Imani Fields:

Street lending program presented by Rea & Associates, a top 100 regional CPA and business consulting firm with offices across Ohio. My name is Imani Fields, and I'll be moderating today's presentation. Before we get started, there are a few housekeeping items to cover. First, if you have any questions during today's presentation, they insert them into the chat box onto your screen. We'll be working to respond to as many questions as we can during those presentation.

Imani:

For any questions we are not able to answer during today's webcast, please reach out to us at Rea News at reacpa.com and we will promptly respond to your email at the conclusion of today's presentation. After today's webcast, you will also receive the recording of today's presentation as well as a link to participate in a very short evaluation. Please take a few minutes to share your thoughts about the presentation as a whole, the information provided and our presenters.

Imani:

Your feedback is important to us as we determine future webinar topics related to the current COVID-19 crisis. Also, if you'd like a copy of today's slides, you'll find that they're available in the handouts section of the webinar dashboard on your computer screen. Today's webcast will be given by Doug Houser and Paul McEwan. Paul McEwan is a principal at Rea & Associates where he leads the firm's retirement plans, consulting and administration services team.

Imani:

He's responsible for consulting with clients on fiduciary best practices related to their qualified retirement plans. As a principal and director of construction and real estate services at Rea & Associates, Doug Houser is committed to building out and growing the construction and real estate services segment while continuing to ensure that we are known industry wide. Today, Doug and Paul will discuss how to navigate the PPP loan forgiveness and mainstream lending programs and will provide you with insight into your record keeping responsibilities during these uncertain times, and I'll pass it on to you Doug.

Doug Houser:

Thank you very much, Imani, and welcome to all those online. Just to give a brief overview today of what we're going to do, Paul and I will probably Spend a few moments going over some overarching themes with regard to the PPP forgiveness, frequently asked questions that we've been getting and some of the main issues. We'll go through our template for a few minutes as well but we want to spend the bulk of the time here today, taking Q&A from our audience.

Doug:

So we'll spend quite a lot of time on that and then at the end, we will introduce the Main Street Lending Program, which was also approved as part of the CARES act and which is close to being live here probably within the next couple of weeks, I would imagine if not sooner, so we'll get into that a little bit as well. So Paul, as we get started, maybe you and I can touch on just a couple of overarching themes here. One of the main topics, for example, that we get is related to cash versus accrual basis. Do you want to touch on that a little bit?

Paul McEwan:

Sure. Sure. You're right. It's a question that, it's definitely in the top five for sure. It comes in a variety of different ways but the act is not specific at all when it comes to that. The specific language in the act is costs incurred and payments made. So depending on how you interpret that, is it the costs have to be incurred and the payments made? Is it the costs incurred, or the payments made? Can you prepay expenses? We don't know.

Paul:

The answer that we've been getting, that we think is the most conservative right now goes back to what we believe the overarching intent of the program is, and that is, Congress came up with a program to push money out to employers to try to keep employees on payroll. They wanted the money spent as quickly as possible. So they came up with this concept of an eight week measurement period and tied this idea of forgiveness to actually spending the money. So I think we will get guidance for sure, we won't be left with this unknown forever.

Paul:

I think we'll get some guidance before the end of the eight week period, but I think for now, we're just saying let's plan on a cash basis interpretation of this. If you've got some expenses that are reasonable, even though you don't normally pay them during the eight week period, like maybe some retirement costs, we'll go ahead and put those down on the spreadsheet, we'll plan to include them.

Paul:

Let's not make those deposits yet. Let's hold off to see if we get some more guidance. I'm sure you have some thoughts on it too, Doug but I know the two of us are really suggesting let's start with a cash basis interpretation. Let's not go hog wild in terms of prepaying certain large expenses, et cetera to be reasonable about that.

Doug:

I would certainly agree, Paul. I think like anything, there's kind of a sliding scale of aggressiveness and as you say, stuff that's within the normal course of your operations. Even if you've got maybe some deferred expenses from March for example, you're probably okay on those things. Don't, as you say, don't go hog wild trying to prepay a bunch of stuff to try to play some games with it. Again, it's sort of a sliding scale there.

Doug:

Now, some of the things you can do though, if you do want to give some folks some bonuses or hazard pay or things like that, that are again, reasonable in terms of what you're doing to reward them for hard work and things like that during this period, again, go back to, as Paul said, the intent of the Act, which is to get those funds in the hands of employees and keep them off of unemployment. So those types of things are generally, if you think about it, generally okay.

Doug:

Again, the best tactic to take here because we don't have definitive guidance on some of these things, track and plan, track and plan. So that's probably one of the main issues. The other thing I want to touch on briefly, Paul, before we get into the spreadsheet, as well, and some other topics at a high level, this concept that came out over the weekend of do you really need the funds and should you pay them back? We've gotten some questions on this.

Doug:

This was certainly blowback as it relates to some of the large public companies that were well publicized that took PPP funds as well as the Los Angeles Lakers basketball team. So there was some sort of rewriting of the rules after the fact. Paul, I know you have that exact language, you can read that, and maybe we can comment on that, briefly.

Paul:

Sure. I'll just read that real quick. The language is pretty general, which I think once you hear it, you'll agree. So anyway, a small business basically had to believe or certify the current economic uncertainty of the COVID-19 pandemic made such a loan, the PPP loan for their business necessary to support their ongoing operations. So I know when we were working with clients, starting way back at the beginning of April and even the end of March counseling clients, is there something I should apply for, we took a very broad interpretation of that.

Paul:

You have to remember 2020 is hindsight and every day that goes by, we know a little bit more about how this thing is going to play out. There's still a lot of uncertainty, I would argue but back at the beginning of April, we had no idea how long this COVID-19 crisis was going to last. I would argue we still don't know exactly.

Paul:

Our advice to our clients, and admittedly, I guess we should define who our clients are maybe Doug but small closely held family businesses. We don't work with public companies. So our advice was pretty simple. If you think you're going to be impacted by this, whether you have cash in your bank account now, or the impacts maybe down the road for you, depending on how long this lasts, we would tell you, you've probably got a moral obligation to your employees who count on you, as an employer to have money to pay them.

