

COVID-19 Update – CARES Act Provisions Affecting the Asset Management Industry

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On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security Act (the “CARES Act”) was signed into law. The CARES Act aims to ease the financial burden on businesses and individuals caused by the COVID-19 pandemic. Asset management firms and investors should be aware of the CARES Act lending programs and provisions below as they navigate the financial uncertainties surrounding the outbreak and the variety of effects on businesses, industries and employees, and contact their lenders, tax professionals or a Vedder Price attorney for additional details.

- **SBA Paycheck Protection Program:** The CARES Act establishes a \$349 billion lending program under the Small Business Administration (SBA) to originate “paycheck protection” loans to eligible small businesses (generally, those businesses with no more than 500 employees) where the uncertainty of current economic conditions make a loan request necessary to support ongoing operations. Loans under the program are subject to certain conditions, such as prohibitions against stock buybacks and executive compensation. Loans may be made by current SBA-approved lenders and will be 100% guaranteed by the SBA. Asset managers whose operations have been disrupted by COVID-19 may wish to consider whether they are eligible for the program.

Asset managers should note that the employee counts of certain affiliated entities may be aggregated for determining eligibility under the program. However, businesses that receive financial assistance from the same small business investment company (SBIC) will not be deemed to be affiliated for this purpose.

See [here](#) for additional information, including detailed eligibility requirements, loan characteristics and loan forgiveness criteria, as well as information with respect to other lending programs established by the CARES Act.

- **Payroll Tax Credit:** The CARES Act provides a refundable payroll tax credit for 50% of “qualified wages,” up to a maximum of \$10,000 of qualified wages per employee, for employers (i) whose operations were fully or partially suspended due to a COVID-19-related governmental order, or (ii) whose gross receipts during a calendar quarter within a defined period declined by more than 50% compared to the same quarter in the prior year. The definition of “qualified wages” differs by employer size. Eligible asset management firms that have suspended operations pursuant to a governmental order or have seen a significant reduction in fees or other revenue due to market decline, outflows, write-down of investments, etc. should consider claiming the tax credit. See [here](#) for additional information.
- **Excess Business Losses Deduction:** The CARES Act provides relief to owners of pass-through entities by permitting excess business losses beyond the standard \$250,000 limit for individual taxpayers to be deductible for taxable years beginning before January 1, 2021. Investors in investment vehicles organized as partnerships or limited liability companies taxable as partnerships may more easily utilize losses and amend prior year returns to obtain additional liquidity during the coronavirus crisis. See [here](#) for additional information.

- **Business Interest Expense and Net Operating Loss Deductions:** The CARES Act will increase the amount of business interest expense that taxpayers may deduct from 30% to 50% for taxable years beginning in 2019 and 2020. Asset managers running leveraged strategies or with outstanding lines of credit should be aware of this increase. Additionally, the limitations on deducting net operating losses (i.e., 80% of taxable income and no ability to carry back to prior taxable years) have been lifted by the CARES Act, subject to certain limitations. See [here](#) for additional information.
- **Penalty-Free Early Distributions from Qualified Retirement Plans:** The CARES Act allows for early, penalty-free distributions from qualified retirement plans of up to \$100,000 prior to the end of 2020. Asset managers with 401(k), pension fund or other qualified retirement plan clients should note this provision and consider any potential effects on the asset manager's business. See [here](#) for additional information.

If you have any questions regarding the topics discussed in this article, please contact **Joseph M. Mannon** at +1 (312) 609 7883, **Adam S. Goldman** at +1 (312) 609 7731 or the Vedder Price attorneys listed in the linked articles.

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