CONSUMER BANKERS ASSOCIATION
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CBA Analysis: Coronavirus Aid, Relief & Economic Security Act

Small Business Lending Provisions:

Section 1102: Paycheck Protection Program- pg. 9

The "Paycheck Protection Program" is established to provide covered loans to small businesses who were affected by economic conditions as a result of COVID-19, utilizing the "rails" of the SBA 7(a) program. The coverage period for borrowers begins February 15, 2020, and ends June 30, 2020.

Provides an authorization level of $349 billion for the 7(a) program through June 30, 2020.

A small business, nonprofit, tribal business, or veteran's organization with 500 employees, or the applicable size standard for the industry as provided by SBA, if higher is eligible to participate. Further includes sole proprietors, independent contractors, and an eligible self-employed individuals.

Allow businesses with more than one physical location that employs no more than 500 employees per physical location in accommodations and food services (as defined in NAICS Sector 72) as eligible.

Requires eligible borrowers to make a good faith certification that the uncertainty of current economic conditions makes the loan request necessary to support ongoing operations and borrower will use the funds to retain workers and maintain payroll and other debt obligations.

Allowable uses of the loan include any permitted 7(a) use, as well as payroll costs; employee salaries; costs related to continuation of group health care benefits during paid sick, family or medical leave; insurance premiums; mortgage interest payments; rent; utilities; and interest on any other debt obligation incurred before February 15.

The SBA will guarantee 100% of the Paycheck Protection Program loans under the same terms, conditions, and processes as a 7(a) loan.

The maximum loan amount is for a covered loan is the average total monthly payments for payroll costs incurred during the 1-year prior multiplied by 2.5, OR no more than $10 million. Additionally, the amount of an SBA Emergency Injury Disaster Loan made after January 31, 2020, may be refinanced under a covered loan and included in the calculation of the maximum.

A covered loan will have a maximum maturity of 10 years from the date on which a borrower applies for loan forgiveness under Sec. 1106.

The interest rate for covered loans will not be greater than 4%.

Waives the credit elsewhere test; borrower and lender fees; and collateral and personal guarantee requirements for participation in the Paycheck Protection Program.

The SBA will reimburse the lender based on the balance of the financing at time of disbursement. The reimbursement will be made within five days.

- 5% for loans under $350,000;
- 3% for loans between $350,000 and $2 million;

- 1% for loans greater than $2 million.

Provides delegated authority to any lender to make and approve a covered loan for the allowable uses described above.

Provides authority to make covered loans to additional lenders at the discretion of SBA and Treasury (Fintech).

Covered loans will require lenders provide a payment deferral of 6 months to 1 year.

The SBA will have no recourse against any individual shareholder, member, or partner of an eligible recipient of a covered loan for nonpayment, except if the loan is used for an unauthorized purpose.

Provides the regulatory capital risk weight of loans made under this program, and temporary relief from troubled debt restructuring (TDR) disclosures for loans deferred under this program.

An agent assisting to prepare a covered loan may not collect a fee in excess of the limits established by the SBA.

Allows for a covered loan to be sold in the secondary market and does not allow the SBA to collect any fee for any guarantee sold in the secondary market.

Allows SBA to encourage lenders and agents through guidance to ensure the processing and disbursement of covered loans prioritizes small businesses in underserved and rural markets, veterans, and those controlled by socially and economically disadvantaged individuals, women, and businesses in operation for less than 2 years.

Increases the maximum loan for an SBA Express loan from $350,000 to $1 million through January 1, 2021, after which point the maximum will sunset back to $350,000.

<u>Section: 1106: Loan Forgiveness- pg. 41</u>

A borrower shall be eligible for loan forgiveness on a loan made through the Paycheck Protection Program. Forgiveness will equal the amount spent by the borrower during the 8-week period, beginning on the date of the origination of the loan, on payroll costs, interest payments on mortgages incurred prior to February 15, 2020, payments of rent prior to February 15, 2020, and payments on any utility for which service began before February 15, 2020.

Amounts forgiven may not exceed the principal amount of the loan and will be reduced if there was a reduction in number of employees or salaries.

