

TO: NAW Direct Members

FROM: NAW Government Relations Team

RE: NAW Critical Update Number 43 – May 6 at 4:00 PM

1. Latest on the Main Street Lending Program

As of today and once again, no MSLP launch date has been announced. We will continue to monitor the Federal Reserve for information and provide you with any relevant and timely updates.

2. Latest on the Paycheck Protection Program

Public disclosure of all PPP loans: There is a growing debate in Washington about whether the SBA should release the names of the companies that received PPP loans, along with the details of each loan. The calls for “transparency” are in response to the publicity about large, publicly traded companies getting loans; those advocating disclosure of all loan details argue that the only way to ferret out the “bad actors” is to make every loan public.

NAW and our association colleagues have heard from some member companies opposing the public disclosure of the loans. They argue that publicly disclosing the names of companies receiving PPP loans, and effectively revealing the companies’ payroll since the loan amounts were based on payroll, could place those companies at a competitive disadvantage with other companies, and/or make them targets for acquisition.

Also of great concern, we are hearing reports from companies that they are being questioned – some say harassed – by the banks that managed their loans, asking if the borrowing had not only accurately certified that “current economic uncertainty” made the loan necessary, as the statute required, but also if they had taken into account “other sources of liquidity.” Other guidance in the Treasury Department/SBA documents is equally vague.

We would very much appreciate your feedback on this issue. If you have received a PPP loan, would you object to having your company name and the details of your loan made public? If yes, please provide information as to your reasons.

If you object to having the PPP loans made public, would you consider returning your loan rather than having it disclosed (see new FAQ below)?

We will keep all feedback confidential, but detailed feedback will help us moving forward on this issue.

New SBA FAQ: Treasury and the SBA have released an updated FAQ, adding yet another question/answer on how a company would qualify for a PPP loan. In their previous Question 31, they made it clear that some companies applying for and receiving loans should not have done so and gave companies until May 7th to return loans they now conclude they should not have gotten.

The new question, Number 43, refers back to Question 31, and extends to May 14th the “safe harbor” date by which companies may return PPP loans and be deemed “to have made the required loan certification in good faith.”

To read the updated FAQ, go to:

<https://home.treasury.gov/system/files/136/Paycheck-Protection-Program-Frequently-Asked-Questions.pdf>

Potential legislation to modify PPP terms: Lawmakers are weighing big changes to the Paycheck Protection Program to address growing complaints from employers that the rules for existing programs are incomplete and unworkable. The discussions come as Congress begins to debate what measures to include in the next round of coronavirus aid to help workers and businesses weather the economic fallout from the pandemic.

Among the proposals to revamp the multi-billion Payroll Protection Program:

- Lengthen the period of time when small businesses can spend the money;
- Allow businesses to spend less of the aid to retain employees and more to cover fixed costs like rent; and
- Expand relief to larger companies.

In a letter to Treasury Secretary Mnuchin released today, a bipartisan group of 19 Senators has asked the Trump administration to allow recipients of small business coronavirus relief loans to spend more of the money on nonpayroll expenses without penalty. Currently, the loan can be converted entirely into a grant if at least 75 percent of it is used to cover payroll and keep workers off unemployment insurance. The letter asks the Treasury and SBA to reduce that threshold for forgiveness to 50 percent, citing the

high costs of rent, mortgage and utility payments for many businesses who've received aid.

Other lawmakers are pushing Treasury Secretary Steven Mnuchin to reverse a rule that effectively taxes businesses on forgiven federal loans they've received due to the coronavirus pandemic. Today, a bipartisan group of Senators introduced a measure to clarify SBA's Paycheck Protection Program so small businesses can deduct expenses paid with a forgiven PPP loan from their taxes. Last week, the IRS issued guidance that prevents businesses from deducting expenses like rent and wages that are covered with the loans from the Paycheck Protection Program. Such expenses are normally deductible.

According to Senate Finance Committee Chairman Chuck Grassley, the IRS interpretation is contrary to congressional intent for the emergency loan program and the overall legislation authorized in the CARES Act. However, Treasury Secretary Mnuchin on Monday stood by the IRS guidance, saying it would prevent a "double dip" since the PPP money is not taxable.

NAW, along with our association allies, is gathering signatures on a letter to send to Chairman Neal and Chairman Grassley thanking them for sending a letter to the IRS on this matter and encouraging them to pursue a legislative remedy if the IRS does not act. As of this afternoon, we are up to 145 signatures.

3. Latest Congressional Action on the Next Coronavirus Relief Package "CARES 2"

Negotiations between Senate and House leaders are continuing this week as Members are deciding what to include in the "CARES 2" coronavirus relief package.

House Speaker Pelosi and Democrats are planning to unveil an enormous relief package in the coming days, with a possible floor vote as early as next week. Speaker Pelosi has said the focus of the bill will be a new infusion of emergency cash to states, cities, counties and towns that have seen their tax-revenues depleted by the coronavirus-driven economic shutdown. Congress already provided \$150 billion to state and local governments in the CARES Act and Republicans rejected additional funding in the second relief bill.