Paul:

You have an obligation to do whatever is, within reasonable means, of securing funds to pay them, whether that's generating revenue on your own through your business model or obviously in a pandemic, if there are funds that become available through a government program, you would have an obligation to explore that opportunity and figure out if that's something that works for you. So, ultimately, I would say 90 plus percent of our clients decided that this was something that they should take advantage of.

Paul:

I think even now, even with the guidance has been provided by SBA on this, again, with very significant political overtones in my opinion, it was the right thing to do and I think it's still very defensible. I haven't advised anybody to send the money back at this point.

Doug:

Yeah, and I would agree. The other thing that I would keep in mind here, I've spent a number of years in banking, I've talked to a number of bank execs and remember that the banks here are only going to certify what management of the company provides them. They are not going to verify, they're only going to certify that yes, this information was provided to us by the client and we believe it, the client believes it to be accurate and correct. So, there's a big difference there.

Doug:

If you're already known to that bank, you have a preexisting relationship, I think, you can expect this to be pretty smooth process. Most of the loan documents that I've seen require a submission for an application for forgiveness to be done within 30 days after the end of your measurement period. So you've got a little bit of time there, we'll hopefully get some more guidance with that, but again, as long as you're tracking this stuff accurately, and you can provide good detailed information to back up what you're doing, I don't think you're going to have anything to worry about.

Doug:

It's in nobody's best interest for the Inspector General of the SBA, who's got a fairly small staff of 90 auditors, by the way. So think about that. There's 90 auditors that can take a look at this stuff. It's not in their best interest [inaudible 00:11:37] to start coming after closely held family owned businesses. I don't care how big they are. That's just not going to play well, politically. So take that for what it's worth. There are a few law firms out there that are maybe issuing some scare tactics, I think to try to get some additional consultative fees out of, oh my gosh, are we okay? Can you give us a legal opinion? Should we pay back these funds? I wouldn't be overly concerned with that. Just-

Paul:

The example used in the guidance, and the frequently asked questions that was put out by SBA referenced the public company example. There was, as you said, some pretty high profile examples of public companies and interestingly enough, they were all in the restaurant business. SBA specifically broadened the eligibility for restaurants when they determine the eligibility for the PPP program. So this was an unintended result, I think. So I think they were trying to clarify, hey, let's use a little common sense here in terms of what was the intent of the program. We didn't really intend this for the public company market. We have other programs available for those companies. Yeah, you guys technically fit, you're qualified, you applied and you didn't break any rules but if you'd like to give the money back now having been identified, we'll gladly take the money back.

Doug:

Well, as they say, my old English professor taught me many years ago, the irony is rich. So with that, maybe, Paul, let's move into the template a little bit, and we can spend maybe 15 or 20 minutes going through that and some other issues that come up. Then we can spend the remainder of the time taking some Q&A.

Paul:

All right. Can everybody Abby, Imani, can everybody see my screen?

Doug:

I can see it.

Paul:

Very good. Okay. So first thing I want to point out and Doug made a reference to this already is the yellow at the top. This is our best interpretation. I've seen a lot of different spreadsheets prepared by Different CPA firms and other financial service providers and payroll companies, for example, and ours is consistent, I would say in terms of the approach we've taken. That said, there are still a ton of unknowns. We've already alluded to some of them and a lot of guidance we still need, but I think what we wanted to show you was our methodology and how we're thinking about it at this point, as you think about the costs during this measurement period, following receipt of your loan.

Paul:

So let's just dive right into this thing. So first of all, I would say, we're starting with payroll, and it's the same definition that we use to receive the loan. That is, we're starting with gross salaries and wages. So that includes bonuses, commissions, it's gross payroll in the same way that we define gross payroll for purposes of calculating our average payroll costs for applying for and receiving the loan. Then, you want to add something Doug?

Doug:

No, go ahead.

Paul:

Okay, I'm sorry. I thought you were getting ready to say something.

Doug:

The only thing I wanted to point out is there are some little pop up bubbles there that define those. So the folks that do have our spreadsheet, they can see those that kind of show some of those definitions but, no changes in essence to the payroll cost definition.

Paul:

So anything that the employees would be deferring would be included. So that would be payroll taxes, payroll withholding, federal income tax withholding, state withholding, local withholding, 401k, or any other type of retirement deferrals, any other types of health insurance or any other fringe benefits that the employees may be paying for they would all be included in there. So that's kind of the starting point. Then I think you want to add in, you have the option to add in the employer portion for group health care, dental insurance, vision insurance, if those are actually employer paid, oftentimes those are employee paid.

Paul:

Then the retirement benefit and again, just a reminder, haven't gotten any guidance in terms of those retirement benefits yet that are employer paid. So theoretically, you could still throw in discretionary year in profit sharing bonuses or contributions to a defined benefit plan which tend to be larger. I think we probably will get some guidance eventually that probably ties it to more of a payroll related type of contribution, like a match, or maybe a 3% safe harbor non elective type of contribution, but no guidance yet at this point.

Paul:

So, put it down on your spreadsheet if you usually make large cash balance contributions or discretionary profit sharing contributions, put it on your spreadsheet. I would say don't rush to make those deposits yet because very likely, we'll get some guidance that says it doesn't count, but so far, so good. If we never get guidance that says it's disallowed, then I would definitely be advising clients to include that in their calculation.

Paul:

One scenario that came up as I was talking with clients, some clients don't pay their match concurrently. They accrue it throughout the year and then they'll pay it towards the end of the year, after the year or sometime before the due date of their tax return. So one client asked me if we wanted to pay what's been accrued so far this year during this eight week period and try to take credit for that. I think that works. Do you agree, Doug, do you think that-

Doug:

Yeah, I agree-

Paul:

I think that's reasonable. That's definitely been incurred if you pay it during that eight week period, I think that counts, but we'll see. Then moving on down the spreadsheet, state or local tax is assessed. The question we get here most commonly is, are workers comp premiums included. Doug, you want to jump on that? I know we're on the same page as far as that goes, but I think we're telling everybody the same thing.

