Final Summary of Provisions in CARES Package Most Relevant to ICSC

ECONOMIC PROVISIONS

LOAN PROGRAM

Small Business "Paycheck Protection Program"

- New $349 billion SBA lending program, modeled on existing 7(a) program, with 100% government guarantee (as opposed to 75% guarantee for 7(a) loans).
- Eligibility:
  - Small businesses as defined by SBA size standards (generally up to 500 employees, but up to 1,500 employees depending on the sector and certain sectors are based on revenue).
  - Businesses in the Accommodation and Food Services Sector (NAICS Code 72) are eligible with up to 500 employees at each location. Code 72 is limited to restaurants and accommodations (hotels).
  - Non-profits with fewer than 500 employees who are 501(c)3s and do not receive Medicaid funding.
  - Sole proprietors, the self-employed, and independent contractors.
- Regulatory Streamlining: SBA's standard "no credit elsewhere" test is waived and non SBA-lenders approved by Treasury and SBA can provide loans.
- Maximum Loans: Generally monthly payroll costs for 2 ½ months, not to exceed $10 million. Payroll costs exclude compensation paid to individuals, including the self-employed, in excess of $100,000 a year.
- Requirements: The employer certifies that they will maintain their average full-time equivalent employment, with incentives to re-hire if employees have been furloughed.
- Loan Forgiveness: The borrower shall have a portion of their loan forgiven in the amount equal to their payroll costs (not including costs for compensation in excess of $100,000 annually), interest payments on mortgages, rent payments, and utility payments between February 15 and June 30, 2020. Loan forgiveness will be reduced if the borrower reduces employment by a ratio similar to their reduction in employment or if borrower reduces salaries and wages by more than 25%.
- Banks that already participate as SBA lenders will administer by making these low interest rate loans, expected to be tied to the maximum interest rate for SBA loans as February 15, 2020. There are protections against reselling the loan. The bill also excuses banks who make loans under this program from certain accounting and loss reserve requirements, thereby freeing up funds for additional lending.
- Borrowers who receive Small Business Interruption Loans are not eligible to receive SBA Economic Injury Disaster Loans (EIDLs).

Loan Program and Credit Facility

- $500 billion for loans and loan subsidies and support for Federal Reserve credit facilities.
- Eligibility: Air carriers and other businesses not otherwise receiving adequate relief under other provisions of the bill.
- Breakdown:
    - (1) $50 billion in loans and loan guarantees for air carriers.
    - (2) $8 billion in loans and loan guarantees for cargo air carriers.
    - (3) $17 billion in loans and loan guarantees for businesses critical to maintaining national security.
    - (4) $425 billion for loans, loan guarantees and investments in support of facilities established by the Federal Reserve to support lending to eligible businesses, States, or municipalities. (*retailers and larger members?)
        - Via the Federal Reserve, the $425 billion could be leveraged significantly, potentially providing up to $4 trillion in financial support.
- Allows Federal Reserve to purchase corporate, state and municipal bonds.
- Restrictions for Loans Under 1, 2, and 3: Loans must be secured, for a term of not more than 5 years, and while the loan is outstanding, prevents stock repurchases and requires borrowers to maintain existing employment to the extent practical.
- Authorizes the Secretary to require warrants, stock options, etc. to enable the government to share in any gains.
- Imposes limits on executive compensation for borrowers.
- Restrictions Under Federal Reserve: Loans through the Federal Reserve generally (though with possible exceptions) prevent the borrower from repurchasing stock while the loan is outstanding.

BANKING PROVISIONS

Latest version gives the Federal Deposit Insurance Corp. expanded authority to guarantee bank accounts and ease key lending regulations.

The bill would give the FDIC greater authority to back-up accounts, including by guaranteeing business transaction accounts. The FDIC previously used the transaction account authority in the 2008 financial crisis to shore-up confidence in accounts used for payroll and other business purposes.

The bill would make it easier for small banks to take advantage of streamlined capital requirements that Congress ordered regulators to establish in 2018 through the community bank leverage ratio.

The legislation would also rework accounting rules that banks have warned could inhibit lending.

It would allow banks to postpone compliance with the Current Expected Credit Losses (CECL) standard, which requires lenders to immediately account for potential losses when they issue loans, tying up more of their capital. They would have until the end of the coronavirus public health emergency ends or Dec. 31, whichever is earlier.

Another section of the bill would ease accounting rules to make it easier for banks to restructure the Troubled Debt Ratio (TDR) without taking a significant hit to their capital. Regulatory relief from accounting standards for loan modifications related to COVID-19 made by banks.

TAX PROVISIONS

Individual Tax Relief

- **2020 Recovery Rebates for Individuals**
  Provides up to $1,200 for individuals; $2,400 for married couples. Those amounts increase by $500 for every child. The rebate phases out for incomes over $75,000 (single) and $150,000 (married).

Business Tax Relief

- **Qualified Improvement Property (QIP) technical correction**
  Fixes an error in the Tax Cuts and Jobs Act (TCJA) that required tenant improvements to be depreciated over the 39-year life of the building. The fix is retroactive to 2018.

- **Employee retention credit for employers subject to closure due to COVID-19.** The provision provides a refundable payroll tax credit for 50 percent of wages paid during the COVID-19 crisis. The credit is available to employers whose (1) operations were fully or partially suspended, due to a COVID-19-related shut-down order, or (2) gross receipts declined by more than 50 percent when compared to the same quarter in the prior year.

- **Delay of Payment of Employer Payroll Taxes**
  Allows employers and self-employed individuals to defer payment of the employer share of the Social Security tax. The bill requires that the deferred employment tax be paid over the following two years.

- **5-year Net Operating Loss (NOL) Carryback**
  Provides that a loss from 2018, 2019, or 2020 can be carried back five years and removes the 80% taxable income limitation to allow an NOL to fully offset income.

- **Suspension of the Limitation on Losses from Pass-through Businesses**
  Allows all losses from a pass-through business to offset other sources of and individual's income, suspending a new rule imposed in the TCJA [IRC section 461(l)].

- **Acceleration of Recovery of Corporate AMT credits**

- **Relaxation of Business Interest Deduction Limits**
  Increases the 30-percent limitation to 50 percent of taxable income for 2019 and 2020.

For questions, please contact gpp@icsc.com