

## THE PAYCHECK PROTECTION PROGRAM:

*An extraordinary, one-time loan and loan-forgiveness opportunity*

by **Thomas D. Herman, Esq.**



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The **Paycheck Protection Program (PPP)** is an unprecedented, one-time, \$349 billion loan and loan-forgiveness program created by Congress as part of the Coronavirus Aid, Relief, and Economic Security, or “CARES,” Act for eligible small businesses. The program is administered by the Small Business Administration (SBA).

The basic purpose of the PPP is to subsidize – up to 100% - the cost of keeping a company's employees on the payroll for eight weeks and keeping the business up and running.

### WHO IS ELIGIBLE?

Most small businesses (up to 500 employees), independent contractors, sole proprietors, and 501(c)(3) non-profit organizations are eligible to participate. Special rules apply to venture- and private equity-backed companies.

### WHAT IT IS.

Under the PPP, qualifying borrowers will be able to borrow up to 2 ½ times their average monthly payroll over the prior 12 months to be spent on payroll and other business-

related expenses, including health insurance premiums, taxes, rent, and mortgage interest, etc. The entire amount of the loan will be forgiven (thus making it in effect a grant) if a number of conditions are met – such as keeping employees on the payroll for the eight-week term of the loan, not reducing their salaries, and using the funds for the designated purposes.

In order to get the money out expeditiously, many conditions typically

associated with SBA and other loans do not apply. PPP loans require no collateral and are non-recourse. A borrower need not be creditworthy. SBA-certified lenders can rely solely on certifications of the borrower to determine the borrower's eligibility and its intended use of loan proceeds.

There are, of course, other details, many of which are still being worked out, and the SBA is expected to issue ongoing guidance as the program gets underway.

## **WHAT YOU SHOULD DO IF YOU WANT TO APPLY FOR A LOAN.**

Move quickly. Anyone considering applying for a PPP loan should submit an application, along with certain back-up documentation such as payroll records, to their lender as soon as possible.

The lending banks and the SBA are sure to be overwhelmed, and the \$349 billion fund is almost certainly going to be oversubscribed. It is first come, first served, until the money runs out.

Do not hesitate to contact **Tom Herman** at **THerman@SmithDuggan.com** or **617-228-4415**, or any other member of the firm, if you have any questions as to what the PPP program is about, whether you or your company are eligible, whether it makes sense to apply, what loan proceeds can be used for, and what the rules are for loan forgiveness.

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