Addressing Restaurant FAQs on Relief Loans
# Dial-In Numbers

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<th>United States Toll</th>
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<td>(Washington D.C.)</td>
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Instructions for Chat

- Submit questions at any time during the program by clicking on the Chat icon in the right hand corner of your window. Enter your question in the text box.

All questions will be answered.
Sam Toia
President & CEO, Illinois Restaurant Association
Ben Jackson serves as Vice President of Government Relations for the Illinois Bankers Association. Ben leads the IBA’s efforts to enact the banking industry’s legislative and regulatory priorities at all levels of government.

He has over 19 years of government relations, public policy and campaign experience and earned a B.A. in Political Studies and a Master’s in Public Administration (MPA) from the University of Illinois Springfield.
Meet Today’s Presenters

Anthony J. Jacob is a partner in Hinshaw’s Commercial Transactions Group. Tony practices law in the areas of business law, banking and commercial finance law, real estate law, and election law.

Timothy M. Sullivan is a partner in Hinshaw’s Commercial Transactions Group. Tim has orchestrated a number of mergers and acquisitions, handling all aspects of compliance with federal and state securities laws and regulations.

Michael D. Weis is a partner in Hinshaw’s Commercial Transactions Group. Michael has negotiated and closed hundreds of corporate and commercial real estate transactions.
Paycheck Protection Program
Paycheck Protection Program

The CARES Act established the Paycheck Protection Program ("PPP" or "Program") which provides nearly $350 billion in forgivable loans designed to keep workers employed during the COVID-19 crisis.

The Interim Final Rules for the PPP were issued by the SBA on April 2, 2020. On April 7, 2020, the SBA issued a FAQ that provided additional guidance on interpreting the provisions of the PPP.
Any federally insured depository institution that is not an SBA 7(a) lender may participate in the PPP by submitting to the SBA the CARES Act Section 1102 Lender Agreement (SBA Form 3506).
Lender Underwriting Obligations

To satisfy its underwriting obligation, each bank lender must:

❖ Confirm receipt of the borrower’s certifications contained in the borrower’s Program application;

❖ Confirm receipt of information demonstrating that the borrower had employees for whom the borrower paid salaries and payroll taxes as of February 15, 2020;

❖ Confirm the dollar amount of monthly payroll costs for the borrower for 2019 by reviewing payroll information provided by the borrower;

❖ Comply with its Bank Secrecy Act protocols; and

❖ Review the borrower’s Program application.
PPP Lenders

The lender is expected to make a good faith review of the information submitted by the loan applicant. If the lender identifies errors or material lack of substantiation, it should work with the applicant to correct the problems.
Applicant Documentation

As part of the review of the PPP application, the lender should secure the following documents covering 2019 for applicants that have employees:

- IRS Form 941 (quarterly wages);
- IRS Form 843 (941 annualized);
- IRS Form W-3;
- IRS Form 940 for unemployment costs; and
- IRS Form 1040-C if the business is a sole proprietorship.
Applicant Documentation

Monthly payroll statements providing the following:

- Salary, wages, commissions or tips (not exceeding $100,000 for each employee);
- Costs for vacation, parental, family, medical or sick leave;
- Costs for the separation or dismissal of employees; and
- State and local taxes assessed on employee compensation.
Applicant Documentation

As discussed below, portions of a loan may be forgiven under the program. The lender may rely on documentation submitted by the borrower supporting its request for loan forgiveness along with the borrower’s attestation that it has accurately verified that the payments are eligible costs under the Program.
Lender, SBA and Agent Fees

Lenders will receive the following fees:

- 5% for loans of not more than $350,000;
- 3% for loans of more than $350,000 and less than $2,000,000; and
- 1% for loans of at least $2,000,000.
As to SBA fees, there will be no:

❖ up-front fee payable by the borrower to the SBA;
❖ lender’s annual service fee payable to the SBA;
❖ subsidy recoupment fee; and
❖ fee payable to the SBA for any guarantee sold into the secondary market.
Lender, SBA and Agent Fees

Agents who assist borrowers will receive fees from the lender as follows:

❖ 1% of loans of not more than $350,000;
❖ .5% of loans of more than $350,000 and less than $2,000,000; and
❖ .25% of loans of at least $2,000,000.
Eligible Businesses

The following are eligible to participate in the PPP:

❖ Businesses with fewer than 500 employees;
❖ Businesses with NAICS Code 72, such as restaurants and hotels, who can have up to 500 employees per location;
❖ Nonprofit (501(c)(3)) organizations, veterans’ organizations (501(c)(19)) and tribal business concerns with fewer than 500 employees;
Eligible Businesses

❖ Businesses that meet the SBA’s alternative size standard as of March 27, 2020:
   ➢ With a maximum tangible net worth of not more than $15 million; and
   ➢ Average net income after federal income taxes (excluding any carryover losses for the two fiscal years before the date of the application) is not more than $5 million;

❖ Sole proprietorships and independent contractors.

In making the headcount for employees, the loan applicant must count all part-time and full-time employees, including temporary employees.
Affiliates

A business must include the employees or the receipts of affiliates when determining whether the business may participate in the Program. A business is affiliated with another if either controls the other. Control may exist through (i) common ownership, (ii) management interlocks, (iii) affiliations arising under stock options, convertible securities and agreements to merge, and (iv) identity of interest. The SBA determines affiliation under 13 CFR Section 121.103.

Under the SBA rules, the affiliation rules are waived for (i) businesses within NAICS Code 72—businesses like hotels and restaurants with 500 or fewer employees; (ii) franchises with codes assigned by the SBA; and (iii) businesses that receive financial assistance from SBICs.
Ineligible Businesses

Certain businesses are ineligible to participate in the Program even if they fit within one of the categories listed above. These include:

❖ The business is engaged in a business that is illegal under federal, state or local law, e.g., cannabis related businesses;
❖ An owner of 20% or more of the loan applicant is incarcerated, on probation, on parole; presently subject to indictment, criminal information, arraignment, or other means by which formal charges are brought in any jurisdiction or has been convicted of a felony within the last five years; and
❖ The business or the owner thereof is currently delinquent or has defaulted within the last seven years on a loan guaranteed by the SBA or any other federal agency that caused a loss to the government.

There are 18 categories of businesses that are ineligible to participate in the Program. For further information, loan applicants should consult Chapter 2, Section III of the SBA’s Lender and Development Company Loan Programs (SOP 50 20 5(K)).
Loan Applications

It is incumbent upon the applicant to carefully review the application. When completing an application, an applicant must certify, among other things, that:

- current economic uncertainty makes the loan request necessary to support the ongoing operations of the applicant;
- funds will be used to retain workers and maintain payroll or make mortgage interest payments, lease payments and utility payments;
- not more than 25% of the funds will be used for nonpayroll costs; and
- documentation verifying the number of full-time equivalent employees on payroll as well as the dollar amounts of payroll costs, covered mortgage interest, covered lease payments and covered utility payments for the eight week period following the date the loan was made will be provided to the lender so the lender can determine if any or all of the loan can be forgiven.

Applicants should note that they are signing and delivering a loan application to an agency of the federal government. The filing of a fraudulent application could subject the applicant to fines and criminal penalties.
Loan Terms

Loan terms are as follows:

❖ SBA will guarantee 100% of the loan;
❖ No collateral or personal guarantees will be required;
❖ The amount of the loan will be 2.5 times the borrower’s average monthly payroll costs for 2019; payroll costs include salary, commissions, tips, vacation pay, and family, medical and paid sick leave; all compensation to employee making more than $100,000 is excluded but benefits like health care costs and contributions to retirement plans for such employees may be included; in addition, guaranteed payments and owner distributions that are subject to the self-employment tax for actively participating partners and members of partnerships and LLCs should be included up to $100,000 for each such person;
❖ Loans are capped at $10 million;
❖ The interest rate will be 1%;
❖ The loans will mature in 2 years;
❖ There is no prepayment penalty; and
❖ No payments will be due for the first 6 months but interest will accrue.
Loan Forgiveness

