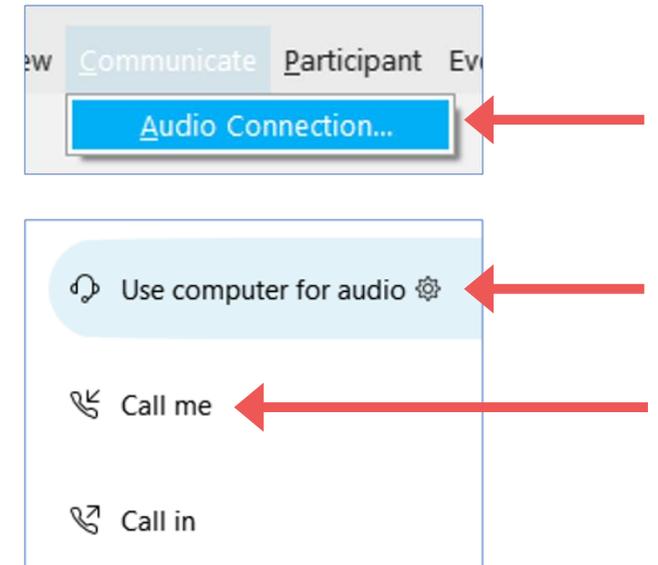


# Housekeeping

- Please make sure you can see the video feed and the content
- Make sure your speakers or earphones are ON
- Enable your Audio

- Click “Communicate” at the top of the window
  - Choose “Audio Connection”
    - Use Computer for audio
- OR
- Call Me



- We are ready to answer your questions! Please post them in the chat and we will do our best to answer as many as we can.
- Note: No CPE will be offered for this event.

# Bonadio Roundtable: Loans, Payroll Tax Credits & MORE

*Tuesday, April 21, 2020*

Lynn Mucenski-Keck  
Marc Valerio  
Jeff Paille

Big firm capability. Small firm personality.

**THE BONADIO GROUP**  
CPAs, Consultants & More

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# PPP Loan Eligibility

- 1. Small Business Concerns:** Small business concerns can be eligible borrowers even if they have more than 500 employees, as long as they satisfy the existing statutory and regulatory definition of a “small business concern” under section 3 of the Small Business Act, 15 U.S.C. 632.

A business can qualify if it meets the SBA employee-based or revenue-based size standard corresponding to its primary industry. Go to [www.sba.gov/size](http://www.sba.gov/size) for the industry size standards.

