CLIENT ALERTS & INSIGHTS

The SBA Releases Two PPP Liquidity Questionnaires

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As you may recall from a previous bulletin, the SBA has stated that it will audit all PPP borrowers, who together with a borrower's "Affiliates" (as determined pursuant to SBA regulations), received PPP loans in excess of two million dollars. Part of the audit is to determine whether a borrower had the "ability to access other sources of liquidity sufficient to support their ongoing operations in a manner that is not significantly detrimental to their business".

Many businesses have been asking whether the SBA has clarified or set any bright line rules regarding liquidity. The answer remains that there are no bright line rules. However, this week the SBA released two liquidity questionnaires (one for for-profit PPP borrowers and one for non-profit PPP borrowers), which will give businesses a flavor of the sort of facts the SBA will be reviewing with regard to its liquidity analysis. Most of the questions involve a simple yes or no response, but there are a few questions that require supporting documentation (similar to the application process). *Note that the SBA liquidity analysis is not limited to the items addressed in the questionnaire*.

Once a borrower applies for forgiveness, the borrower's PPP lender will forward the applicable questionnaire to the borrower. A borrower must complete and return the questionnaire to its PPP lender within 10 days of borrower's receipt. If the application is not returned on time, the borrower risks forfeiting the ability to have its loan forgiven.

As these questionnaires were just released this week, we suspect that it will take some time for lenders to build the distribution of the questionnaire into their forgiveness process. That being said, we recommend that if a borrower has already applied for forgiveness it should reach out to its lender representative to enquire about the questionnaire.

If you have any questions regarding the Paycheck Protection Program, please contact a member of Benesch's Commercial Finance & Banking Practice Group.

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Please note that this information is current as of the date of this Client Alert, based on the available data. However, because COVID-19's status and updates related to the same are ongoing, we recommend real-time review of guidance distributed by the CDC and local officials.

