

ZIEGLER INVESTMENT BANKING

# CARES ACT OVERVIEW FOCUS ON PAYCHECK PROTECTION PROGRAM

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## PRESENTED BY

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# CORONAVIRUS AID, RELIEF AND ECONOMIC SECURITY ACT (THE CARES ACT)

# OVERVIEW OF THE CARES ACT

- Provides stimulus to individuals and businesses in response to the economic distress caused by COVID-19
- \$500 billion “Exchange Stabilization Fund” billion for assistance to business, states and municipalities (specifically mentions air and national security)
- \$100 billion “Public Health and Social Services Emergency Fund” for healthcare industry
- Creates \$349 billion Paycheck Protection Program

# PROGRAMS MOST APPLICABLE TO NOT-FOR-PROFIT CCRC'S

- Accelerated/Advanced Payment for Medicare Providers and Suppliers
- Telehealth – provision to expand telehealth services under Medicare
- Families First Coronavirus Response Act
- Deferral of employer payroll tax
- Business interruption insurance
- **Paycheck Protection Program**

# PAYCHECK PROTECTION PROGRAM

# PAYCHECK PROTECTION PROGRAM OVERVIEW

- The Paycheck Protection Program (“PPP) is a loan designed to provide a direct incentive for small businesses to keep their workers on the payroll
- PPP will be administered by the Small Business Administration (“SBA”)
- SBA will forgive loans if all employees are kept on the payroll for eight weeks and the money loaned was used for payroll, rent, mortgage interest or utilities
- The PPP will be available through June 30, 2020

# PPP ELIGIBILITY...WHO WE KNOW IS ELIGIBLE

- Small business, 501(c)(3) nonprofits, tribal business concerns and veteran's organizations that:
  - Have **less than 500 employees** or applicable size standard for industry as provided by SBA
  - Sole proprietors, self-employed or independent contractors
  - Were in business on February 15, 2020
- Any business concern that employs not more than 500 employees per **physical location** and are:
  - In the hotel and food service industry
  - Are franchises In the SBA Franchise Directory
  - Are small business that receive financial assistance from small business investment companies

# PPP ELIGIBILITY

- Questions on eligibility still unknown
  - Are multi-site non-profit senior living organizations with no more than 500 employees per campus eligible?
  - Are single site providers with other business lines (child care, pharmacy, etc.) with no more than 500 employees per business unit eligible?
- General assumption is that 500 employee limit includes individuals employed on a full-time, part-time or other basis (i.e. **NOT** FTE's)

# PPP QUALIFICATION CERTIFICATION REQUIREMENT

- To qualify applicants must certify to the following:
  - Current economic uncertainty makes loan request necessary to support ongoing operations
  - The funds will be used to retain workers and maintain payroll or make mortgage payments, lease payments and utility payments
  - Documentation verifying the number of employees on payroll as well as dollar amount of payroll, mortgage, lease and utilities for eight weeks following loan are provided
  - During period beginning February 15, 2020 through December 31, 2020 the applicant has not received another loan under program
  - Certify that information being provided is true and accurate
  - Acknowledge that lender will calculate the eligible loan amount using tax documents that have been previously submitted

# PPP LOAN SIZE

- Maximum loan is the lesser of 250% of average monthly payroll or \$10 million
- What cost are eligible for payroll?
  - Compensation (salary, wage, commission)
  - Payment for vacation, parental, family, medical or sick leave
  - Allowance for dismissal or separation
  - Payment required for group health and retirement benefit
  - Payment of state or local tax assessed on employee compensation
- What cost are **not** eligible for payroll?
  - Employee compensation over \$100,000
  - Taxes imposed or withheld 21, 22 and 24 of IRS code
  - Employees whose principal residence is outside of U.S.
  - Qualified leave for which credit is allowed under Families First Coronavirus Response Act

# PPP LOAN SIZE

- For purposes of calculating “Average Monthly Payroll”
  - Use average monthly payroll for 2019 however:
    - Be prepared to have compensation from January 2019 – February 2020 available
  - Excludes costs **over** \$100,000 on an annualized basis for each employee
    - Question: Do you reduce total amount of compensation or just compensation over \$100,000?
    - Answer: Recently published application states “excluding costs over \$100,000” so for an employee making \$125,000 only \$25,000 would be excluded
    - Be prepared to quantify both total compensation of those making over \$100,000 and amount of compensation over \$100,000

# PPP LOAN FORGIVENESS

- Loan recipients will be eligible for loan forgiveness based on:
  - Loan forgiveness equal to the sum of the following costs incurred over the 8-week period after the loan's origination date
    - Payroll cost excluding compensation above \$100,000
    - Payment of interest on mortgage obligation
    - Payment of rent obligations
    - Utilities payments
  - The amount forgiven can be 100% of amount borrowed but can not exceed amount borrowed
- Due to the anticipated number of requests it is anticipated that no more than **25%** of the forgiveness can come from non-payroll costs

# PPP LOAN FORGIVENESS

- The amount of loan forgiven is reduced if:
  - The number of employees are reduced
    - Calculated based on formula taking into account average FTEs from February 15, 2019 through June 30, 2019, FTEs at beginning of loan origination and FTE's eight weeks after loan origination
  - There is a reduction greater than 25% in wages paid to employees
- What if I have already laid off employees or reduced compensation?
  - Reductions in employment or wages that occurred between February 15 and April 26 will not reduce forgiveness **IF** by June 30, 2020 the borrower eliminates the reduction in employees or wages

# PPP OUTSTANDING LOAN

- For the portion of the loan that is not forgiven:
  - All payments are deferred for six months but interest will accrue over this period
  - Maximum term of the loan is 10 years and maximum interest rate is 4.00%
    - Preliminary indication is loan term will be **2 years** at a fixed interest rate of **0.50%**
  - Loan can prepaid anytime prior to maturity with no prepayment penalties or fees
  - Loan is unsecured

# PPP IMPACT ON EXISTING DEBT

- Provided the PPP is structured as loan, for borrowers with existing outstanding debt it is likely they will need to meet one of their existing additional debt tests
- The following are the most likely additional debt provision that will allow for PPP
  - Historic pro-forma test
    - Funds available for debt service from most recent audit
    - Maximum annual debt service taking into account existing debt and new PPP debt incurred
    - Balloon provision may prove helpful
  - Basket/other additional debt
    - Most indentures include ability for borrow an amount not to exceed 10% of Total Revenues
  - While the PPP loan is unsecured, subordinate debt provisions unlikely to be satisfied due to loan not mentioning subordination

# WHAT DO I DO IF I WANT TO EXPLORE A PPP LOAN?

- Contact primary operating bank and ask for their help in facilitating loan
  - The SBA will facilitate PPP loans only through SBA qualified lenders
  - Lenders will likely only accept applications via online portal
  - If current bank is NOT a qualified SBA lender, reach out to other relationship banks asking for their assistance
- Banks will likely have the ability to accept online applications beginning Friday April 3, 2020
  - It is important to contact banks **NOW** even before they can accept applications
  - This loan will be extremely popular and some banks will not be taking new clients

# WHAT SHOULD I DO IF I WANT TO EXPLORE A PPP LOAN?

- What documentation/information should I start gathering in anticipation of submitting application
  - Tax identification number
  - 501 (c)(3) determination letter
  - Most recent IRS form 941 (quarterly federal income tax return)
  - January 2019 through February 2020 payroll expenses
  - Identify employees making over \$100,000
  - Gather debt payment and/or rent schedules
  - Gather utilities bills

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