# PPP Loan Eligibility

## 2. Alternative Size Standard Small Business Concern:

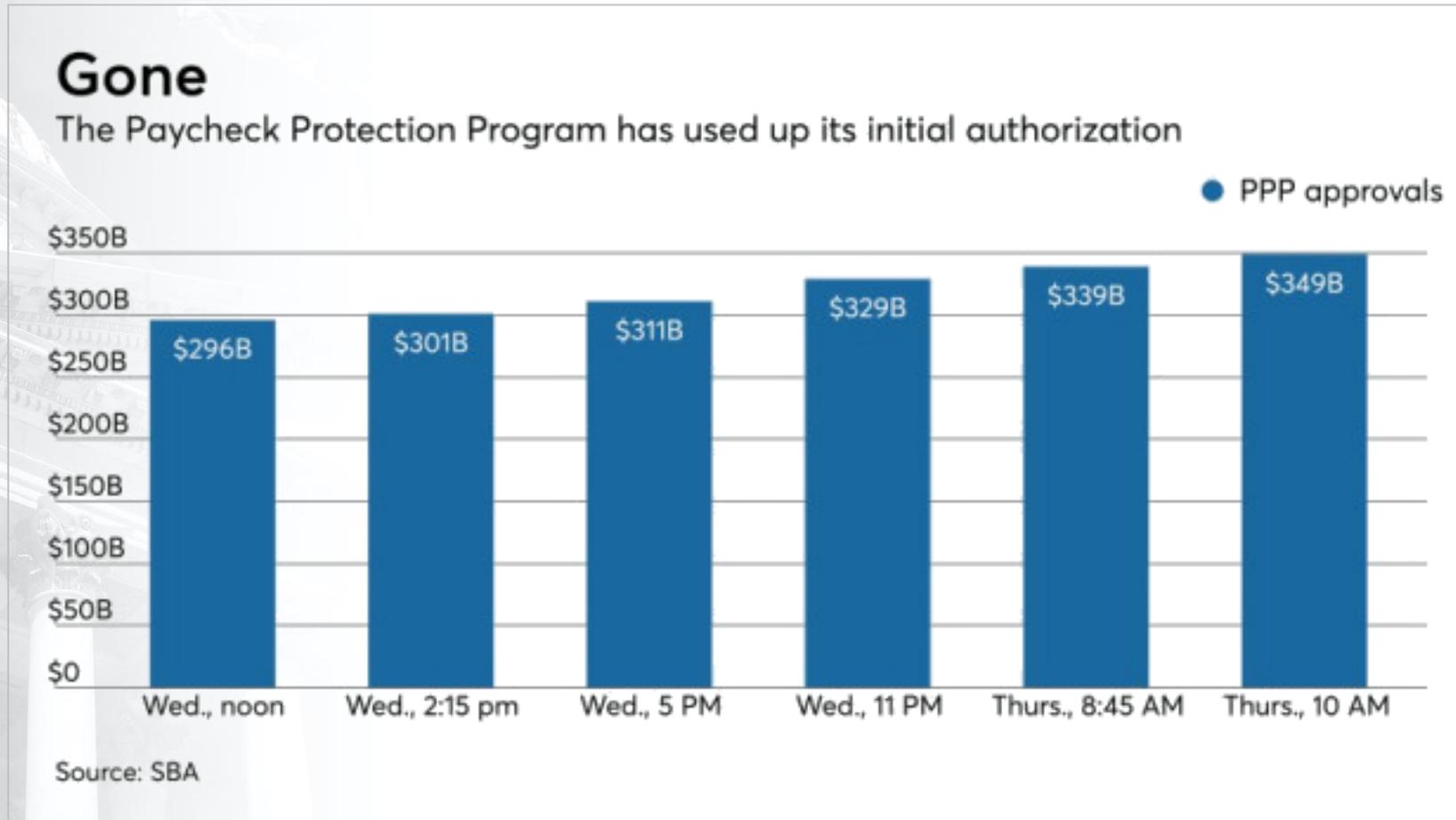
A business can qualify for the Paycheck Protection Program as a small business concern if it met both tests in SBA's "alternative size standard" as of March 27, 2020:

- a) maximum tangible net worth of the business is not more than \$15 million; and
- b) (2) the average net income after Federal income taxes (excluding any carry-over losses) of the business for the two full fiscal years before the date of the application is not more than \$5 million

# PPP Loan Eligibility

- 3. Extended Definition Through CARES Act:** A business is eligible for a PPP loan if the business has 500 or fewer employees whose principal place of residence is in the United States, or the business meets the SBA employee-based size standards for the industry in which it operates (if applicable). Similarly, PPP loans are also available for qualifying tax-exempt nonprofit organizations described in section 501(c)(3) of the Internal Revenue Code (IRC), tax-exempt veterans organization described in section 501(c)(19) of the IRC, and Tribal business concerns described in section 31(b)(2)(C) of the Small Business Act that have 500 or fewer employees whose principal place of residence is in the United States, or meet the SBA employee-based size standards for the industry in which they operate

# PPP Loans....



A graph released by the Small Business Administration shows the rapid allocation of funds from the CARES Act over a matter of 22 hours.

