



**SBIA Summary of the
Coronavirus Aid, Relief, and Economic Security Act (CARES Act)
(as of 7:45pm EST, March, 22, 2020)**

This is a top-line summary of the small business provisions in Title I of the CARES Act, the Senate’s CV-19 economic relief package released on March 22, 2020.

Procedurally, SBIA expects the Senate to vote on its proposal on Monday. Next, the House would consider the Senate’s bill and, under its rules, could either vote to pass it unchanged, or amend it. If the former, then the bill goes to the President for signature. If the latter, then the amended bill goes back to the Senate for consideration.

SBIA reminds readers that this summary is for informational purposes only. It is not legal advice. Please consult your firm’s legal and accounting professionals regarding any particular matters with the CARES Act that may affect your firm. SBIA reminds readers that the legislative process for the CARES Act remains fluid and variable, and SBIA reserves the right to revise this summary as new information and analyses become available.

[Numbers in (parenthesis) refer to the page number in the CARES Act.]

TITLE I—KEEPING AMERICAN WORKERS EMPLOYED AND PAID ACT

Sec. 1102. Paycheck Protection Program.

- **Overall.** Qualifying covered small businesses are eligible for federal-guaranteed emergency “Paycheck Protection Program” interest-bearing loans for business interruption because of CV-19. (7); (22)
 - Loans to help borrowers cover payroll (i.e., >\$100K/wages (11)) and other working capital expenses not already covered by previous federal CV-19 relief laws.
 - Loans made through 7(a) lenders and other designated institutions.
 - Loans are eligible for forgiveness, but with any unforgiven portion repayable after 10 years. (21)

- Loans are not subject to a subsidy recoupment fee (22)
- Appropriated amount/loans: \$299.4 billion (45)
- Eligible Borrowers. (i) “Covered small business concern” is one that has experienced supply chain/staffing/business closure/reduced sales as direct result of CV-19 (7). (ii) “small business concern” defined at 15 U.S.C. 636. (iii) “any business concern that employs not greater than 500 employees, or, if applicable, the SBA’s size standard/employees. (13); (iv) sole proprietors/independent contractors/self-employed persons (13). (v) food service business concerns (NAICS 72) with multiple locations, but that employ not more than 500 persons per location (14).
 - Eligible borrowers must make good faith certification to lender that borrower needs the funds to operate because of CV-19 disruption and will deploy funds for eligible uses. (19-20)
- Covered Period. The “covered period” is Feb 15 – June 30, 2020 (e.g., small business was operational). (9)
- Affiliation. During the covered period, affiliation rules waived for borrowers that are SBIC portfolio companies and food service businesses and franchises. (15) *Helps loan eligibility for SBIC-financed small businesses because it mitigates small business size limit caps. This waiver does not appear to apply to all small businesses although borrower loan eligibility is broad.*
- Credit Elsewhere. During the covered period, the “credit elsewhere” requirement is waived for most small business borrowers. (21)
- Collateral and Personal Guarantee. During the covered period, “collateral” and “personal guarantee” requirements are waived for small business borrowers on advances and loans of not more than \$200,000. (21)
- Maximum Loan Amount. \$10 million (17)
- Allowable Uses/Loan Funds. Borrower uses loan funds to meet payroll/cover employee benefits; operating costs (e.g., rent; mortgage payments; utilities). (17)
- Designated Lenders. Treasury and SBA may designate “additional lenders” under this emergency loan program that “have the necessary qualifications to process, close, disburse and service loans made with the guarantee of the Administration.” (19) *SBICs and BDCs may qualify as “additional lenders” under this emergency program.*

Sec. 1105. Loan Forgiveness.

- **Covered Loans.** Eligible for loan forgiveness on the loan total provided borrower demonstrates that loan proceeds were used for eligible purposes.
 - Amount forgiven limited to principal amount borrowed. If borrower reduces payroll or number of employees during the covered period, then the loan amount available for forgiveness is reduced. (38-41). Exceptions for tipped workers and re-hires. (41)
 - Borrowers shall file for forgiveness with the lender directly. (43) No documentation, no forgiveness.
 - Cancelled indebtedness is not taxable to the borrower as gross income. (45)
 - SBA shall issue regulations governing loan forgiveness within 30 days of enactment. (46)

Sec. 1109. United States Treasury Program Management Authority.

- **Lender Designation.** The U.S. Treasury may designate “insured depository institutions (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)), institutions of the Farm Credit System chartered under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.), and other lenders that do not already participate” in SBA lending programs to participate in the small business interruption lending program. (56) *This provision permits the federal government to expand pool of potential lenders that are fiscally safe and sound, including qualifying BDCs, SBICs, and RBICs, eligible to make loans under this emergency program.*
 - Treasury to issue regulations that govern the terms and conditions for such lenders (e.g., compensation, interest rates, underwriting standards). (57)

Sec. 1113. Emergency rulemaking authority. Not later than 15 days after the date of enactment of this Act, the SBA shall issue regulations

TITLE IV—ECONOMIC STABILIZATION AND ASSISTANCE TO SEVERELY DISTRESSED SECTORS OF THE UNITED STATES ECONOMY

This creates a massive, loosely-defined credit facility \$500 billion credit facility with \$150 billion set aside for larger businesses who do not otherwise qualify for the aforementioned 7a loans (500 employees or less) and other lenders that do not already participate in lending under programs of the Administration.

Sec. 4013. Temporary Relief from Troubled Debt Restructurings.

- Accounting Standards Relief for Modified Loans. Waives the normal application of GAAP for "financial institutions" from March 1, 2020, until the earlier of December 31, 2020, or 60 days after termination of the public health emergency declared on January 31, 2020 for loans *modified* (that would otherwise be treated as troubled debt restructurings) as a result of CV-19, and to loan impairments related to such modifications. (368)

Sec. 4014. Optional Temporary Relief from Current Expected Credit Losses.

- Accounting Standards Relief. Sec. 4014(b)(1) waives the normal application of GAAP for "insured depository institutions" from March 1, 2020, until the earlier of December 31, 2020, or 60 days after termination of the public health emergency declared on January 31, 2020. (389)
 - *SBIA recommends expanding this section, waiving the normal application of GAAP, to all non- bank lenders.*