

BORROWER BEWARE: DEFENDING PPP LOANS FROM AFTER-THE-FACT GOVERNMENT SCRUTINY

Webinars

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The Paycheck Protection Program (PPP) was a lifeline to many companies faced with the existential threat of an unknown pandemic. But the prospect of “free money” by loan forgiveness comes with ever-evolving strings – including the possibility of an audit and scrutiny by federal agencies with the jurisdiction and political will to investigate borrowers’ eligibility and use of funds.

In this program, Hodgson Russ attorneys Jason Markel, Reena Dutta, and Ben Zuffranieri, Jr. will discuss PPP risks and strategies you can implement now to prepare to protect yourself or your company against the inevitable scrutiny, litigation, and potential criminal investigations that some borrowers may soon face.

Topics covered

- Implications to borrowers of after-the-fact changes to the PPP
- How hindsight determinations of borrower ineligibility or misuse of funds can lead to loss of forgiveness and personal liability
- The importance of planning before submitting a forgiveness application
- Risks and consequences to borrowers of SBA loan reviews and audits
- An overview of how the SBA’s appeal process may be stacked against borrowers
- Critical considerations surrounding the “necessity certification” and interpreting its meaning and import
- Managing uncertainties surrounding how the SBA and government will enforce and audit loans
- Recommendations for documenting the impacts of the pandemic on your business
- Potential borrower and individual criminal liabilities under the False Claims Act and other statutes

Attorneys

Reetuparna Dutta
Jason Markel
Benjamin Zuffranieri Jr.

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- Criminal enforcement parallels and comparisons to the Troubled Asset Relief Program (TARP)

Learning objectives

- Understanding how the PPP program may lead to litigation, including potential criminal liability
- The importance of collecting and preserving essential documents and evidence now
- The significance of borrower certifications on the loan application and forgiveness application
- Strategies to protect borrowers from governmental scrutiny

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