# PPP and EIDL Loans— As of April 21<sup>st</sup>

- Emergency loan programs that were built into the unprecedented two-trillion dollar welfare program under the CARES Act have run out of funding and, as of Friday (April 17) have stopped accepting applications
- SBA is unable to accept new applications at this time for the Economic Injury Disaster Loan (EIDL)-COVID-19 related assistance program (including EIDL Advances) based on available appropriations funding

# PPP and EIDL Loans— As of April 21st

- There has been no breakthrough on an interim coronavirus relief measure to provide at least provide \$310 billion more for the now-exhausted CARES Act Paycheck Protection Program (PPP) and talks are set to continue today with hopes of moving something through Congress this week. The relief measure is also said to include \$60 billion in funds to replenish the EIDL program.
- A Senate pro forma session came and went April 16 with no action. There was some progress on Monday, April 20. The next Senate pro forma is set for Tuesday, April 21 at 4pm, with the House likely to convene the next day.

# PPP Documentation if Received

- **Necessity Justification**

- An applicant for a PPP loan should consider (and document, as indicated below) the following factors, among others it deems relevant:
  - its understanding of the "current economic uncertainty"
  - its current understanding of how "ongoing operations" have been impacted to date by this economic uncertainty
  - its understanding of risks and reasonable expectation of future impacts that may occur in the next few months if the current economic uncertainty is not abated
  - how and why the loan is necessary to support ongoing operations given the conditions and impacts identified

# What's Next

- Maximize PPP Loan Forgiveness
- Explore Main Street Lending initiatives
- Maximize payroll tax credits
- Maximize federal income tax savings

# PPP Debt Forgiveness Questions

- An eligible recipient shall be eligible for forgiveness of indebtedness on a covered loan in an amount equal to the sum of the following ***costs incurred and payments made during the covered period***
  - ***Based on literal interpretation it would require the costs that can be forgiven to be incurred and paid within the covered period***
  - ***Alternative reading would be for BOTH costs incurred and payments made during the covered period***
    - Far more expansive

# PPP Loan Forgiveness

Acceptable use of PPP Loan Proceeds during the covered period:	Use of Loan Proceeds for Debt Forgiveness
<b>Covered Period:</b> means the period beginning on February 15, 2020 and ending on June 30, 2020	<b>Covered Period:</b> the 8-week period beginning on the date of the origination of a covered loan
Payroll costs	Payroll costs (currently at least 75% of the loan proceeds must be used payroll costs)
costs related to the continuation of group health care benefits during periods of paid sick, medical, or family leave, and insurance premiums	
payments of interest on any mortgage obligation (which shall not include any prepayment of or payment of principal on a mortgage obligation)	payments of interest on any covered mortgage obligation <i>(A covered mortgage obligation is indebtedness or debt instrument incurred in the ordinary course of business that is a liability of the borrower, is a mortgage on real or personal property, and was incurred before February 15, 2020. Does not include any prepayment of or payment of principal on a covered mortgage obligation.)</i>
rent (including rent under a lease agreement)	payments on any covered rent obligation
utilities	covered utility payments
interest on any other debt obligations that were incurred before the covered period	

# PPP Loan Forgiveness

- What are payroll costs?
  - Provided by SBA guidance
    - Payroll costs are calculated on a **gross basis** without regard to (i.e., not including subtractions or additions based on) federal taxes imposed or withheld, such as the employee's and employer's share of Federal Insurance Contributions Act (FICA) and income taxes required to be withheld from employees
    - Payroll costs are not reduced by taxes imposed on an employee and required to be withheld by the employer, but payroll costs do not include the employer's share of payroll tax

# PPP Loan Forgiveness

- What are payroll costs (continued)?
  - The exclusion of compensation in excess of \$100,000 annually applies only to cash compensation, not to non-cash benefits, including:
    - employer contributions to defined-benefit or defined-contribution retirement plans;
    - payment for the provision of employee benefits consisting of group health care coverage, including insurance premiums; and
    - payment of state and local taxes assessed on compensation of employees

# PPP Loan Forgiveness

- What are payroll costs (continued)?
  - Employer contributions to defined benefit or defined contribution retirement plans
  - Payment for the provision of employee benefits consisting of group health care coverage, including insurance premiums AND
  - Payment of state and local taxes assessed on compensation of the employee