A borrower will submit an application for forgiveness to the lender who is servicing the covered loan, including documentation verifying employees on payroll, payroll tax filings, and additional information.

No later than 90 days after the date which the amount of forgiveness is determined, the SBA will remit to the lender the forgiven amount plus any interest accrued through the date of payment.

Section 1109: The United States Treasury Program Management Authority- pg. 61

The Treasury Department, along with the Farm Credit Administration, and other federal regulatory agencies will establish criteria for insured financial institutions and other lenders that do not already participate in

lending under programs of the SBA, to participate in the Paycheck Protection Program, which will provide loans to a small business, between February 15, 2020, through December 31, 2020.

Requires Treasury to ensure terms and conditions provided by this section follow guidelines set forth in the Paycheck Protection Program.

Establishes the SBA will administer the program, including purchasing and guaranteeing loans, with guidance from Treasury.

SBA Qualified Lenders may elect to participate in the Paycheck Protection Program and such participation will not prevent those lenders from continuing to participate in the 7(a) loan program.

Section 1112: Subsidy for Certain Loan Payments- pg. 73

Defines a covered loan as a 7(a) (including Community Advantage), 504, and microloan product. Paycheck Protection Program (PPP) loans are not covered.

Allows SBA to encourage lenders to provide deferments and to extend the maturity of the loans to avoid balloon payments or any increases in debt for the borrower during the period of the national emergency declaration.

Requires the SBA to pay the principal, interest, and any associated fees that are owed on the defined loans for a six month period starting on the next payment due. Loans that are already on deferment will include six months of payment by the SBA beginning with the next payment after deferment. Loans made during this period until six months after the enactment will also qualify for six months of deferral payment by the SBA.

SBA must make payments no later than 30 days after the date on which the first payment is due.

Requires SBA to coordinate with the Federal Deposit Insurance Corporation (FDIC), the Office of the Comptroller of the Currency, and state bank regulators to encourage those entities to not require lenders to increase their reserves on accounts they are receiving funds from SBA, waive limits on maximum loan maturities during the one year period, provide extra time to access properties but not more than 60 days, and not more than 90 days after default.

Requires the SBA to still make payments even if the loan was sold on the secondary market.

Provides an authorization level of $17 billion to the SBA to carry out this section.

Temporary Regulatory Relief Provisions

Section 4003: Emergency Relief and Taxpayer Protections- pg. 512

Authorizes the Treasury Department to provide $500 billion in loans, loan guarantees, or other investments, for the following through the Exchange Stabilization Fund:

- $25 billion for passenger air carriers

- $4 billion for cargo air carriers
- $17 billion for businesses critical to maintaining national security
- $454 billion for programs and facilities established by the Federal Reserve for the purpose of providing liquidity to the financial system that supports lending to eligible businesses, States, or municipalities
- Authorized lenders (depositories, brokers, dealers and other institutions) are designated as financial agents of the United states for the purpose of making loans under this program.
- All direct lending must meet the following criteria:
    - Alternative financing is not reasonably available;
    - The loan is secured or made at an interest rate that reflects the risk of the loan;
    - The duration of the loan shall be as short as possible and shall not exceed 5 years;
    - Borrowers cannot engage in stock buybacks during the duration of the loan; and
    - Borrowers must maintain existing employment levels, to the extent possible.
- Any lending through a facility established by the Federal Reserve under this Section must be broad-based, with verification that each participant is not insolvent and is unable to obtain adequate financing elsewhere.

In issuing loans or loan guarantees, the Treasury Secretary must ensure the government is compensated for the risk it assumes, and the Treasury is accordingly authorized to participate in gains of the borrowers through warrants, stock options, common or preferred stock.

For businesses receiving direct assistance from the Treasury Department, loans must be secured, for a term of no more than five years. While the loan is outstanding, borrowers are required to maintain existing employment levels, as of March 13, 2020. Loan forgiveness is not permissible in any such credit facility.

