

Compliance Today – July 2020 Compliance with the new COVID-19 business assistance loans

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The Coronavirus Aid, Relief, and Economic Security (CARES) Act, enacted March 27, 2020,^[1] provides some financial help to businesses across the United States. For small businesses (generally enterprises with 500 or fewer employees), the CARES Act provides loans that may be forgiven under the Paycheck Protection Program and emergency loans on generous terms under the Small Business Administration's (SBA) Economic Injury Disaster Loan program.^[2] For mid-sized businesses, "Title IV allocates up to \$454 billion (plus any unused funds of the additional \$46 billion currently allocated to airlines and national security businesses), for loans and loan guarantees to, and other investments in, programs or facilities established by the Federal Reserve Board to provide liquidity to the financial system and support lending to eligible businesses, states and municipalities."^[3] The Federal Reserve has not yet announced the details of the loan programs and/or credit facilities it will create to facilitate this lending; however, the CARES Act does provide the framework for the creation of a direct loan program targeted specifically at eligible businesses and nonprofit organizations with a number of employees between 500 and 10,000, which are considered mid-sized businesses under the CARES Act. Additionally, the CARES Act provides financial relief to healthcare providers through different programs: the Medicare accelerated payments program and the provider relief fund. On April 24, 2020, the president signed into law the Paycheck Protection Program and Health Care Enhancement Act (PPHCEA) to amend the CARES Act and increase the funding.^[4]

The information regarding the programs described below is current as of April 27, 2020.

Economic Injury Disaster loans

The SBA has a current disaster relief fund—the Economic Injury Disaster Loan (EIDL)—program previously established for businesses in declared disaster areas, which has been expanded by the CARES Act to cover the COVID-19 pandemic. Any business with less than 500 employees (including sole proprietorships, independent contractors, and self-employed persons), private nonprofit organization, or 501(c)(19) veterans' organization is eligible.

The loans can be used to pay fixed debts, payroll, accounts payable, and other bills that cannot otherwise be paid as a result of the disaster. Applicants may request an expedited disbursement (Economic Injury Disaster Advance) to be paid within three days of the request. The request must certify that the business is eligible for an EIDL loan. The loans may not be used for dividends and bonuses; disbursements to owners, unless for performance of services; repayment of stockholder/principal loans (with exceptions); expansion of facilities or acquisition of fixed assets; repair or replacement of physical damages; refinancing long-term debt; paying down (including regular installment payments) or paying off loans provided or owned by another federal agency,

including SBA, or a small business investment company; payment of any part of a direct federal debt, including SBA loans, except Internal Revenue Service obligations; and relocation.^[5]

Borrowers can borrow up to \$2 million and may request an advance emergency EIDL grant of up to \$10,000 from the SBA.^[6] The advance must be used for authorized costs but is otherwise not repayable.

The SBA offers long-term loans, with terms for repayment up to 30 years and terms determined on a case-by-case basis, depending on each borrower's ability to repay.^[7] The interest rates for these loans are 3.75% for small businesses and 2.75% for private nonprofits. The payments may be deferred for one year but the program does not offer loan forgiveness.

The PPPHCEA allocated \$10 billion to the EIDL program in addition to the initial \$10 billion authorized under the CARES Act.^[8]

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