Doug:

Yeah, our guidance is that, again, we think those are allowable at this point. I would definitely only include the net portion of those workers comp premiums. In other words, there's been, certainly in the state of Ohio, folks have started receiving rebates, those were announced. I would certainly net any of those rebates against your premiums they're in. So, again, this could change, we could get guidance that further clarifies that. That's our best guidance at this point.

Paul:

Yep, and hopefully you're sensing the theme here where we're trying to be conservative and reasonable when we're not sure about something, and we definitely need more guidance on something. Taking a reasonableness, kind of a middle of the road approach. What's the old saying, is it hogs, pigs get fat, hogs get slaughtered, something like that. So I think that definitely applies here, especially given the political nature of the whole certification of the need, that we talked about at the beginning.

Paul:

So try not to take too much advantage of a good thing, as they say. So then, the next line we have is this is for our sole proprietor or partnership clients was we have aversive guidance. This is one good thing. Guidance that we've received. For sure, we can include up to $100,000. If you add self-employment earnings in 2019, so up to, excuse me, up to 100,000 per owner, whether you're a partner or a sole proprietor.

Paul:

So that's where we would add those in because they wouldn't have been included, obviously, a W2 payroll above, so we'll be adding that in there. The only other thing I would add here is we did get guidance too, for sole proprietors and partners. Retirement contributions typically flow through and are taken as a deduction on page one of the 1040 are not going to be included, interestingly enough. So it's a difference in entity between S and C corps versus LLCs or single member LLCs.

Doug:

Keep in mind as well that those earnings from self-employment, just like wages for an individual are capped during this eight week period at $15,385, which represents eight weeks at $100,000.

Paul:

Don't go with 100,000. So yeah, I appreciate you clarifying that. Then I don't think this is going to be, this was added in advance with the expectation I think that folks would have applied for and received disaster loans, which is a different SBA program, prior to receiving their PPP loan. In actuality, I don't think we've seen this, Doug. I don't [crosstalk 00:21:52] any clients that received a disaster loan. Essentially, that program was crushed with applications as badly as the PPP program and nothing got processed quickly.

Doug:

Yep, and even though they allow a lot more funding to it, I just checked the portal. In fact, before we get on here, they're still working through the queue from the original [inaudible 00:22:17]. So I don't think there's going to be anything further come in there to be honest.

Paul:

So this was disaster loans that had already been received by the applicant, and they could have been added in and refinanced as far as the PPP loan, but I have not seen that at all. So then we have some reductions and the biggest one is wages over 100,000. Very specific in the CARES act, that anybody that's making more than 100,000 on a basic compensation basis is going to be limited to that 15,385 or an eight week period that Doug alluded to, just a minute go. So anything over that that's included in gross payroll is going to be reduced and taken out at this point.

Doug:

We get this question a lot too, keep in mind that that limit is only the gross wage amount. That does not include the other benefits as were detailed above. So that $100,000 limit only refers to the gross wages, not to the retirement plan contributions, health insurance, all those other items. So just to be clear on that.

Paul:

I'm not going to get into the other items on there, they're relatively less applicable. I guess I would say, in thinking about payroll costs, what I've told clients is from a forgiveness perspective, make sure that you spend all the proceeds of the loan during the eight week measurement period, make sure that you're spending them on the qualified expenses that are allowed, and we're going through those right now, and that you do that in the right proportion.

Paul:

So we haven't really talked about that, Doug but [inaudible 00:24:15] costs need to be at least 75% of the total, that the companies expand. So that's a pretty straightforward calculation. So if I'm organizing this for my company, I'm prioritizing, obviously, things that would fit into the payroll cost category like retirement related expenses and health insurance, for sure. Then, as kind of a second bucket to fill up mortgage interest, rent, and utilities.

Doug:

Yep, and there's still some question on some of those items, too and we'll see. Hopefully, we get more guidance. There's an item within utilities that indicates transportation. That's been completely undefined at this point. So again, Paul and I have felt like, let's be a little conservative until we understand maybe what they're referring to there. So we'll see, rent, some of the questions we get related to that. Can you pay rent to a related party? The answer is yes.

Doug:

If it's within the normal course of your operation, and you have an existing lease, you have a pattern of payment that's gone on, you're going to be fine. Mortgage interests, there's been some question about, well, what type of loans are we talking about? Again, our best guidance here is it strictly refers to real property. We're not talking about loans related to other stuff.

Paul:

Let me jump in there real quick. I think what's confusing is the act actually talks about real property and personal property, but it talks about it in the context of mortgage interest, and I don't know, can you have a mortgage on personal property, Doug? You're my banking expert.

Doug:

No, you can take title to it or you can have a lien on it, but no, you can't mortgage it. So that's, again, why I lean towards, the intent, if you think about it, they're trying to capture rent and mortgage interest. So it's your occupancy costs.

Paul:

Occupancy costs. Exactly. That's what I think you're going back to.

Doug:

That's what we fall back on there. So yes.

Paul:

Again, rent as just to reiterate what you said, there really is no limitation within the CARES act in terms of could these be equipment leases, for example. So I think what we're telling clients is, yeah there's no limitation at this point but I would be surprised if we don't get guidance that locks in the rent they're referring to and the law has to do with occupancy costs, not rent free equipment. If you want to put that down, you're considering all your potential costs for this thing, put it on your spreadsheet, that's what we're telling clients.

Paul:

Put it down and let's leave it out there. So we don't forget about it, but if we get specific guidance that kind of tosses it out, then we're going to have to scratch it off and not include it. Then the utilities, like you said, the transportation is the biggest question mark there, have had a lot of questions regarding cell phones and internet. I think it's, we're saying, yeah go ahead and include those for now. Again, we may get specific guidance on that but internet, it's pretty hard to do business without the internet.