**ADDED AFTER THE \$100,000 MAXIMUM SALARY LIMITATION**

# PPP Loan Forgiveness

- **FTEE Debt Forgiveness Limitations**

- FTEE definition has still not been provided/clarified
  - Based on another section of CARES Act, an employer has a 40-hour workweek, employees who are scheduled to work 30 hours per week are 1.0 FTEs

- **Measurement Periods**

- The average number of FTEE per month employed by the eligible recipient during the covered period
- Compared to the lesser of:
  - average number of FTEE per month ***beginning on February 15, 2019 and ending on June 30, 2019*** (only option if seasonal employer)
  - average number of FTEE per month beginning on ***January 1, 2020 and ending on February 29, 2020***

# PPP Loan Forgiveness

- **Decrease of debt forgiveness will be ignored if there was a reduction between:**
  - FTEE as of February 15, 2020 and ending on April 26, 2020 when compared to
  - FTEE equivalent as of 2/15/2020 AND
- **No later than June 30, 2020, the eligible employer has eliminated the reduction in the number of full-time equivalent employees**
  - In other words, FTEE on June 30, 2020 meets February 15, 2020
- The Administrator and the Secretary of the Treasury may prescribe regulations granting de minimis exemptions from the requirements under this subsection

# PPP Loan Forgiveness

- **Reduction in Salary Debt Forgiveness Limitations**

- Loan forgiveness will be reduced by the amount of any reduction in total salary or wages during the covered period **(8 weeks)** that is in excess of 25 percent of the total salary or wages of the employee during the **most recent full quarter (12 weeks)** during which the employee was employed before the covered period
  - Limited to employees who did not receive, during any single pay period during 2019, wages or salary at an annualized rate of pay in an amount more than \$100,000.

# PPP Loan Forgiveness

- **Reduction in Salary Debt Forgiveness Limitations**

- For example, if you received a loan on April 14, 2020, testing period would be from
  - Total salary and wages paid to an employee on January, February, March last full quarter during which employee was employed compared to **(12 weeks)**
  - Total salary and wages paid to an employee wages from April 14, 2020 to June 9, 2020 **(8 weeks)**
  - Was the reduction in excess of 25%? If so, could reduce the amount of debt forgiveness?
  - How do furlough employees impact this number?

# PPP Loan Forgiveness

- **Decrease of debt forgiveness will be ignored if there was a reduction:**
  - during the period beginning on February 15, and ending on April 26, 2020 there is a reduction in salary
  - as compared to February 15, 2020, in the salary or wages of 1 or more employees of the eligible recipient
- **No later than June 30, 2020, the eligible employer has eliminated the reduction in the salary or wages of such employee**
- The Administrator and the Secretary of the Treasury may prescribe regulations granting de minimis exemptions from the requirements under this subsection

# PPP Debt Forgiveness Questions

- **Are payments made with forgiven funds deductible?**
  - CARES Act states amounts forgiven are not included in taxable income BUT....
  - IRC Section 265, states expenses allocable to tax exempt income are not deductible
  - Will Congress amend Section 265 to accommodate this situation, but if not most likely no double dipping will be allowed and expenses paid with loan funds that were forgiven will not be deductible
    - Large impact on wages paid for purposes of 199A deduction
    - Impact on wages paid for state apportionment

# PPP Debt Forgiveness Questions

- **How do the covered periods interact?**
  - Covered period for use of PPP loan proceeds (Sec 1102) is between February 15, 2020 and ending on June 30, 2020
  - Covered period for loan forgiveness (Sec 1106) means the 8-week period beginning on the date of the origination of a covered loan
- **What happens to a borrower who receives loans proceeds on June 1st?**
  - Yes, moot point at this point because there are not funds!

