

TO: NAW Direct Members

FROM: NAW Government Relations Team

DATE: April 15, 2020

1. **President Trump Names NAW President Dirk Van Dongen to the “Great American Economic Revival Industry Groups”**

NAW President Dirk Van Dongen has been named by President Trump to his new industry advisory group on reopening the economy. Key distribution industry CEOs also named include Mike Kaufmann of Cardinal Health, Bryan Tyler of McKesson, Kevin Hourican of SYSCO, and Marc Casper of Thermo Fisher Scientific.

The task force is comprised of many executives, economists, scholars, and industry leaders across all sectors of the U.S. economy, which the White House says will “chart the path forward towards a future of unparalleled American prosperity.” This bipartisan group of industry leaders will work together with the President on how to best reopen the economy from the current shutdown.

You can read the White House press release here:

<https://www.whitehouse.gov/briefings-statements/president-donald-j-trump-announces-great-american-economic-revival-industry-groups/>

2. **Update on Paycheck Protection Program Implementation**

The Small Business Administration published their Interim Final Rule on the PPP program in today’s Federal Register, opening a 30-day public comment period. There do not appear to be any surprises in the published rule, but there are a couple of disappointments on issues on which NAW and our trade association colleagues have been urging either more information or substantive changes.

First, rather than providing the promised additional guidance on the affiliation rules, this IFR simply re-states that they will be providing the needed guidance: “SBA *intends to promptly issue additional guidance with regard to the applicability of affiliation rules at 13 CFR 121.103 and 121.301 to PPP loans.*” “Promptly” is not defined.

Second, despite consistent and increasing objections from borrowers, NAW and our DC colleagues, the SBA made no changes to the requirement that 75% of the amount of a PPP loan must be spent on payroll and that the loan can only be forgiven to the extent that 75% is payroll costs.

The statute clearly states that loans can be used for payments of mortgage interest (but not principal), rent, utilities. The SBA acknowledges the clear language of the statute, but then imposes a requirement that not more than 25% of the loan amount can be used for those statutorily permitted expenses:

“While the Act provides that borrowers are eligible for forgiveness in an amount equal to the sum of payroll costs and payments of mortgage interest, rent and utilities, the Administrator has determined that the non-payroll portion of the forgivable loan amount should be limited to effectuate the core purpose of the statute and ensure finite program resources are devoted primarily to payroll.” (Fed Register pp 20813-20814.)

Similarly, the statute is clear that loan proceeds can be used for payroll, mortgage interest, rent, utilities, continuation of some health care benefits, interest on some debt in addition to mortgage, and refinancing of some previous SBA loans. And again, after stating the statutory permissible uses of the PPP loans, the SBA on its own initiative limits the statute:

However, at least 75 percent of the PPP loan proceeds shall be used for payroll costs... While the Act provides that PPP loan proceeds may be used for the purposes listed above and for other allowable uses described in section 7(a) of the Small Business Act (15 U.S.C. 636(a)), the Administrator believes that finite appropriations and the structure of the Act warrant a requirement that borrowers use a substantial portion of the loan for payroll costs ... the Administrator, in consultation with the Secretary, has determined that 75 percent is an appropriate percentage ...

We would greatly appreciate your feedback on this limitation on the uses of the PPP loans and the forgiveness of them.

You can read the full rule in the Federal Register here:

<https://www.govinfo.gov/content/pkg/FR-2020-04-15/pdf/2020-07672.pdf>

3. Update on Congressional Action for Additional Coronavirus Relief Funding

There are conversations taking place on the Hill and downtown this afternoon, but the substance of those conversations is being tightly held. We are hearing that there is still hope the Senate will make some move during the pro forma session tomorrow, providing a window for any agreement to move through the House during its pro forma session on Friday.

Both House and Senate party leaders continue to negotiate a fourth coronavirus relief package, which failed last week on the Senate floor over a dispute about the size and scope of the legislation. Adding pressure on lawmakers to reach a deal, the existing Paycheck Protection Program (PPP) funding could be exhausted by as early as tomorrow.

NAW helped organize and collect signatures on a letter from other organizations to send to Congressional Leaders asking them to move quickly to authorize additional funding for the Paycheck Protection Program. The letter was sent to Capitol Hill this afternoon.

You can view the letter here:

<https://s-corp.org/wp-content/uploads/2020/04/Paycheck-Protection-Program-Association-Letter-April-2020.pdf>

Yesterday, NAW sent our own letter to the Hill with a similar request to authorize additional funding. You can view the letter here:

<https://tt0dl1563d22haik02ol9k9a-wpengine.netdna-ssl.com/wp-content/uploads/2020/04/NAW-Letter-PPP.pdf>

According to reports, Congressional staff for the two Democratic leaders, Treasury Secretary Steven Mnuchin and his aides are working to schedule a telephone call this afternoon to discuss how to break the stalemate over what to do next. Further complicating negotiations, Speaker Pelosi sent a strongly worded letter to her democratic colleagues yesterday criticizing President Trump for his, “incompetent reaction to this health crisis” which is “causing the suffering of countless Americans and endangering lives.” You can view the letter here:

<https://www.speaker.gov/newsroom/41420-0>

Republican leaders, at the request of Secretary Mnuchin, are pushing for \$250 billion in additional funding for the Paycheck Protection Program (PPP), which aims to help small businesses stay afloat through the crisis without firing employees.