Paul:

That's pretty much a utility and there's a limited number of providers in the marketplace. So very similar to electric gas, water, sewer, those kinds of things. The one description I've seen and it was a very specific type of description related to transportation costs, and was alluded to not specifically addressing transportation costs, but actually addressing, in the Q&A related to self-employed earnings and whether they were includable as payroll costs.

Paul:

They mentioned gas and business vehicles and that's the only thing, the only reference to transportation costs that I've seen. So can you expand that a little bit? I don't know. Maybe. I do think we'll get some additional guidance on that. Because transportation is not something I normally think of as a utility, that's for sure.

Paul:

All right. So other debt obligations listed on our spreadsheet here. I would say this is left on from an earlier version. We're not adding anything in here. Interesting, and I think we'll get some guidance on this, but for right now, interest on other debt obligations is listed as an expense that can be paid for using the loan proceeds, but then for whatever reason in this part of the law, section 1106, in the CARES act that describes the forgiveness provisions, it doesn't mention other debt obligations as being part of your forgiveness calculation.

Paul:

So we've got it on here. I suspect we'll get some future guidance, but for now, as you said before, we're not including those and we're telling clients not to include anything other than mortgage interest at this point.

Doug:

Yep. I think the big thing to talk about with some of the reduction things here, the one we seem to get most questions about relates to FTEs, I know we'll spend a little bit of time on that and we'll certainly take a lot of questions on it, I'm sure but so what is an FTE? When you go back to the application process, it actually asked you to count the number of employees. It said nothing about full time equivalents or FTEs.

Doug:

So this is very different than what was done during the application process. Our best guidance right now, and this seems to be consistent for most of the things I've seen in the marketplace, use 30 hours a week as an FTE. That's anybody that's working 30 hours or more is considered 1.0 for FTE. If their average during the measurement period is less than that, then they are a ratio of that 30 hours. That 30 hours is what's defined as full time under the Affordable Care Act. It's the best we have right now. Again, that can change too but that seems to be the best guidance that we have at this point. So just wanted to point that out.

Paul:

Yeah, I guess we kind of dove right into the weeds there with jumping into FTEs because we're getting a lot of questions on that. Just getting back to the framework of the CARES Act and the forgiveness provisions. So if you're starting with your payroll costs and your other costs, we're trying to build those up and utilize all of those expenses and hopefully, they total the total amount of your loan proceeds because that would provide your maximum opportunity for the maximum level of forgiveness, because that's going to be your first reduction.

Paul:

So any dollars that aren't spent on those qualified expenses aren't going to be forgiven, they're going to be termed out and a loan over two years at 1%. So those are the easiest dollars to get forgiven, and then we dropped down to the headcount requirements, and the wage and salary reduction requirements. I think really all that Congress was getting out there was, hey, the goal of the program is to keep it everybody employed and to the extent that you're not keeping everybody employed or that you've reduced everybody's wages, trying to conserve cash, whatever, we don't want you to do that.

Paul:

If we're going to give you two and a half months of payroll costs, we want you to spend them, and we want you to spend them at normal headcount levels and at normal wage and salary levels, because, again, the purpose of the program is to drive the economy. 70% of the economy is consumer based. We want these dollars going back into the economy so that people can make their mortgage payments, their rent payments, buy groceries, et cetera.

Doug:

Paul, I would say, go ahead. I'm sorry.

Paul:

No, I was just going to jump back into that. So that's the beginning point. So part of that headcount calculation is that whole FTE, so I was just trying to put it in context for everybody, Doug, in terms of where that FTE comes into play. A lot of questions in terms of what do I use? I've got two options here. You're basically comparing your headcount during the measurement period and the way we're calculating that is we're looking at each payroll in the measurement period. What's our FTEs for that payroll.

Paul:

We're going to average out the FTEs for all the payrolls during the measurement period. And then we're going to compare that to the payrolls into a pre-crisis comparison period, that's either going to be from 2019, February 15, to 6/30/19, or 1/1/20 to 2/29/20. You have your option there, and it's really your option, whichever one works out best. So we've got a lot of questions. Which one do I use? How do I know which one to use? It's really your option, in terms of which one to use there.

Doug:

I'll say-

Paul:

Go ahead. I'm sorry, Doug.

Doug:

I think it's important, again, just be consistent. Be reasonable. When you're looking at this stuff, it's pretty straightforward in terms of this employee calculation. Again, as Paul said, the overarching theme here, they wanted to keep people employed, keep them on the payroll, keep them off unemployment, spend the PPP funds towards those allowable things and you'll be fine.

Paul:

One related question that we normally, normally that we've been getting, a common question I should say, is, well, what if I'm a restaurant and I'm shut down by the state and I don't have anything for my employees to do, what then? So what we're telling folks is, you're basically going to be paying them to stay at home unless you can find something for them to do. The mandate is to the PPP loan program is to get the dollars into payroll and out to employees regardless of whether they're working.

Paul:

A follow-up question is well, they're hourly. How do I know how much to pay them? I will tell you, how much do they normally work? Do they normally work 20 hours a week, do they normally work 15 hours week, do they normally work 40 hours a week? Whatever they normally work, just use that for purposes of the eight week period.

Doug:

Paul, I got a note from Abby here we've got a gazillion questions in the queue. So do we want to get into some of those?

Paul:

Let's wrap up real quick with just a couple comments on the reduction in the salaries piece of it. A lot of unknowns there too. Some commentators have taken the position that its total salaries that we're looking at there, they need to be at least 75% of your normal total salaries. Essentially, the calculation is comparing your measurement period to the most recently completed quarter prior to the loan. The problem with that is, eight weeks is not the same as a quarter.

Paul:

A quarter is a lot longer than eight weeks. So common sense would tell you that's probably not ultimately what the calculation is going to be. It's going to probably be, what is somebody's base pay and am I reducing their base pay even on a payroll basis? That's going to be the calculation.