# PPP Debt Forgiveness Questions

- **Forgiveness is NOT guaranteed**
  - Eligible recipient seeking loan forgiveness must submit to the lender that is servicing the covered loan an application, which shall include:
    - documentation verifying the number of full-time equivalent employees on payroll and pay rates for the periods including
      - payroll tax filings reported to the Internal Revenue Service; and
      - State income, payroll, and unemployment insurance filings
    - documentation, including cancelled checks, payment receipts, transcripts of accounts, or other documents verifying payments on covered mortgage obligations, payments on covered lease obligations, and covered utility payments

# PPP Debt Forgiveness Questions

- Eligible recipient seeking loan forgiveness must submit to the lender that is servicing the covered loan an application, which shall include (continued):
  - a certification from a representative of the eligible recipient authorized to make such certifications that
    - the documentation presented is true and correct; and
    - the amount for which forgiveness is requested was used to retain employees, make interest payments on a covered mortgage obligation, make payments on a covered rent obligation, or make covered utility payments;
  - any other documentation the Administrator determines necessary.

# PPP Debt Forgiveness Questions

- No eligible recipient shall receive forgiveness without submitting to the lender that is servicing the covered loan the documentation required
- The lender must issue a decision regarding loan forgiveness no later than 60 days after the date on which a lender receives an application
- In the absence of guidance, there is a concern that lenders will come up with their own terms and computational formulas for purposes of determining forgiveness
  - We are hopeful for SBA guidance on loan forgiveness in the next two weeks

# Main Street Lending Facilities

- The Department of the Treasury, using funds appropriated to the Exchange Stabilization Fund under section 4027 of the CARES Act, will make a \$75 billion equity investment in the single common SPV in connection with the MSNLF and the MSELF. The combined size of these facilities will be up to \$600 billion.
- Eligible Borrowers:
  - Eligible Borrowers are businesses with up to 10,000 employees or up to \$2.5 billion in 2019 annual revenues.
  - Each Eligible Borrower must be a business that is created or organized in the United States or under the laws of the United States with significant operations in and a majority of its employees based in the United States.

# PPP vs. Main Street Loans

	PPP	Main Street New Loan (Stand Alone Facility)	Main Street Expanded (Adding to Add'l Debt)
Expected Launch Date	April, waiting for refunding	Early May	Early May
Interest Rate	1%	Variable and right now SOFR + 2.5 percent to 4 percent	Variable and right now SOFR + 2.5 percent to 4 percent
Repayment Period	2 years	4 years	4 years
Minimum Loan Amount	N/A	The smallest loan amount is \$1 million	The smallest loan amount is \$1 million

# PPP vs. Main Street Loans

	PPP	Main Street New Loan (Stand Alone Facility)	Main Street Expanded (Adding to Add'l Debt)
Maximum Loan Amount	\$10,000,000	(i) \$25 million, or (ii) an amount that, when added to the Eligible Borrower's existing outstanding and committed but undrawn debt, does not exceed <b>four times</b> the Eligible Borrower's 2019 earnings before interest, taxes, depreciation, and amortization ("EBITDA");	(i) \$150 million, (ii) 30% of the Eligible Borrower's existing outstanding and committed but undrawn bank debt, or (iii) an amount that, when added to the Eligible Borrower's existing outstanding and committed but undrawn debt, does not exceed <b>six times</b> the Eligible Borrower's 2019 earnings before interest, taxes, depreciation, and amortization ("EBITDA")
Principal and Interest Deferral	6 months	1 year	1 year

# PPP vs. Main Street Loans

	PPP	Main Street New Loan (Stand Alone Facility)	Main Street Expanded (Adding to Add'l Debt)
Debt Forgiveness	Yes	No	No
Parameters regarding use of funds	See slide 9	Generally no, but read required attestations	Generally no, but read required attestations

**Summary based on initial proposed term sheets provided on the Federal Reserve website.**

# Bonadio CARES & More Consulting Team

- The Bonadio CARES & More Consulting Team is working diligently with clients to assess their eligibility for certain programs to maximize benefit.
- The laws and guidance change daily, and our team is here to track the evolving process, advise your business regarding the programs available, provide an overarching support system in understanding how all the programs interact, as well as consult with you and your other external teams to maximize benefits to ensure you and your company get through this difficult time.

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# THANK YOU!

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March 31, 2020