In response to economic hardships imposed on many businesses due to COVID-19, the SBA will offer non-recourse loans capable of 100% forgiveness to encourage employee retention during the financial crisis. This strategy is the Paycheck Protection Program, ("PPP"), which is one of many economic stimulus plans set forth in The Coronavirus Aid, Relief, and Economic Security, or CARES Act. Please note that this summary provides an overall view of the PPP, and that specific instances should be discussed with counsel.

- Loan Program Eligibility. Any business or non-profit organization with fewer than 500 employees is eligible to receive a loan (excluding certain affiliates not in the food and accommodation industries). The maximum amount of the loan is 2.5 times the average total monthly payrolls costs for the previous year, up to $10,000,000. No personal guarantees or collateral will be required for loan eligibility.

- Loan Proceeds Usage. Loan proceeds can be used for payroll and other compensation costs, health benefits, insurance premiums, interest on outstanding debt, rent, and utilities. PPP loans will be made by private banks, and will be backed by the federal government. PPP lenders will have no recourse against a business, so long as the loan proceeds are used only for these permitted uses.

- Loan Forgiveness. Importantly, businesses that maintain their existing employment and compensation levels may qualify for permanent PPP loan principal forgiveness. Businesses may be forgiven the sum of (1) payroll costs, (2) mortgage interest payments, (3) rent, and (4) utility payments incurred during the eight-week period beginning on the loan borrowing date. Payroll cost forgiveness includes up to $100,000 of an employee's annual compensation, prorated for such eight-week period.

- Forgiveness Penalties. Since the intended purpose is to save American jobs and salaries, the amount of loan forgiveness can be reduced if a business has recently reduced employee headcount or compensation. Factors include reduction in the average number of full-time employees or individual employee compensation in excess of 25%.

- Term and Interest. The maximum loan term will be 10 years, and the maximum interest rate is 4%. Payments are deferred for at least six months, but not longer than a year.

- How to Apply. Eligible businesses should seek competent counsel immediately to work on the application and discuss maximum forgiveness amounts. The loans will likely become available by the middle of April 2020. Required information for the application will include payroll documentation, tax filings, unemployment insurance filings, proof of payment of payroll taxes and mortgage documentation.

Joel Lever, Partner, (jlever@kelaw.om); David Choi, Partner, (dchoi@kelaw.com) and Caitlin Dempsey, Associate, (cdempsey@kelaw.com) are available now to answer questions that you may have relating to the loan program and its federal income tax consequences.