Paul:

Again, we skipped over this Doug, but there will be an application that the SBA comes up with, and it'll be approved by the banks or derived in consultation with the banks. It's similar to the application for the loan itself, and after the eight week period is over, you will fill that out, send that in, and that will be the basis for your application for forgiveness.

Paul:

Then the banks will have 60 days to review that, at which point, I suppose they'll have the opportunity to audit you and I have heard, I think it's safe to assume that if you have, I will say a loan above 2 million, I saw some statistics but there was a relatively small number of loans that were, I'll say, over 2 million, maybe it's 5 million, but for sure 2 million. There's a high likelihood you'll get more scrutiny than if you got a smaller loan.

Doug:

2 million was the figure that Steve Mnuchin threw out there, but just to be clear, in terms of, say, subject to being audited, that is not subject to being audited by the bank. Again, because they are not going to take a role in that but you're subject to being audited by the Inspector General, as was part of the SBA. Again, they have 90 auditors right now. So not a lot. I know they're going to ramp that up but, again, be reasonable and be accurate and use your best judgment. That's the overarching theme here.

Paul:

So I think that kind of addresses the reduction in salaries and the last thing on our spreadsheet is kind of the reduction based on 25% of total eligible loan forgiveness coming from non-payroll costs. So we kind of throw that in at the bottom, and really there's nothing in the CARES act that tells us what order these reductions are taken. So this is just our best interpretation of how that might work. So let's go ahead and answer some questions.

Doug:

All right, Imani, hit us or Abby, whoever. I'm not sure who's doing it.

Imani:

It's Imani. So I have some questions for you guys. The first question I have here and whoever can answer best is, our eight weeks count have started. Can we move a regular payroll cycle to a different date to get additional benefit? I.e, typical pay date is Friday. Our eight weeks is up on a Wednesday. Can we make the last pay date Wednesday to get included in the forgiven amount or do we have to keep the regular cycle? Does the eight weeks begin when the deposit is made to your bank account?

Doug:

Do you want to take that one, Paul?

Paul:

I think this gets back to, are we cash basis or are we accrual basis. This is a really common question. I guess, conservatively, what we are telling folks as we think it will be a heavy emphasis on cash basis. So to the extent that you can, make sure that you get as many payrolls as possible during the eight week period, and you have the ability to determine pay dates. It would be to your benefit, I think, and it would be helpful if you got those within the eight week period between the date you got your loan and eight weeks out. I suspect we'll have some specific guidance on this point before it's all said and done, and I'm hoping that people don't have to come up with crazy payroll dates just to get the maximum payroll costs included in the eight weeks. Doug, your thoughts?

Doug:

Yeah, bottom line is I think you're fine. In the example given, if you're going to move your payday from a Friday to a Wednesday, that's fine. Don't be egregious in it, but if you want to try to capture that pay and actually pay it before your eight weeks is up, you're probably good.

Imani:

When does the eight week period begin? Does it begin once you receive the funds? I know you guys kind of mentioned that but just to reiterate.

Doug:

Simple answer, date you receive your funds, your eight week clock starts. That's it.

Imani:

Perfect. Next question here is my question is more surrounding the actual application process. I have clients inquiring about applying for the program, but their bank is not accepting additional applicants due to the backlog of existing applicants. Do you have an idea of where else business owners can apply for the program?

Doug:

I can touch on that a little bit, just given my background in banking. So the program 2.0, the PPP 2.0 did allow for 30 billion each specifically to smaller institutions, specifically 30 billion for banks that are less than 10 billion in assets, 30 billion for banks that are between 10 and 50 billion in assets. Then the remaining 250 billion is accessible by all banks. Now, there's been a lot of noise since the program 2.0 went live at 10:30am on Monday.

Doug:

What's happening is that the SBA is rationing the number of applications that can be submitted by banks. They don't want, for example, Chase or Citibank, just putting in 50,000 applications and chewing up all the availability. So they are, "kind of rationing," the portal, the E-Tran portal through which the applications are submitted. Now there was a batch submission that was allowed last night, but I know there's been a lot of frustration by the bankers, a lot of patience on their part, trying to get through this process.

Doug:

It's an imperfect system but in this round 2.0, the SBA and the government decided we want to try to control this a little bit, sort of control the spigot, if you will. So they don't have it quite open all the way so somebody can just monopolize it. They were sensitive to the feedback from around 1.0 so that's why you're seeing some of this, "rationing."

Doug:

So in terms of trying to work with different institutions, I would tell you, try some of those smaller sized institutions. You'll probably have some success there. Try a boat race with several institutions if you have to. If we're getting desperate here in terms of the use of all these funds, take it to a couple and make it a boat race. If one of them gets it in and submit it for you, immediately pull the other one but you don't want to get shut out and the timing is of the essence right now.

Paul:

The only thing that I would add is and real quick, focus on your community banks. I think you're more likely to get some folks, even if they've turned off the application process, you might get some exceptions made, depending on circumstance. We've certainly seen that. Then the other thing is if you've got clients that are with some of the large national payroll providers, they have, I found this out watching a webinar with one of the national payroll providers, they have partnered up with some of the FinTech companies out there.

Paul:

FinTech companies have actually applied for and gotten approved as SBA lenders. So they have I know Paychex, in particular, has a relationship with three different FinTech companies and they're processing loans. They may have lower volume, I don't know. Based on a relationship with Paychex, maybe not, but there are some nontraditional lenders out there that clients may be able to take advantage of.

Imani:

All right. The next question we have here is, is the forgiveness limited to 100k annual salary and less or is it full gross wages?

Paul:

Can you read that again? I think the answer, it's gross. It's up to 100,000 on an annualized basis. So I guess to be clear, and Doug made this clarification before, we're taking 100,000. We're dividing it by 52, and we're multiplying it by eight. So we're taking eight 52nds of 100,000. That's what we're limited to, and that's compensation. That doesn't include retirement or health insurance benefits.

Doug:

Yeah. 15,385 per individual. That's max.

Imani:

So the question we have here is regarding bonus compensations. Can bonuses based accumulated earnings from prior year’s net income qualify under total payroll expenses?