Section 4008: Debt Guarantee Authority- pg. 533

Authorizes the FDIC to temporarily establish a debt guarantee program to guarantee debt of solvent insured depositories and depository institution holding companies. Noninterest-bearing transaction accounts may be treated as a debt guarantee program. The National Credit Union Administration (NCUA) is given authority to temporarily increase share insurance coverage for noninterest-bearing transaction accounts. Such authorities, programs, guarantees, and increases shall terminate no later than December 31, 2020.

Section 4011: Temporary Lending Limit Waiver- pg. 536

Temporarily provides a nonbank financial company an exception to the OCC's lending limits aligned with the exception for financial companies, and temporarily authorizes the Comptroller of the Currency to exempt any transaction from the lending limits, if the exemption is in the public interest. The temporary exemption from lending limits and authorization to exempt transactions expires at the earlier of December 31, 2020, or the date on which the national emergency declaration related to coronavirus is terminated.

Section 4013: Temporary Relief from Troubled Debt Restructuring- pg. 539

A financial depository institution may elect to suspend requirements under U.S. Generally Accepted Accounting Principles for loan modifications related to the coronavirus pandemic, and suspend any such determination regarding loans modified as a result of the effects of the coronavirus.

Federal banking agencies and the NCUA must defer to a financial institution to make a suspension. Such election may begin on March 1, 2020, and last no later than 60 days after the lifting of the coronavirus national health emergency.

Section 4014: Temporary Relief from CECL- pg. 542

An insured depository institution (including a credit union), bank holding company, or any of its affiliates has the option to temporarily delay measuring credit losses on financial instruments under the new Current Expected Credit Losses methodology. Such option to delay expires at the earlier of December 31, 2020, or the date on which the national emergency declaration related to coronavirus is terminated.

Section 4021: Credit Protection During COVID-19- pg. 564

If a furnisher makes an accommodation for one or more payments on a credit obligation or consumer account the furnisher must report the obligation or account as current, unless the account was delinquent before the accommodation, in which case the delinquent status is maintained until it becomes current.

Applies for accommodations or payments between January 31, 2020 and the later of either 120 days after the bill is enacted, or July 11, 2020. An 'accommodation' includes forbearance, a deferral of one or more payments, partial payment plan, loan modification, or "any other assistance or relief granted to a consumer" affected by COVID-19 during this time.

Section 4022: Foreclosure Moratorium and Consumer Right to Request Forbearance- pg. 567

Prohibits foreclosures on all federally-backed mortgage loans for a 60-day period beginning on March 18, 2020. Provides up to 180 days of forbearance for borrowers of a federally-backed mortgage loan who have experienced a financial hardship related to the COVID-19 emergency.

Applicable mortgages included those purchased by Fannie Mae and Freddie Mac, insured by HUD, VA, or USDA, or directly made by USDA. The authority provided under this section terminates on the earlier of the termination date of the national emergency concerning the coronavirus or December 31, 2020.

Section 4023: Forbearance of Residential Mortgage Loan Payments for Multifamily Properties with Federally Backed Loans- pg. 570

Provides up to 90 days of forbearance for multi-family borrowers with a federally backed multi-family mortgage loan who have experienced a financial hardship. Borrowers receiving forbearance may not evict or charge late fees to tenants for the duration of the forbearance period. Applicable mortgages include loans to real property designed for five or more families that are purchased, insured, or assisted by Fannie Mae, Freddie Mac, or HUD. The authority provided under this section terminates on the earlier of the termination date of the national emergency concerning the coronavirus or December 31, 2020.

Education Provisions

Section 3513: Temporary Relief for Federal Student Loan Borrowers- pg. 333

The Secretary shall suspend all payments due for Direct Loans and FFELP loans held by the Department of Education until September 30, 2020, with no interest accrual during the suspension.

Supplemental Appropriations

- $130 billion for Hospitals
- $150 billion for State and Local Governments
- $350 billion for Small Businesses
- 4 months of unemployment insurance
- $1,200 for Adults who made under $75k per their 2018 tax return, $500/child

Economic Development:

- $1.5 billion to support economic development grants for states and communities