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CLIENT ALERT: COVID-19 – FEDERAL ASSISTANCE FOR BUSINESSES

As the COVID-19 pandemic continues, we at Shapiro Lifschitz & Schram are keenly aware and deeply concerned about the acute and substantial economic, financial and other hardships facing our clients. On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security Act (**CARES Act**) became federal law. The CARES Act is an emergency stimulus package to provide financial and other assistance and relief to individuals, businesses and certain industries particularly affected by the ongoing COVID-19 pandemic.

The two primary assistance programs under the CARES Act that we believe will offer our clients the greatest benefit are: (1) the Paycheck Protection Program (**PPP**), which is a \$349 billion expansion of the Small Business Administration's (**SBA**) Section 7(a) loan program, and (2) an additional \$10 billion for relief (in the form of grants) under an expanded version of the SBA's Economic Injury Disaster Loan (**EIDL**) program.

PPP LOANS: PPP loans are generally available to businesses and non-profits with less than 500 employees and also sole proprietors, independent contractors and other self-employed individuals, in an amount equal to the lesser of 2.5x average payroll costs for the prior 12 months (with a \$100,000 per year cap on compensation for each employee) and \$10 million. Interest rates are capped at 4% per annum, all borrower and lender fees are being waived, and all payments on the loan are deferred for a period of at least 6 months. Most importantly, PPP loans will be forgiven, to the extent that the proceeds are used by the Borrower during the 8-week period following the making of the loan to cover payroll costs (subject to a \$100,000 per year cap for each employee), mortgage interest payments, lease payments, and utilities. Forgiveness of a PPP loan will not be recognized as income to the borrower for tax purposes. Forgiveness of a PPP loan would be proportionately reduced if, during the 8-week period following the making of the loan, the borrower lays off employees or reduces the wages of any employee making less than \$100,000 per year by more than 25%.

EIDL LOANS AND GRANTS: EIDL loans are generally available to the same businesses, non-profits and individuals as PPP loans, but in a maximum amount of \$2 million -- the borrower will need to demonstrate that it has suffered substantial economic injury due to COVID-19, and the amount of the loan is ultimately determined by the SBA. The application for EIDL loans is more involved than for PPP loans, and requires applicants to disclose their credit history, demonstrate ability to repay the loan, and post collateral for loans exceeding \$25,000. Personal guarantees are also required for loans exceeding \$200,000. Interest rates are 3.75% per annum for businesses and 2.75% per annum for non-profits. Unlike PPP loans, EIDL loans are not forgivable, but the CARES Act does appropriate \$10 billion for emergency EIDL Grants (as defined below). While a business's application for an EIDL Loan is pending, the applicant may apply for a grant of up to \$10,000 (**EIDL Grant**), which shall be paid within three days of application. Awarded EIDL Grants will not need to be repaid, even if the borrower's application for an EIDL Loan is denied. EIDL loans can be used for a broader range of purposes than PPP loans -- prior to the CARES Act, proceeds of EIDL loans could be used for working capital as necessary until the borrower was able to resume normal operations and also to alleviate economic injury, but not beyond that which the business could have provided had the injury not occurred. The CARES Act expands these uses to include paying sick leave to employees unable to work due to the direct effect of COVID-19;

maintaining payroll to retain employees; meeting increased costs to obtain materials unavailable from the borrower's original source because of supply chain issues, rent or mortgage payments; and repaying certain obligations that cannot be met due to revenue losses.

RECOMMENDED ACTIONS: If you think your business could benefit from the relief offered by the CARES Act, you should immediately take steps to confirm eligibility and prepare relevant financial records (payroll records for PPP loans and financial statements for EIDL loans). As mentioned above, you will generally be eligible to the extent you have not more than 500 employees, although there are certain exceptions if your employee headcount exceeds that number and SBA affiliation rules apply in determining how many employees you have. Please also note that applying for an EIDL loan and Grant does not prohibit you from applying for a PPP loan, although the loan proceeds cannot be used for the same purpose, and if you receive an EIDL Grant, the amount would ultimately be subtracted from the amount of the PPP loan that is forgiven. An existing EIDL loan for COVID-19 may also be refinanced into a PPP loan.

HOW TO APPLY:

For PPP loans, application will be made directly through your lender, and we suggest that you contact your existing banker as soon as possible to obtain details on applying. Many lenders will begin taking applications on April 3, 2020. Demand for the program is expected to be high, and the loans are available on a first-come first-serve basis, so we strongly suggest that you apply as early as possible. The SBA has provided a sample application form for PPP loans that is relatively short and straightforward and it can be found [HERE](#). Additionally, please review this [PPP LOAN FACT SHEET](#) from the Treasury Department for more detailed information.

For EIDL loans, application is made directly via the SBA's website and can be accessed [HERE](#). Please also review the SBA's [APPLICATION GUIDE](#) for EIDL loans. You will have the option of electing to receive the up to \$10,000 EIDL Grant when applying.

The above is a high-level of summary of the PPP loan and EIDL loan and Grant programs, which are the primary sources of assistance for businesses, non-profits and self-employed individuals at the federal level. The CARES Act also offers various other forms of assistance, such as tax and wage credits, and business-specific financial assistance to in sectors that are acutely affected by the COVID-19 pandemic, such as accommodations and food services. Additionally, many states and also county and local governments are offering and developing assistance programs. We are closely monitoring the government response and aid programs at the federal, state and local levels and we are capable and ready to help our clients benefit from these programs as the COVID-19 pandemic continues to develop and evolve.

Please do not hesitate to contact us for assistance in applying for these loan programs, including with determining eligibility, questions with applications and the application process, reviewing loan documents, or any other questions you may have. For specific questions on PPP and EIDL loans, please contact Jonathan Pisha, Esq. (phone: (917) 969-4302; email: pisha@sjslaw.com).

Additionally, all of the lawyers at Shapiro, Lifschitz & Schram are available 24/7 to assist you and your business in navigating and overcoming whatever difficulties and obstacles you and your business may face during this extraordinarily challenging period. First and foremost, we wish and hope for the health, safety and wellness of our clients and their loved ones, and we look forward to brighter times ahead.