser</u> of
  - $10MM
  - The sum of:
    - 2.5 times average monthly payroll expenses and
    - Any balance on disaster loans made after January 31st, 2020
- In general, average monthly payroll expenses will be calculated by summing expenses over the last year and dividing by 12:

| What's included in "Payroll Expenses" | What's not included |
|---|---|
| • Salaries, wages, commissions, or similar compensation<br>• Cash tips<br>• Payments for time off<br>• Separation allowances<br>• Group healthcare expenses including premiums<br>• Retirement benefits<br>• State or local taxes<br>• Contractor salary payments | • Wages over $100,000<br>• Taxes imposed or withheld under FICA, RRTA, and ITW<br>• Salaries for employees who live outside the US<br>• Leave payments for employees as provided by the second COVID-19 law passed earlier this year |

# Authorized Uses

*Expenses Able to be Funded by Payroll Protection Loans*

**The allowed uses for these loans matches the law’s intent: to maintain employee's salaries and benefits.**

- Authorized uses of these 7(a) loans are:
  - Payroll costs as outlined in the prior slide
    - Includes salaries and commission
  - Group healthcare costs
  - Interest payments on a mortgage or any debt obligations
    - No prepayments or principal payments
    - Loans need to have originated prior to February 15$^{th}$, 2020
  - Rent
  - Utilities

# Loan Forgiveness

*Government Support for Loans Used for Employees*

**Loans used to maintain staff and pay obligations are eligible for forgiveness**

- The amount eligible for forgiveness will be the <u>lesser</u> of
  - The principal amount of a 7(a) loan originated under the terms of the law
  - The following expenses for the eight weeks after loan is originated
    - Payroll expenses
    - Interest on any mortgage incurred before February 15$^{th}$, 2020
    - Utilities and Rent for obligations and services started before February 15$^{th}$
  - Of note, a borrower can use the loan to pay interest payments on any debt obligation, but only interest on mortgages of "real or personal property" will be forgiven
- Loan amounts that are forgiven will be considered cancelled indebtedness

# Loan Forgiveness

*Government Support for Loans Used for Employees*

**However the loan forgiveness amount can be reduced if employees are laid off or salaries are reduced**

- The amount forgiven will be reduced using the following calculation:

$$\boxed{\text{Original amount to be forgiven}} \times \frac{\boxed{\text{Average headcount* for eight weeks after loan originated}}}{\boxed{\text{Average headcount for either Jan 1 – Feb 29 or Feb 15 – Jun 30**}}}$$

- Loan forgiveness will also be reduced by any salary reduction that exceeds 25% of the original salary
- If a company lays off an employee between February $15^{th}$ and April $26^{th}$, but re-hires that employee before June $30^{th}$, they will not factor into the above calculation

**Full time employees*

***To be decided by the company*

# Additional Details

*Other Items to Note*

**The CARES Act provides additional resources to businesses outside the 7(a) loan program**

- Expanded coverage of emergency Economic Injury Disaster Loans (EIDL's)
  - Smaller dollar amount ($2MM) and more restrictions on eligible businesses
  - The SBA itself provides these loans, with the application on [its website]()
- Tax assistance under Title II: Assistance for American Workers, Families, and Businesses
  - This will be important to understand resources that your employees have access to as well

# How to Apply

*Steps to Receive Benefits*

**The Treasury Department has created a more concise application process than that of the original 7(a) loan.**

- The Treasury Department Website includes the application
- The company itself is responsible for certifying the eligibility requirements have been met, along with the 2.5x payroll calculation
- Applications will be processed by SBA approved lenders
  - This list of lenders will be updated shortly; the CARES act allows expansion of the list of providers
  - Companies are encouraged to contact their current lender for additional relief from those institutions (deferred principal payment, etc.)
- Loan forgiveness application requirements are outlined in the law itself:
  - Employment verification including tax filings for payroll, income, and unemployment insurance
  - Documentation verifying rent, mortgage interest, and utility payments
  - Certification from a representative of the company that the information is true and that the funds went to the authorized uses

# Appendix

*Sources*

- Text of the act
- Treasury Department's COVID-19 response page
- Paycheck Protection Program Loan Application
- SBA's NAICS code list