COVID-19 Alert: PPP Loan Applications

Best Practices Before Applying For a PPP Loan: Board of Directors Meeting

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Many small businesses in the United States are considering applying for a Paycheck Protection Program ("PPP") loan. The PPP loans have certain eligibility requirements, and require the applicants to make certain certifications on the application. In order for a company to be sure that it is eligible, and that applying for a PPP loan is in the company's best interest, we recommend that a company call a meeting of its board of directors to discuss the company's plan to apply for a PPP loan. This ensures that the company and the board have given significant thought to the need and eligibility for a loan and the accuracy of the company's application. Minutes of the meeting will serve as evidence of these deliberations, if the lender or government audits or questions the company in the future. (For tips on adopting new virtual meeting policies and procedures, see: *The Virtual Board Meeting in the New COVID-19 World Order*.)

In particular, we recommend that the board of directors discuss the following topics:

1. Does current economic uncertainty make this loan request necessary to support the ongoing operations of the company?

- What level of economic uncertainty is facing the company?
- How has this economic uncertainty impacted the company's business? How is it affecting the company's customers and suppliers? How is it affecting revenue and expense projections?
- How has the company changed, or how is the company considering changing, its operations given the economic uncertainty? Is it considering layoffs, furloughs, hiring freezes, or salary reductions? Is it concerned with its ability to make mortgage, rent or utility payments?
- What additional changes would the company make if it doesn't get this loan?
- What is the company's runway with and without the loan?

2. How would the loan proceeds be used?

- What actions will the company be able to take with the loan that it could not take otherwise?
- Will the company use the loan at least 75% for payroll costs, covered mortgage interest payments, covered rent payments, and covered utilities?
- What processes will the company put in place to ensure that loan proceeds are used only for the permitted purposes?

3. Is the company otherwise eligible for the loan?

- Review the application and the eligibility rules regarding number of employees, existence of additional SBA or other federal loans, criminal records, and other factors that could disqualify

a company.

- For companies with institutional investors, consider the affiliation rule when calculating the number of employees for eligibility purposes.
- Is the company able to appropriately answer all questions and make all certificates in the PPP application?

4. What process did the company use for calculating the amount of the loan?

5. Are there any PR or other concerns with the company taking the loan?

- This concern is particularly acute for companies that have recently completed a significant fundraising round.
- Consider reactions of the press, customers, suppliers, current and potential investors, and employees.

Morse is following this topic closely. Please feel free to reach out to your Morse contact should you have any questions.

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