Paul:

I didn't quite follow the question. If the question is, is it regards to bonuses in general, we've gotten that question a lot. Can I pay a bonus during the eight week period? There's nothing specifically in the CARES act that disallows bonuses but obviously, you have to be careful about running into the 15,385 limit during the eight week period. So if you have the opportunity to do some sort of incentive compensation, maybe to get people back onto payroll, if they've been on unemployment, that's certainly a possibility. Does that response into the question? I just want to make sure we're answering the question.

Imani:

I believe so. It's just asking if it'll qualify under total payroll expenses, the bonus compensation.

Paul:

Yes.

Doug:

Yes. Again, subject to that limit. That's the key.

Imani:

So the next question we have here is, are ESOP contributions considered part of retirement expenses?

Doug:

Yes.

Paul:

Yep.

Imani:

What support, go ahead.

Paul:

I just said that was a simple one. Go ahead.

Imani:

What supporting documentation will be necessary to support the $15,000 paid to the sole proprietor when requesting forgiveness? Got tongue tied there.

Paul:

We just got guidance on this. So this is a simple answer as well and Doug, hopefully I'm right, but correct me if I'm wrong, but I think it's pretty clear now. It's going to be based on your 2019 self-employment earnings here. So your Schedule C from 2019 is what your reimbursement is going to be based on and it's going to be eight 52nds of that. Agreed?

Doug:

Agreed. Yeah. The net earnings from Schedule C, pretty easy.

Paul:

Not to exceed 100,000.

Doug:

Right.

Imani:

If you have enough to fill the 75% payroll but need more for the other 25%, can you prepay rent by a month?

Doug:

There's no requirement that you fill that bucket, so to speak. I'd be, again, there's no guidance right now that says, hey, that's absolutely 100% forgiven, but I'd be cautious there. So I would exercise caution. Let's wait and see as we get towards, further along, hopefully we get some clarification on things like that. You can track your expenses as you're going. Obviously, the payroll costs are the highest and best use here and track the other costs as you go and we can see as we get to the end, but I'd be cautious on prepaying some significant expenses there and hoping for forgiveness.

Doug:

Remember, it's a risk reward thing at the end of the day. So, you prepay one month's rent, how much is that? You could be subject to several hundred thousand dollars in fines if somebody doesn't like you and they really get into it. Ultimately, anything that's not forgiven turns into a two year loan at 1%, which ain't all bad. So, again, there's a sliding scale of aggressiveness and conservatism here, but I'd just be cautious. Wait towards the end on that.

Paul:

Yeah, and I think ... I was just going to add, again, going back, whenever we have these unknowns, it's good to go back and just look at the fundamentals. What was the purpose of the program. The way they came up with the two and a half months and then the eight week period was the expectation and the assumption that on average, if we give companies two and a half months of payroll costs, they'll be able to spend 75% of that or about eight weeks on payroll costs. Then that'll give them a little bit that they can use to spend on some basic occupancy or fixed costs related to the business.

Paul:

Not every business is the same, some are much more payroll heavy than others. So if you get really aggressive with non-payroll costs, you will run afoul of the 75% requirement of the payroll costs. You're aggressive and to Doug's point, you end up losing the forgiveness anyway, just as a part of the calculation and we'll see that. I'm hoping we get this application form sooner rather than later because I think that's going to go a long, long way answering a lot of these questions in terms of the calculation itself.

Doug:

Agreed.

Imani:

Next question here is, if you are unable to use all the fund, do you return the fund to the bank or federal government?

Doug:

No, two year loan at 1% and you can defer payment for six months, for six months. So it's still quite an attractive capital rate.

Imani:

Okay. For a sole proprietor with no employees, what proof of paying expenses out of the proceeds will need to be provided? Would it be distributions to the owner?

Paul:

Yes, in terms of payment, yes. If that's the documentation required, you would need to show that there was a draw taken in the eight week period for the owner.

Imani:

For FTE calculation, does overtime help at all for forgiveness?

Doug:

No, not really. You can only count 1.0 FTE. If somebody works 60 hours a week, they don't count as two. One is the max there for an individual.

Imani:

When does the two year timeframe for loan conversion begin? Two years after loan funding or two years after expiration of the eight week period?

Doug:

The loan docs that I've seen, at the expiration of the eight week period, you have 30 days to submit your application for forgiveness. The bank then has 60 days to act on that application. So you've got 90 days there total past your eight week period. At that point, once the bank makes the decision in terms of the forgiveness, and that's done, then that at that point, it would convert to a two year term loan, but each loan documents a little bit different. You'd have to read the specific language within your documents, but that is specified in all the loan documents I've seen.

Imani:

It says here I heard some chatter that the eight week spending window may be extended to 12 or 16 weeks. Have you heard anything like this?

Doug:

No, I haven't.

Paul:

Let us know where you heard it.

Imani:

Next question here is, just to reiterate, we should track transportation costs, gas and vehicle until further guidance is provided?

Doug:

Yes.

Imani:

Next question here, if we are a semi monthly payroll processing, do we just include any payroll processing dates within the eight weeks or do we have to calculate based on actual days? Majority of our workforce is salary.

Doug:

Well, again, we're talking about cash basis here, not accrual. So if those pay dates fall within the eight week period, they count. That's where we're-

Paul:

We're seeing a lot of these questions that are just variations on a theme. So I agree with that.

Imani:

Can you pay off the loan earlier than the two years?

Doug:

Yep. No prepayment penalty whatsoever. You can pay it off at any time.

Imani:

Doug, I don't know if you wanted to go to your lending program slides and then we can get back to the questions.

Doug:

Sure, we can quickly go over the Main Street Lending Program. More to come on this. We've got a brief intro to this. You can go ahead and advance, put the whole slide up, that's fine. Again, this program, I want to point out some of the key differences here. This is run by the US Department of Treasury through the banks. The key part of this is that right now, as it is defined, the eligible loan amount is four times your 2019 EBITDA, less the sum of all existing outstanding debt and committed undrawn debt.