Senate and House Republican leaders are pumping the brakes on CARES 2, arguing that Congress should monitor the impact of the \$3 trillion in coronavirus relief that's already been approved. "There will be another one ... I just don't think we need to act

quite as urgently as we did last time,” Senator John Cornyn told reporters in the Capitol. “It doesn’t mean we don’t need to act; it just means we have time to think.”

The one bipartisan issue driving the greatest urgency might be the Paycheck Protection Program. The Small Business Administration has already burned through more than half of the \$310 billion it was allotted less than two weeks ago. Analysts expect the remaining funds will be fully exhausted as early as this week.

To complicate things even further, the White House is considering a wide range of tax-cut proposals for businesses in the next coronavirus response bill, but Senate Leader McConnell passed up a chance yesterday to endorse President Trump’s call for a new cut in payroll taxes.

On Sunday, Trump seemed to make a payroll tax cut a red line in the negotiations, telling Fox News, “We’re not doing anything unless we get a payroll tax cut.” On Tuesday, writing on Twitter, Trump proposed the “elimination” of payroll taxes.

Asked yesterday if such a tax cut must be included in any additional coronavirus legislation, Leader McConnell said his top priority is protecting businesses from coronavirus-related lawsuits. “If there’s any red line, it’s on litigation,” Leader McConnell told reporters, even though he was asked about Trump’s desire for a payroll tax cut.

4. Latest on Re-Opening the Economy

With state and local governments gearing back up to re-open the economy, many employers are seeking answers to the challenging issues they will face as they resume their business operations amidst COVID-19.

U.S. Department of Labor Invites the Public to Participate in National Online Dialogue on Opening America’s Workplaces Again

As the U.S. Department of Labor continues its efforts to support American workers and position the economy for a strong rebound, the department is hosting a national online dialogue on “Opening America’s Workplaces Again,” to solicit ideas from the public on how best to help employers and workers re-open America’s workplaces safely.

The dialogue will run from Thursday, April 30 through Thursday, May 7, 2020, and will include a one-hour Twitter chat on Friday, May 1, 2020, at 2:00 p.m. EDT.

The public – including employers, workers, local authorities and advocacy groups – is invited to share ideas on six topics:

1. Re-opening businesses;
2. Commuting safely;
3. Working safely;
4. Accommodating members of vulnerable populations;
5. Supporting America’s families; and
6. Reducing regulatory burdens.

To register, go to:

<https://OpeningWorkplaces.ideascale.com>.

The Bipartisan Policy Council, in conjunction with *Morning Consult*, conducted a survey between April 8-12 of more than 500 business owners and executives who have between 2 and 500 employees to understand the challenges small businesses are facing during COVID-19, how they are managing their workforce, and the impact that new federal policies, such as emergency paid sick leave, paid family leave, and expanded unemployment insurance, have on their business.

To view the results of the survey, go to:

https://bipartisanpolicy.org/blog/new-survey-small-businesses-face-challenges-retaining-their-workforce/?mkt_tok=eyJpIjoiTTJaaFpEazVaakF6WlRoaClsluQiOilwbXh2cTE5Q1pFcVZVSEpnZTFWalhoSzRBbkQzSFdBZXhmOENCdEVlclUIJY0dSNUoyeDhFamllNllmSHlnVlNjdERaNDFaWTM2T3RycWJzVHprNXFDVDVjN1o3bHY5b2llbENxajVSQ1VzWjIjY0EwVZ2ZPeUFISmVQbmRWYVwvMkoifQ%3D%3D

From the Reed Smith Law Firm:

- COVID-19 FAQs for California employers... to read, go to:
https://www.employmentlawwatch.com/2020/05/articles/employment-us/covid-19-novel-coronavirus/covid-19-faqs-for-california-employers/?utm_source=Reed+Smith+-+Employment+Law+Watch&utm_campaign=8ccb17f241-RSS_EMAIL_CAMPAIGN&utm_medium=email&utm_term=0_b40554bd20-8ccb17f241-78816497
- Gov. Cuomo announces guidelines to “re-open” New York... to read, go to:

https://www.employmentlawwatch.com/2020/05/articles/employment-us/gov-cuomo-announces-guidelines-to-reopen-new-york/?utm_source=Reed+Smith+-+Employment+Law+Watch&utm_campaign=8ccb17f241-RSS_EMAIL_CAMPAIGN&utm_medium=email&utm_term=0_b40554bd20-8ccb17f241-78816497

We are also providing a link to a spreadsheet that includes state and local COVID-19 response information provided by MultiState Associates.

To view their spreadsheet, go to:

https://docs.google.com/spreadsheets/d/e/2PACX-1vRIJWZJ7OkGUW57_rdA2n3xBJ3qjW6u4Z9N6K9Y5L4bM_6H7-S308qdKmJfpVstYWf300nyujvZPFSy/pubhtml?urp=gmail_link

May 28 NAW Webinar on Economic Outlook:

We are partnering with NAW senior economic advisor Alan Beaulieu to produce a second critical economic forecast webinar. This webinar, "Distribution Post COVID-19 Outlook," will run Thursday, May 28, from 3:00 to 4:30 PM EDT. Seats are limited, so if you are interested, please purchase your seat today at:

www.naw.org/distribution-post-covid-19

[Click here](#) for links to Critical Updates sent previously.

Many thanks—

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