

Tuesday, December 22, 2020 (Update 2)

To: New York Community Banks

As a follow up to this morning's update, here is a summary of the changes (mostly positive) in the stimulus package for community banks. This list includes PPP-related items as well.

- **TDR Relief Extended** – Allowing banks to suspend the Generally Accepted Accounting Principles for recognizing any potential COVID-related losses from a troubled debt restructuring to the earlier of 60 days after the national emergency termination date or January 1, 2022.
- **CECL Implementation Delayed, Too** – Adoption is now suspended until the first day of the fiscal year, which begins after the national emergency termination date or January 1, 2022.
- **Simplified Forgiveness Coming for PPP Borrowers Less Than \$150,000** – This will include one page of certifications, several estimations of how the money was spent and a report on retained employees. Perhaps the best part is that borrowers will not have to submit documentation with the forgiveness application, relieving the lender from responsibility to verify documentation before forgiveness is filed. The SBA has 24 days to establish the one-page forgiveness application.
- **EIDL Fix** – The bill fixes the vexing situation in which borrowers were having the EIDL advance amount deducted from their PPP forgiveness amount. This would be retroactive for any borrowers who have already received forgiveness.
- **Deductibility of Expenses** – Borrowers will be able to reduce from their taxable income in 2020 any expenses that were offset with a PPP loan.
- **Hold Harmless Provision** – PPP lenders received new hold harmless protection from enforcement actions and penalties relating to loan origination or forgiveness, provided they acted in good faith and satisfied other legal and regulatory requirements to which they are subject.
- **501(c)6 Organizations Now Eligible** – Corporations organized as tax-exempt under section 501(c)6 of the Internal Revenue Code and that do not conduct lobbying activity to exceed 15% of their total activity are now eligible to receive a PPP loan. This will cover many civic organizations in your community, including local chambers of commerce.
- **Lender Fees More Generous Than Previously Reported** – For loans up to \$50,000, the lender processing fee will be the lesser of 50 percent of the principal amount, or \$2,500. For loans between \$50,000 and \$350,000, the lender fee will be five percent. For loans \$350,000 and above, the lender fee will be three percent.
- **Special Bankruptcy Implications** – Establishes a special procedure in the bankruptcy process if the Administrator determines certain small business debtors are eligible for PPP loans. It requires court approval for PPP loans to these debtors and requires any such loan be given a super-priority claim in the bankruptcy process, providing additional protection to taxpayers and participating banks. The provisions in this section would take effect only upon a written determination by the Administrator that certain small business debtors are eligible for PPP loans and would sunset two years from the date of enactment.
- **Continued Funding for 7(a) Program** – Separates PPP from the 7(a) loans and authorizes \$75 billion for the regular 7(a) loan program.
- **Support for 7(a), 504 and Microloan Programs Resumes** – Borrowers will receive an additional three months of principal and interest payments, starting in February 2021. Future payments are capped at \$9,000 per borrower, per month. The borrowers of the smallest amounts will be eligible to receive an additional five months of P&I support.
- **Extension of Credits for Paid Sick and Family Leave** – The refundable payroll tax credits enacted in the Families First Coronavirus Response Act are extended through the end of March 2021. However, it does not extend the employer mandate. This credit is available if a business were closed (which banks were not) or their gross income was reduced by 50%.

- **Emergency Income Payments** – These are less generous than the original payments at \$600 per eligible family member. The credit phases out starting at \$75K of modified adjusted gross income. These payments are not subject to set off for federal taxes or garnishment or levy by debt collectors. We doubt that Treasury has improved its payment systems, so we should be prepared for ACH glitches.
- **Tenant Issues** – Emergency rental assistance is authorized to eligible households, provided through grants. At the same time, eviction moratorium is extended through January 31, 2021.
- **Agent fees** – Clarifies that any fees due to an agent providing assistance to a borrower are the responsibility of the borrower and not the lender unless the lender directly contracts with the agent.

Please contact IBANYS with any additional questions.

Thank you to the CCBA group of executives for their input.

Regards,

John