

CORONAVIRUS

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Unprecedented Expansion of SBA Funding

President Trump Announces an Unprecedented Expansion of Funding to be Made Available through the Small Business Administration in Response to the Threat of Coronavirus.

The three primary financial assistance programs presently operated by the Small Business Administration (the “SBA”) comprise **more than \$40 billion of funding** made available to small businesses each year in the United States. On March 11, 2020, the Trump Administration announced a nascent plan to add **an additional \$50 billion in authorized funding** to be administered by SBA to help combat the economic adversity anticipated to result from the coronavirus crisis and its impact on the small business community. Blank Rome is in close contact with the SBA and monitoring developments in Congress that will be necessary to authorize the funds and provide critical details of how these funds will be controlled and administered. It appears that at least part of the \$50 billion in funds will go toward making Economic Injury Disaster Loans (see [sba.gov/disaster](https://www.sba.gov/disaster)), which are low interest loans to small businesses and nonprofits designed to provide working capital to pay business expenses that cannot be paid because of the adverse effects of the coronavirus

disaster. Nonetheless, any substantial expansion of the funding available through the SBA financial assistance programs presents a substantial opportunity for many of our clients and contacts who participate in and use the SBA programs.

You should also be aware that our SBA team, led by Marty Teckler, is currently working with the Small Business Investor Alliance (an industry group that Blank Rome is an active participant in) on reviewing and shaping the proposed legislation that will implement the expansion of SBA’s funding. We are the only law firm so involved, putting us in a unique position to be in front of the market in helping our clients access these programs.

Blank Rome will keep you apprised as the details of the increased funding emerge. We are happy to speak with you regarding how we can help you access this funding as it becomes available.

You should be on the lookout for the following opportunities and get the Blank Rome team involved early in the process of discussing the possibilities.

- **Small Business Lenders:** accessing funds that become available to the lenders who originate loans guaranteed by the SBA
- **Small Business Investment Companies (“SBICs”) and SBIC Managers:** accessing funds that can be deployed in investments in the small business community
- **Private Equity Funds:** assisting portfolio companies in obtaining financing through SBA-sponsored programs

Our SBA practice group is unique because it has the experience and knowledge to assist in navigating each of SBA’s financial assistance programs. We are carefully monitoring current developments affecting the increased funding of the programs, and we are ready and available to put our unique capabilities with these programs to work for your benefit.

MORE DETAILS ON THE SBA FINANCIAL ASSISTANCE PROGRAMS

There are three statutorily authorized financial assistance programs that the SBA administers:

- Small Business Investment Company (“SBIC”) Program
- Section 7(a) Loan Program
- Section 504 Loan Program

SBIC Program

Under the SBIC Program, private equity and venture capital funds may become licensed as SBICs. Once licensed, an SBIC is eligible to receive highly subsidized leverage from SBA at a ratio of two to one based on the private capital the SBIC has raised, up to \$175 million.

- We are fully able to help all parties interested in the SBIC Program.
- Investment managers who wish to form and manage SBICs should contact us. This is specialized work because knowledge of SBA’s regulatory and licensing policies is required. We are one of a handful of firms fully capable in this area.

- Potential investors in SBICs should contact us. Because of the deployment of the SBA leverage SBICs can provide significant boosts to IRR’s for their investors. Investors in SBICs are often institutional investors including banks. By regulation banks get dollar for dollar Community Reinvestment Act credit for their investment in SBICs and investments in SBICs are exempt from Volker Rule implications.
- Managers of SBICs and small business recipients of SBIC investment should contact us for help with preparing investment documentation, which is regulatorily compliant since the documentation must comply with SBA regulations and be “market standard.”

7(a) Loan Program

Under the 7(a) loan program, banks or other non-bank lending institutions make loans to small businesses. The loans may be up to five million dollars and be made for acquisition of real estate or business property, working capital, or other credible purposes. A portion of each loan (up to 75 percent) is guaranteed by SBA. The guaranty to the lender is conditioned on the loan complying with regulatory requirements.

Because the guaranteed portions of the 7(a) loans are 100 percent full faith and credit obligations of SBA they are often sold by the lender in a secondary market transaction. There are a number of broker dealers who participate in this market. Like guaranteed portions can be pooled and SBA guaranties can be obtained for fractional interests in such pools as well. The guaranties on the guaranteed portions and fractional interests are unconditional.

In addition, under SBA regulations, the unguaranteed portions of 7(a) loans may be participated or securitized with SBA’s permission. We are able to provide the following assistance:

- Representation of lenders, both banks and non-banks, that participate in the 7(a) Program by making guaranteed loans. We already have a very large presence in this type of representation as many of our bank and non-bank clients participate in the 7(a) Program.
- Representation of broker dealers and specialty financial entities that participate in secondary market and securitization activity.

504 Program

The 504 Program primarily provides financing for the creation of construction jobs such as hotels and small industrial parks nationwide. Under the program requirements, a bank makes a first mortgage loan for 50 percent of the project cost and SBA, through an intermediary entity (a Certified Development Company), provides financing in a second position for 40 percent. The project sponsor (the small business) is required to have a 10 percent equity participation in the project.

Many of our clients participate as first mortgage lenders in 504 Program financings. Others are part of the underwriting consortium for the provision of the second mortgage SBA financing. We are fully capable to assist first and second mortgage lenders and project sponsors on a deal-by-deal basis.

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