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Insights

Important Updates On PPP Loans - Recent SBA Guidance

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This week the Small Business Administration (SBA) released guidance on two important topics of the Paycheck Protection Program: acceptable form of promissory note and required funding periods.

The SBA and Treasury Department provided guidance through their Frequently Asked Questions (FAQs) regarding the acceptable form of promissory note, and after pressure from the American Bankers Association and state bankers associations, released a form promissory note for use with loans under the PPP. Lenders have the option to choose between using their own form of promissory note or an SBA form promissory note. The form promissory note released by the SBA is their standard 7(a) form, which is not perfectly tailored to the PPP. Specifically, the form unnecessarily includes references to "guarantors" and "collateral," both of which are waived requirements under the PPP.

Additionally, the FAQs address another important topic, which is the funding timeline under the PPP. The FAQs provide that the lender must make its first disbursement under the loan no later than ten calendar days from the date of loan approval.

Other topics addressed in the FAQ include:

- Lenders may rely on borrower certifications as to the applicability of affiliation rules.
- Lenders do not need to re-verify beneficial ownership information for existing customers.
- The definition of payroll under the CARES Act, including the calculation of non-cash benefits and coverage of paid leave.
- Methods for determining payroll to calculate maximum loan amounts.
- Lenders who processed applications based on the April 2 interim final rule may rely on the laws, rules and guidance available at that time.

Our attorneys at Krieg DeVault can assist with the necessary revisions to the 7(a) form, or work within existing bank forms to ensure compliance with the PPP. We also invite you to visit our Coronavirus (COVID-19) Resource Center for additional information.