The loan can be forgiven in whole or in part. The amount to be forgiven is equal to the amount spent during an 8 week period following the making of the loan on payroll costs, interest payments on mortgages incurred before February 15, 2020, rent payments on leases in effect before February 15, 2020 and utility payments for which service began before February 15, 2020. The amount forgiven may not exceed the amount of the loan. The maximum amount of loan forgiveness for non-payroll expenses is 25% of the amount of the loan.

Eligible payroll costs include compensation up to $100,000 in prorated wages per employee. Aggregate payroll costs must not exceed payroll costs incurred during the equivalent 8 week period for the previous year, proportionate to the number of employees.
Loan Forgiveness

The amount forgiven may be reduced if there is a reduction in the number of employees or a reduction of more than 25% in wages paid to employees.

To encourage employers to rehire workers laid off due to the COVID-19 crisis, borrowers that rehire laid off workers will not be penalized for having a reduced payroll at the start of the period.

The borrower will submit the required information to the lender attesting that the information is correct. The lender may rely on the borrower’s documentation supporting its request for loan forgiveness along with the borrower’s attestation that the borrower has accurately verified that the payments are eligible costs under the Program.
Application Filing Deadline

Loan applications must be filed by June 30, 2020 but applications should be filed as soon as possible.
Main Street Banking Program

The CARES Act instructs the Secretary of the Treasury to encourage the Fed to establish a program of low interest loans to borrowers with between 500 and 10,000 employees. The Fed expects to issue guidance for this program in the next two weeks.

The Act includes a number of requirements that must be satisfied if the employer desires to participate in the program including:

- The loan funds must be used to retain at least 90% of the employees, at full pay and benefits, until September 30, 2020;
- The employer must intend to restore no less than 90% of its employees who were employed on February 1, 2020 and to restore all pay and benefits to the employees no later than four months after the termination of the COVID-19 crisis;
- No stock buybacks while the loan is outstanding and for 12 months after the end of the loan;
- All loans must be fully secured by the assets of the borrower;
- No dividends while the loan is outstanding and 12 months following the termination of the loan; and
- Executive compensation must be limited.
Press Release

April 09, 2020

Federal Reserve takes additional actions to provide up to $2.3 trillion in loans to support the economy

For release at 8:30 a.m. EDT
Deferral of Employment Taxes

Employers are allowed to defer paying their share of employment taxes (but not the Medicare portion) for the balance of 2020. They have to repay the unpaid portion as follows: 50% by the end of 2021 and the balance by the end of 2022.
SBA Economic Disaster Loan Program

Under the Economic Disaster Loan Program (EDLP), the SBA has been authorized to provide funding to small businesses impacted by the COVID-19 crisis. All states, including Illinois and Florida, have been approved to participate in the program.

The program permits the SBA to make low interest, fixed loans of up to $2 million to a small business (at 3.75%) or non-profit (at 2.75%) for up to 30 years, depending on the circumstances of the borrower. Loan proceeds cannot be used to pay off or consolidate debt. Additionally, owners will have to pledge collateral to secure the loan.

A company must be without any other available credit. Further, it must be unable to meet its obligations and pay its operating expenses.

The deadline to submit applications is December 21, 2020. Applications can be filed online or by mail. The approval process will take a minimum of 21 days. Businesses looking to secure a loan under the EDLP should apply as soon as possible. In addition to the 21 day minimum waiting period, thousands of companies have already applied for EDLP loans.

Additional information about this SBA program may be found at the SBA’s website.
Q&A
Thank You

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