

# 4 Tips for Businesses Impacted by the Coronavirus

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## Immediate Financial Obligations / SBA Economic Disaster Loan Program

Joseph Corish  
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Small businesses across the United States are currently faced with the very real and extreme effects of the Coronavirus on their continued business operations. This unprecedented illness and the resulting drop in substantial revenue of many companies will place great strain on businesses and forcing quick analysis and decision-making about how they are to deal with payment of their current financial obligations considering such falling revenue. While the answer may differ for each business and the industry in which it operates, there are some potential approaches and options to assist in addressing how each business should react to the inability to fully pay its expenses in the short term. They are as follows.

### 1. Communicate with your landlord, lender and creditors

In my 32 years of representing commercial and private lenders and borrowers, the single biggest mistake a company can make is to stick its head in the sand and not promptly contact its landlord, lender and other creditors when the company is having significant financial issues. I would recommend not waiting until after a company has suffered financial problems and defaulted on its payment obligations before contacting its creditors. Your landlord, lenders and other creditors can help you a great deal more on the front end of problems than on the back end. You also will help build trust with your landlord, lender and other creditors which is extremely important during financial downturns. I can assure you that landlords, lenders and other creditors are anticipating the drop in their customers' financial condition and are currently waiting to be contacted by business owners to discuss options. They see your call coming and are looking to find a path to best address the payment of your company's outstanding obligations.

### 2. Possible Workout Terms

There are several potential solutions that you can raise to help you handle the payment of your company's obligations. Just to set forth a couple of such options:

- Moratorium of Payments. One uncertainty is how long the virus will continue to plague the United States, but some forecast the spread of the disease to reduce after April or May of this year. The hope (but still unanswered question) is that business will pick back up for most companies after the virus has mostly run its course. A business owner should consider approaching its various creditors and seek to have a certain number of monthly payments not made on the date such payments come due and have such amounts added to the back end of the business's lease, loan or other obligation. This can either extend the payment obligation for a period of months (e.g., loan/lease originally scheduled

## 4 Tips for Businesses Impacted by the Coronavirus (Cont.)

to mature on December 1, 2020, has a new modified maturity date of April 1, 2021), or result in a balloon payment due on the original maturity date (e.g., the loan payments due on March, April and May of 2020 are not owing until December 1, 2021). These structures may well give a company time to generate enough revenue after a business's restart following the passing of the virus to ultimately catch up on payment of their obligations.

- Modification of Existing Payment, Interest and other Terms. Short of a company asking for there to be a moratorium on certain payment obligations, if a business feels it will be able to continue to make payment of a portion (but not all) of the monthly obligations it has, the business can negotiate with its landlord, lender and other creditors to pay only a portion of the amounts it owes each month, and again, either extend the number of months over which the obligation is to be fully paid or provide for a balloon payment for the amounts not paid in accordance with the original terms of the obligation. For some companies, payments can also be modified to match up better with anticipated receipt of the company's revenues. For instance, a company could request a change from monthly payments to quarterly payments (June 1, September 1, December 1 and March 1) if it sees a better ability to accumulate revenue in a quarter rather than over a month.

### 3. SBA Economic Disaster Loan Program

On March 6, 2020, Congress passed a Coronavirus appropriations act, which, among other things, deemed the Coronavirus outbreak a disaster for the purposes of the Small Business Act. In the following days, and after receiving requests by state governments to do so, the Small Business Administration (SBA) declared Virginia, the District of Columbia, and Maryland disaster areas. These declarations mean that the SBA can offer Economic Injury Disaster Loans (EIDLs) under the Small Business Act to certain small businesses that are facing "substantial economic injury" because of the virus. To qualify for an EIDL, the small business must meet the following criteria:

- *The small business has suffered a "substantial economic injury."* The SBA defines a "substantial economic injury" as 1) being unable to pay debts as they mature or 2) being unable to pay ordinary and necessary operating expenses. (Loss of anticipated profits or a drop in sales alone is not deemed a "substantial economic injury").
- *The small business is unable to obtain credit elsewhere.* For the purpose of an EIDL under Section 7(b), the SBA determines whether credit is available elsewhere by considering the "prevailing rates and terms" of loans being made by private lenders in the community where the small business operates and deciding that the small business could not obtain financing on reasonable terms from those private lenders.
- *The small business has no reasonably available funds.* The small business, its affiliates, and all owners with more than a 20% ownership stake must have used all reasonably available funds to alleviate the substantial economic injury.

If the small business meets those criteria, then it may be eligible for an EIDL from the SBA. An EIDL from the SBA will have the following terms:

- Loan proceeds to be used by borrower to pay fixed debts, payroll, accounts receivable and other obligations the payment of which were impacted by the impact of the virus.
- Loan amount – up to principal sum of \$2,000,000.
- Interest -- 3.75% annually, except that for non-profit companies the interest rate is 2.75%.
- Payment term may be up to 30 years. Terms are determined on a case by case basis based on a company's ability to repay.
- Interested parties should refer to the SBA website at <https://www.sba.gov/funding-programs/disaster-assistance>

#### 4. Additional Loan or other Disaster Relief Programs

The federal and state governments continue to work diligently on new programs and products to offer the general public whose businesses are suffering. Businesses should review the news and all loan or other revenue supporting programs that most likely will be announced over the upcoming weeks.

Please contact Joe Corish or any member of Bean, Kinney & Korman's lender group below should you have questions or need assistance.

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