

## Attention Mid-Sized Businesses: Financial Relief Is Coming for You Too!

### Coronavirus Legal Advisory

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*Relief for mid-sized businesses covered in Title IV of the CARES Act has been overshadowed by discussions of that provided for small businesses. This alert covers relief available to businesses and non-profit organizations with 500 to 1,000 employees.*

As a result of the Coronavirus Aid, Relief, and Economic Security Act (the CARES Act), there has been a lot of talk about various Small Business Administration (SBA) programs designed to provide financial relief to businesses with 500 or fewer employees. In particular, Title I of the CARES Act establishes a \$350 billion Paycheck Protection Program, which contains a forgiveness feature in which up to the entire loan principal can be forgiven if the loan proceeds are used to pay payroll costs and other operating expenses. In essence, the federal government will pay the cost of a small business's payroll and other operating expenses over a specified period of several months.

On the other hand, very little has been said about the \$454 billion relief for mid-sized businesses, contained in Title IV of the CARES Act. Section 4003 of the CARES Act authorizes the Department of the Treasury to implement a special facility to assist mid-sized businesses and provide financing to banks and other financial institutions to directly lend to eligible mid-sized businesses and nonprofit organizations with **500 to 10,000 employees**.

**This program is attractive to mid-sized businesses because (a) the interest rate is capped at 2% per annum and (b) principal and interest payments are postponed for at least six months.**

Unlike the SBA's Paycheck Protection Program, this program does not offer loan forgiveness. In addition, this program has restrictions and requires the business to certify the following:

1. The funds are necessary for the ongoing operations of the business;
2. The funds will be used to retain 90% of the business's workforce (full compensation and benefits) until September 30, 2020;
3. The business intends to restore not less than 90% of the workforce that existed as of February 1, 2020, and to restore all compensation and benefits to the workforce no later than four months after the termination date of the public health emergency declared on January 31, 2020;
4. The business was created or organized under the laws of the United States and the business is domiciled in the United States;

5. The business has significant operations in the United States and a majority of the employees are based in the United States;
6. The business is not a debtor in a bankruptcy proceeding;
7. While the loan is outstanding, the business will not pay dividends with respect to its common stock or repurchase an equity security listed on a national securities exchange of the business or any parent company of the business, except to the extent to which the business had a contractual obligation to do so as of March 27, 2020;
8. The business will not outsource or offshore jobs during the loan term or during the two years after the loan is repaid;
9. The business will not abrogate existing collective bargaining agreements during the loan term or during the two years after the loan is repaid; and
10. During the term of the loan, the business shall remain neutral in any union organizing effort.

McCarter & English, LLP is closely monitoring this relief for mid-sized businesses and will provide further guidance as it becomes available.