

Labor and Employment Alert: SBA Issues Guidance and Application Form for the Paycheck Protection Program

On March 31, 2020, the SBA announced that it and authorized lenders will begin accepting applications for the Paycheck Protection Program (“PPP”) loans as of April 3, 2020. Read the SBA’s summary of the program, download the [Treasury Department borrower information sheet](#), and obtain a copy of the sample SBA application.

As we thought, despite the express provisions of the PPP statute, the SBA has made some comments in its summary of the program page that are different than the statute. For example:

- The SBA program summary states that all employees must be kept on payroll for eight weeks, but the statute does provide some exceptions to that, which we covered at our March 30 webinar, [“COVID-19 Crisis: Highlights of the Paycheck Protection Program in Keeping American Workers Paid and Employed Act.”](#)
- The SBA program summary states that the loan will be fully forgiven if the funds are used at least 75% for payroll costs as compared to the other covered costs for rent, mortgage interest, and utilities, but the statute does not set that 75% threshold for payroll.
- The SBA program summary states that forgiveness will be reduced if salaries or wages decrease, but the statute expressly authorizes up to 25% pay decreases for those earning \$100,000 or less annually (and no limit on decrease for those earning more than \$100,000 annually).
- The Treasury Department Information Sheet states that payroll costs are capped at \$100,000 on an annualized basis for each employee, but the statute only limits salary and wages to \$100,000 and then allows several other costs such as health insurance premiums. And the Treasury Department Sheet later on seems to correct itself consistent with the statute (and what we have explained during our webinar).
- The Treasury Department Information Sheet staggers application submission; small businesses and sole proprietors can apply beginning April 3 and independent contractors and the self-employed can begin April 10.
- The Treasury Department Information Sheet states that the borrower needs to certify in good faith all that the statute requires (which we explained during our webinar), as well as that not more than 25% of the monies will be used for non-payroll costs, which is not in the statute.

As always, we are here to answer any questions or inquiries and ask that you be patient in timing our response. We are thrilled to hear from all of you, but it takes us some time to respond individually to each of you.

We will continue to provide you with information related to additional changes or updates to these laws. We are here for you. If you have any questions about this alert, or any other labor and employment issue, please contact:

[Anthony M. Rainone](#), Member, [Labor and Employment Practice](#), at 973-364-8372 or arainone@bracheichler.com

[Matthew M. Collins](#), Chair and Member, [Labor and Employment Practice](#), at 973-403-3151 or mcollins@bracheichler.com