Doug:

So if you think about that, you've got to be a company that's got a fairly decent balance sheet in order to go after this, the funds here. Again, this is a lending program, this is not forgivable, there are no forgiveness provisions written into this. So this is truly a loan. As I go through the different requirements and things like that related to this, it may behoove a company to go after these funds if you want some additional liquidity, some additional capital just as a safety net.

Doug:

The terms aren't bad, as you see here. It's a four year loan right now. They've priced it at SOFR, which is a secured overnight funding rate, plus 250 to 400 not defined yet, but where that rate would fall right now would be somewhere between say, two and a half and maybe four and a quarter percent over four years. So, not bad. The thing to pay attention to and hopefully we'll get more guidance on this is there are going to be some required attestations and restrictions.

Doug:

Particularly, you'll notice that the payment of dividends and distributions would be prohibited. There's some exec compensation limits. Depending on where you fall, those are fairly high. They're 425,000 under one of the tests and 3 million or more under another, so again, more to come. We just want to throw this out there, that this program may be attractive for certain folks and my guess is we'll start to see the banks get active with this as the program is clarified in the coming weeks. I know Paul, you had a couple other points-

Paul:

I just wanted to make just a comment. I think you had some initial concerns, Doug, as we were talking about this, that it didn't, in your conversations with bankers, they didn't think that there was going to be, we're not going to see companies beating down the doors to apply for these loans, that this money is probably not going to get all spent. I've seen those same concerns out in the kind of the financial news, if you will, CNBC and some financial podcasts that I listened to think there's a real concern, as well as by legislators that this money was meant for next size business beyond the 500 employees and under, it's kind of for the 500 I'll say to 10,000.

Paul:

That was the eligibility. It's really under, maybe we have that on the second slide, but the eligibility is under 10,000 employees and up to 2.5 billion in revenue. All right. So it's really that next size of company out there, but there's some concern that those companies need just as much assistance as smaller employers as a result of the COVID crisis and it's not anywhere near as being as attractive as the PPP loan program.

Doug:

The way it was designed with this eligible loan amount being four times EBITDA less your existing debt, it kind of hamstrings, some folks in terms of what you can really do there. If you've got any leverage on your balance sheet at all, you can't really get at a ton of them. Again, it may be attractive for some. It's just if you want some access to additional capital that's at a fairly attractive rate. Again, there's no prepayment on this one either. So you can take it and if you decide pay a couple months into it, things look better, I don't really need this is cash now, pay it back.

Paul:

Interesting, under the required attestations, weird when I talk about this, but first when their proceeds may not be used to pay down other debt, and then the second one may not cancel or reduce existing credit lines. So this is not intended to be a refinance opportunity. Then the last point, I guess I'd make into the required attestations is the borrower will make, "reasonable efforts to maintain payroll." So to this point, there aren't any requirements like there are under the PPP loan specific to maintaining headcount or wages and salaries, but there is some expectation that you will maintain payroll during the period in which you have the funds, during the repayment period.

Doug:

The other thing I would point out with this one is that unlike the PPP program, which is 100% backed in essence by the SBA, this one is a 95-5 share with the US Treasury. So the bank will have to hold 5% of this. So what that means is they're going to go through a traditional underwriting process when doing this. So it's not going to be as simple as very short application, and they submit it to the SBA like the PPP was. There'll be a little more due diligence with this one. So, just something to be aware of too.

Paul:

Abby, I think we had one other slide for this. Can you go to the next slide, just to make sure we cover everything. Yeah, I think a lot of that stuff we've already covered. I just want to make sure we didn't miss anything. The third bullet point there, you can do the PPP and the Main Street Loan, they're not mutually exclusive, if you're a large enough organization to do the Main Street lending.

Doug:

Well, let's take some more questions. Paul. We can stay for an extra 10 or 12 minutes and do some more questions, if that's okay.

Paul:

Sure. If we have other questions, that's great.

Imani:

We do. So the first one we have here is, can we include our workers through a temp agency as payroll expense?

Paul:

I can jump on that one. Specifically with respect to temp agencies, we don't have any guidance whatsoever. I want to make sure I distinguish employees who are temp agencies versus employees through a leasing organization or what's known as a professional employee organization, a PEO. For sure, we got guidance that if you lease most of your employees, which a lot of our clients do, those would be considered your employees. It's basically an administrative delegation of the payroll task to the PEO, and they would not be considered employees of the PEO for purposes of the PPP loan program, they would be considered your employees.

Paul:

I don't know that that's necessarily true with respect to short term temps. Because in a legal sense, I'm not sure they are legally your employees. In other words, you can send them back and request a new one if you don't like the first one, and it doesn't necessarily mean they've been fired. You've just requested a different employee with a different skill set. Very specifically, we haven't been gotten any guidance with respect to short term temporary employees. Doug, anything to add?

Doug:

Totally agree. Yeah, totally agree. The other point, this came up earlier too is 1099 employees are excluded. I shouldn't call them 1099 employees because they're not. Independent contractors, they are eligible and remain eligible for their own PPP. So you cannot include those costs at all.

Imani:

All right. The next question we have here is the Main Street Lending Program has an executive compensation limit. Does the PPP money have executive compensation limits too? If so, what are the limits?

Doug:

Just that 100,000. You can pay whatever you want above that. It's just that only 100,000 pro rata can be included for the forgiveness piece. So no restrictions.

Imani:

Does Main Street Lending Program require personal, looks like I have a typo here. We'll go back-

Doug:

Probably a personal guarantee-

Imani:

Or is it up to the specific banks?

Doug:

No, it's not going to be up to the banks because it's a treasury program that the banks are participating in. So again, there's more clarification to come on this, but as of now, the guidance is that the personal guarantees will not be required, but again, they're still sort of writing the rules on this thing.

Imani:

What's your take on self-rentals? Should I be worried about the amount per month that might be challenged for being excessive?

