
Paycheck Protection Program: Change of Ownership of Borrower

Date: 10/15/20

The Paycheck Protection Program, created on March 27, 2020 under the Coronavirus Aid, Relief, and Economic Security (CARES) Act (H.R. 748), established a temporary loan program under Section 7(a) of the Small Business Act (the "Act"), empowering authorized Small Business Association (the "SBA") lenders to provide up to \$659 billion of loans to businesses and not-for-profit organizations to help cover payroll costs and certain eligible non-payroll costs (the "PPP Loans"). As the COVID-19 pandemic continues to disrupt economic activity, many small business owners are struggling despite having received PPP Loans and are considering alternatives to keep their businesses alive, including mergers, asset sales and equity sales. The SBA's Standard Operating Procedure 50 57 2 (7(a) Loan Servicing and Liquidation), and the form of SBA note, on which many PPP Loans rely, require the lender's and the SBA's consent to any change of ownership that occurs within one year of disbursement of a loan provided under the Act, including a PPP Loan. On October 2, 2020, the SBA published a Procedural Notice providing guidance regarding what constitutes a change of ownership and announcing what procedures are required for borrowers planning to undergo a change of ownership and when prior approval of the change of ownership by the SBA is required. This memorandum outlines these important new procedures and approval requirements.

Attorney

- Helene R. Banks