

May 1, 2020

CLIENT ALERT - CORONAVIRUS (COVID 19)
PPP UPDATE: \$20 MILLION OVERALL LIMIT ON LOANS TO AFFILIATED ENTITIES

Dear Clients and Friends:

The SBA issued a new Interim Final Rule on April 30, 2020 that, *inter alia*, addressed the question of whether a single corporate group could receive unlimited PPP funds. The answer to this question is “no”. While nothing prevents any number of affiliated businesses from each applying for a separate PPP loan (assuming all eligibility requirements are met when applicable affiliation rules are taken into account), the SBA has determined that businesses that are part of a single corporate group shall not receive more than \$20 million of PPP loans in the aggregate. Businesses are considered part of a “single corporate group” if they are majority owned, directly or indirectly, by a common parent.

This limitation is immediately effective with respect to any loan that has not been fully disbursed as of April 30, 2020 and, for any loans that have been partially disbursed, the limitation applies to any additional disbursements that would cause the total PPP loans to a single corporate group to exceed \$20 million. Importantly, the burden is on the applicant (and not the lender or the SBA) to ensure this \$20 million limit is not exceeded. It is the applicant’s responsibility to notify its lender if it is part of a single corporate group that has applied for or received PPP loans in excess of the \$20 million limit. The applicant is required to withdraw or request cancellation of any pending PPP loan applications or approved PPP loans not in compliance with the limitation. An applicant’s failure to take these actions will be considered an unauthorized use of PPP funds and the loan(s) will be ineligible for forgiveness.

NOTE: The SBA’s affiliation rules, which relate to an applicant’s eligibility for PPP loans, and any waiver of those rules under the CARES Act, continue to apply independent of this limitation. In other words, this \$20 million limitation applies to all PPP applicants, even businesses (such as restaurants) that are eligible for the waiver of affiliation provisions under the CARES Act or that are otherwise not considered to be affiliates under the SBA’s affiliation rules. .

Contact Your HH&K Attorney For Legal Guidance

This Client Alert provides general information regarding the PPP program and does not outline all of the important considerations related thereto. We anticipate that the terms of the PPP program will continue to evolve as the SBA releases additional guidance. This Client Alert is not a substitute for legal guidance regarding program details and how those may be applicable to your business. As always, if we can be of assistance during this difficult time, please do not hesitate to contact your HH&K attorney.



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