Led by Speaker Nancy Pelosi and Senate Minority Leader Chuck Schumer, Democrats are pressing for language ensuring that at least \$60 billion of the \$250 billion in additional small-business funds go through Community Development Financial Institutions — nonprofits that cater to low-income communities. Democrats are also pressing for an additional \$150 billion for state and local governments; \$100 billion for hospitals and community health centers; and a 15% increase in food stamps as part of the interim package.

After speaking with Secretary Mnuchin this morning, Senator Schumer says he sees no reason the Senate can't come to an agreement on a bill to boost funding for the small business loan program. However, House Majority Leader Steny Hoyer told reporters today, that while he hopes that the House could vote Friday on the next round of coronavirus relief, disagreement over the process could push any vote to next week.

On Monday, Leader Hoyer announced that, absent an emergency, the House would not return to Washington until at least the week of May 4th given the danger of the coronavirus, which has sent lawmakers in both chambers home. Additionally, Leader McConnell announced yesterday that, absent an emergency, the full Senate is not expected to travel back to Washington sooner than May 4th and will convene in pro forma sessions only.

Both chambers further advised their Members that if they are required to act on critical legislation related to the coronavirus, they would be given sufficient time to return to Washington, DC.

Now Available for Purchase On Demand: "Distribution Industry: Navigating the Crisis" with Alan Beaulieu: <https://www.naw.org/navigating-the-crisis/>

Scroll down for links to Critical Updates sent previously.

Many thanks—

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or professional advice concerning any specific matter. You should not act on the information without first obtaining professional advice and counsel.

Critical Update Number 24 on April 14 at 3:30 PM:

<https://www.naw.org/wp-content/uploads/2020/04/Critical-Update-24.pdf>

Critical Update Number 23 on April 10 at 4:00 PM:

<https://www.naw.org/wp-content/uploads/2020/04/Critical-Update-23.pdf>

Critical Update Number 22 on April 9 at 12:00 PM:

<https://www.naw.org/wp-content/uploads/2020/04/Critical-Update-22.pdf>

Critical Update Number 21 on April 7 at 5:00 PM:

<https://www.naw.org/wp-content/uploads/2020/04/Critical-Update-21.pdf>

Critical Update Number 20 on April 6 at 4:00 PM:

<https://www.naw.org/wp-content/uploads/2020/04/Critical-Update-20.pdf>

Critical Update Number 19 on April 4 at 4:00 PM:

<https://www.naw.org/wp-content/uploads/2020/04/Critical-Update-19.pdf>

Critical Update Number 18 on April 3 at 5:00 PM:

<https://www.naw.org/wp-content/uploads/2020/04/Critical-Update-18.pdf>

Critical Update Number 17 on April 2 at 4:30 PM:

<https://www.naw.org/wp-content/uploads/2020/04/Critical-Update-17.pdf>

Critical Update Number 16 on April 1 at 4:00 PM:

<https://www.naw.org/wp-content/uploads/2020/04/Critical-Update-16.pdf>

Critical Update Number 15 on March 31 at 3:30 PM:

<https://www.naw.org/wp-content/uploads/2020/04/Critical-Update-15.pdf>

Critical Update Number 14 on March 30 at 4:00 PM:

<https://www.naw.org/wp-content/uploads/2020/04/Critical-Update-14.pdf>

Critical Update Number 13 on March 29 at 3:45 PM:

<https://www.naw.org/wp-content/uploads/2020/04/Critical-Update-13.pdf>

Critical Update Number 12 on March 29 at 12:00 PM:

<https://www.naw.org/wp-content/uploads/2020/04/Critical-Update-12.pdf>

Critical Update Number 11 on March 28 at 3:30 PM:

<https://www.naw.org/wp-content/uploads/2020/04/Critical-Update-11.pdf>

Critical Update Number 10 on March 27 at 3:00 PM:

<https://www.naw.org/wp-content/uploads/2020/04/Critical-Update-10.pdf>

Critical Update Number 9 on March 26 at 5:30 PM:

<https://www.naw.org/wp-content/uploads/2020/04/Critical-Update-9.pdf>

Critical Update Number 8 on March 26 at 10:45 AM:

<https://www.naw.org/wp-content/uploads/2020/04/Critical-Update-8.pdf>

Critical Update Number 7 on March 25 at 6 PM:

<https://www.naw.org/wp-content/uploads/2020/04/Critical-Update-7.pdf>

Critical Update Number 6 on March 25 at 1 PM:

<https://www.naw.org/wp-content/uploads/2020/04/Critical-Update-6.pdf>

Critical Update Number 5 on March 24 at 3 PM:

<https://www.naw.org/wp-content/uploads/2020/04/Critical-Update-5.pdf>

Critical Update Number 4 on March 23:

<https://www.naw.org/wp-content/uploads/2020/04/Critical-Update-4.pdf>

Critical Update Number 3 on March 23:

<https://www.naw.org/wp-content/uploads/2020/04/Critical-Update-3.pdf>

Critical Update Number 2 on March 21:

<https://www.naw.org/wp-content/uploads/2020/04/Critical-Update-2.pdf>

Critical Update Number 1 on March 20:

<https://www.naw.org/wp-content/uploads/2020/04/Critical-Update-1.pdf>