

COVID-19: FAQs on SBA Assistance to Small Businesses

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Our firm has been closely monitoring developments in connection with the COVID-19 situation and, in particular, under what circumstances the Small Business Administration (SBA) will begin providing assistance in response to the current crisis. At this time, the policies are still being formulated; however, in an effort to be forward-looking, we are issuing this alert to identify what relief is available under current rules.

Below are some general FAQs that are applicable under the current rules. The situation has been evolving rapidly, which makes it difficult to determine what form the relief will actually take. That said, the general sentiment in Washington is that the assistance should be offered to a broader group than the current framework; however, this is still undecided at this time.

- **What assistance is available?**

- Economic Injury Disaster Loans (EIDL) of up to \$2 million at an interest rate of less than 4% may be available to “small businesses” to assist them through the disaster recovery period.

- **Who is eligible for the assistance?**

- A business must meet the definition of “small” – click on this [link](#) to access the current North American Industry Classification System Codes.
- The size of the applicant alone (**without affiliates**) must not exceed the size standard designated for the industry in which the applicant is primarily engaged; and
- The size of the **applicant combined with its affiliates** must not exceed the size standard designated for either the primary industry of the applicant alone or the primary industry of the applicant and its affiliates, whichever is higher.
- For example, to be considered small, most manufacturing firms must have no more than 500 employees and most retail trade firms must have no more than \$7 million in average annual sales. Full-service restaurants must have no more than \$8 million in average annual sales.

- The definition of “affiliates” is broad. Click on this [link](#) to access the current rules regarding affiliation for Disaster Loans.
- The business must (i) be located in a declared disaster area, (ii) have suffered substantial economic injury, and (iii) be unable to obtain credit from non-government resources.
- 25 states to date have been certified as disaster areas. Click this [link](#) to determine whether your portfolio company is in a declared disaster state/county. We understand that additional states/counties will be certified as declared disaster areas in the coming days.
- Substantial economic injury “is such that the business concern is unable to meet its obligations as they mature or to pay its ordinary and necessary operating expenses.” Indicators of economic injury might be a larger than normal volume of receivables, a lower sales volume, slow inventory turnover, and the development of delinquencies in trade payables, current accruals, and debt payments.
- Private credit sources must be used as much as possible to overcome the economic injury. The SBA can provide EIDL assistance only to the extent the business (and its principals) cannot recover by using its own resources and normal lending channels.
- **How much assistance is available?**
- The maximum loan amount under the current program is \$2 million.
- **What can loans be used for?**
- Loan proceeds can only be used for working capital necessary to enable the business to alleviate the specific economic injury and to resume normal operations.
- You may request an EIDL for the amount of economic injury and operating needs, but not in excess of what your business could have paid had the disaster not occurred. In determining your eligible amount, the SBA will look at: (a) the total of your debt obligations; (b) operating expenses that mature during the period affected by the disaster, plus the amount you need to maintain a reasonable working capital position during that period; and (c) expenses you could have met and a working capital position you could have maintained had the disaster not occurred. The amount of your economic injury does not automatically represent the dollar amount of your loan eligibility; the SBA will evaluate the information you provide and determine the reasonableness of your loan request.
- **What are the terms of the loans?**
- The loan can have a maturity of up to 30 years and have an interest rate of 4% or less.
- The interest rate will depend on whether the applicant has credit available from other sources (e.g., when the SBA determines the applicant does not have the ability to borrow from non-government sources).
- The maturity will depend on the applicant’s ability to repay the loan.
- **What are the credit requirements?**
- Credit History – applicants must have a credit history acceptable to the SBA.
- Repayment – applicants must show the ability to repay all loans.
- Collateral – collateral is typically required. The SBA will take real estate as collateral when it is available. The SBA will not decline a loan for lack of collateral, but requires you to pledge what is available.
- Under the current EIDL system, the SBA must review your financial statement and one for each partner, officer, director, and stockholder with 20 percent or more ownership. The SBA requires the principals of the business to personally guarantee repayment of the loan and, in some instances, to secure the loan by pledging additional collateral. It is unclear whether this guaranty requirement will be applied to EIDLs issued in response to COVID-19.
- **What is the timing?**

- According to a recent congressional study, the average time to get an EIDL for past disasters has been 43.3 days.
- **What is the process for obtaining a loan?**
- There is a three-step process: 1) apply online; 2) verification, documentation, credit review, and loan processing by SBA staff in conjunction with the small business; and 3) loan closed and funds disbursed. Details of the three-step process can be found [here](#).
- The application for loans from businesses in areas that have been declared a disaster will be accepted via an online system at the SBA's [website](#).
- **What should you do today?**
- Our strong recommendation is that any business interested in accessing a loan contact your local SBA Regional Office or call 1-800-659-2955 to determine the appropriate SBA office to contact.
- The online application process will require the creation of an online account with which you can track the process of your application.
- You can see the form that you will need to file (electronically) and documents you will need to produce by following this [link](#).
- Review the application and the documents you will need to produce so that you are ready to submit an application as soon as things are finalized.
- The SBA's staff is likely to receive massive numbers of applications, so applying early, being prepared and fully documented, and being patient with SBA staff will be prudent.

View all of our COVID-19 perspectives [here](#). Contact a member of our COVID-19 Legal Task Force [here](#).

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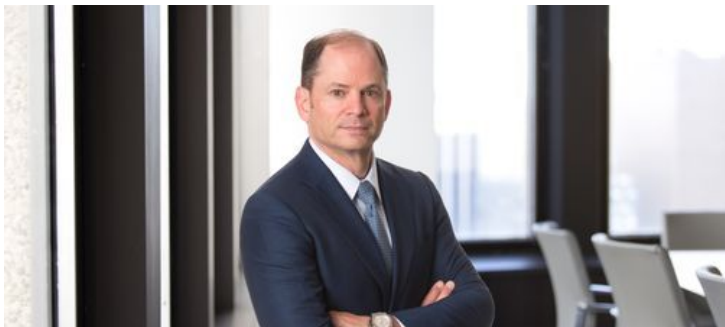
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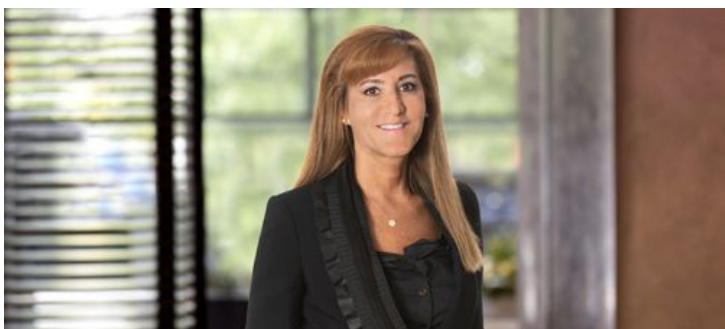
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