Paul:

We addressed this a little bit when we were going through the spreadsheet, but what I've been telling clients and Doug, I know we're consistent on this. If you've got a self-rental in place and it's market based and it's reasonable and it's been in place since prior to the crisis, then I think as long as you continue to make those payments, they're going to be okay.

Paul:

There's nothing in the CARES act that disallows self-rentals. So I think the only time that you're going to get in trouble is if you initiate a self-rental for purposes of the forgiveness calculation, or you dramatically increase the amount of those self-rental payments, again, with the idea that you're angling to get more of the loan forgiven. So I think if you're consistent, and you're reasonable, you're going to be fine. I suspect this is a potential loophole that you can drive a truck through. I would be surprised if we don't get some guidance on self-rental. It's a very common question. Doug, anything to add?

Doug:

Yeah, agree. Totally agree.

Imani:

So this is a longer one here, so let me know if you need me to repeat it. It says, are the health care costs included in payroll category on the spreadsheet related to employee portions of costs paid via payroll deductions, listing the employer paid portion under the separate category on the spreadsheet? If so, what is the best way to document the difference between employee versus employer paid health care costs?

Paul:

That's a good question. I don't know that I have a practical, that's a very practical question. I probably want to ask one of our administrative folks, what's the documentation look like there. Doug, I don't have a real good response to that other than I think you're going to have some numbers in payroll that you can point to and then you're going to have the total payment made to, either the, if you're self-insured, to the trust fund, the bank account, or the administrator on the plan or the health insurance carrier. The difference is going to be the company portion, but beyond that, I don't know [crosstalk 01:06:07] documentation that would be.

Doug:

Going back to my CFO days here and how we did that, yeah your payroll provider can provide you that information and then obviously, you've got, you know what you're paying your health insurer, and you're just going to have to do that on your own, in essence with the help of those other record keepers. Set it up however you want, in terms of tracking that. It kind of brings me back to some of the accounting on it, too.

Doug:

We get a lot of these questions. Some folks set up a separate bank account, which is fine, certainly not a requirement. Some are actually setting up separate GL accounts to track these expenses to make it easier from a record keeping perspective. Again, whatever's best and easiest for you. To go back to the accounting treatment of it, treat this like you would any other loan under GAAP, both the loan on your balance sheet. Same with the expenses.

Doug:

Treat the expenses just as you normally would under GAAP during this period. Now, this loan forgiveness is a nontaxable event. So, our guidance at this point, although we haven't received a definite answer, I know our lead assurance partner, I've been in conversation with her about it, but our best guess at this point is that then the forgiveness, the loan amount that's forgiven would go as treated as income, although it's not taxable.

Doug:

That of course creates a book tax difference. It's apparent at this point that the related expenditures won't be deductible for tax purposes. At least that's the likely treatment at this point, because they don't want you to double dip. Why would they make the loan that's forgiven not taxable income and then allow you to also deduct those expenses. I can see both sides of that, but that's the guidance. We think the way it's going to end up being and then that would wash out the book tax difference at the end of the day, but we'll see where that goes. Sorry for the long winded answer.

Imani:

Okay, we have, no, you're okay. We have two more questions that we're going to answer today. If there's any questions that we didn't get to, be sure to reach out to us and we'll try to get to those and we'll also reach out to you guys with the questions we have. So the first one I have here is a follow-up question to the Main Street Lending Program about the executive compensation limit. Is this talking about if their executive comp can exceed last year's compensation? Heard there isn't a limit on execs based on what they can make this year versus last year.

Doug:

Can you repeat that. There is or isn't a limit, was the question.

Imani:

Heard there was a limit. There was a limit on exec, on what an exec can make this year versus last year. I'm assuming that's the question.

Doug:

Correct. There are executives-

Paul:

Assuming they apply, right, assuming they apply for the loan. I think that's definitely true. We've thrown out what we believe are the limitations. There's a couple different tests out there, depending on whether it's cash compensation or some other type of compensation. Both are limited, and interestingly, there was some confusion, I think, and we got a lot of questions early on regarding the PPP program, and were there any strings attached, so to speak to the PPP lending program related to compensation or distributions to owners or anything like that? The answer is no, but all of those strings are included in the Main Street Lending Program.

Imani:

The last question we have here is, can you please repeat the comment regarding the 1099 employees for the PPP program. We indicated that our employees were independent contractors to our lender.

Paul:

Doug, you might want to just, we've talked about this specifically and the confusion with the lenders out there. [inaudible 01:10:13] just want to address some lenders early on in the process. I know I've had clients that ran into this, that the banks did allow certain, under certain circumstances, to allow 1099 independent contractors as employees. That's definitely an issue and I don't know how that's going to get dealt with in the forgiveness piece of it now that it's pretty clear that they shouldn't have been included. Any thoughts on that?

Doug:

I agree. Very early on it wasn't clear and if somebody received a loan based on that, now knowing that they're not, again, there is language, they've made it clear that you were subject to the rules as they were published at the time. So it's not like you're going to get in, "any trouble," related to that. If you follow the rules in place in existence at the time, it's just that's not going to be forgiven, it turns into a loan. That's where you're going to end up.

Paul:

That's the worst case scenario, but you might have a lender that says, okay, we'll be consistent with how we interpret this. I think it's going to depend lender to lender. I don't know that we're going to get a common answer across all lenders. Is that the last question?

Imani:

That was the last question. So I'm going to wrap up here. Thank you guys for joining us for today's live broadcast, What is Life after Coronavirus? Navigating PPP Forgiveness and Intro to Main Street Lending Program. We hope that Paul and Doug were able to provide you with some valuable insight that will help you secure the funding you need amid this economic uncertainty.

Imani:

If you sign off today and realize that you have additional questions, you're always welcome to reach out to Paul or Doug directly. You can also contact any of Rea team members by checking out the people section of the firm's website at www.reacpa.com. That's Rea. Don't forget to watch your inbox for an evaluation survey, access to the recording of today's webcast and more. Thank you again and we hope you guys have a wonderful rest of your day.

Doug:

Thank you.