

CLINE WILLIAMS

WRIGHT JOHNSON & OLDFATHER

PHASE 3.5 OF THE CORONAVIRUS STIMULUS PACKAGE NEW FUNDING FOR THE PPP, EIDL AND HEALTH CARE FUNDING

Late this week Congress passed and President Trump signed legislation pumping new life into federal initiatives aimed at helping businesses weather the current economic crisis created by the novel coronavirus. The Paycheck Protection Program and Health Care Enhancement Act, or what has been commonly named “Phase 3.5” of coronavirus-related stimulus efforts, amends certain portions of the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”) by injecting an additional \$484 billion of federal economic assistance into the economy through additional funding into the Paycheck Protection Program (“PPP”) and the Emergency Economic Injury Disaster Loans (“EIDL”) and Grants program. In addition Phase 3.5 includes new funding allocations for health care providers and state and local governments to aid in creating and maintaining infrastructure for COVID-19 testing.

Businesses had been anxiously awaiting further Congressional action addressing the continuing economic fallout from coronavirus, amid a number of prior legislative and regulatory actions and specifically the very popular PPP created in late March but which quickly ran out of funding due to its widespread popularity.

Following is a summary of Phase 3.5:

Amendment to Paycheck Protection Program (“PPP”)

Phase 3.5 adds an additional \$310 billion to the PPP, increasing the PPP’s authorized funding level from \$349 billion to \$659 billion. Of these additional funds, \$30 billion is carved out for loans made by Insured Depository Institutions and Credit Unions that possess \$10 billion - \$50 billion in assets. Another \$30 billion is set aside for loans made by Community Financial Institutions, Credit Unions, and Insured Depository Institutions that hold less than \$10 billion in assets. For purposes of Phase 3.5, minority depository institutions, microloan intermediaries, state or federal credit unions, and certified development companies are all included in the definition of “Community Financial Institutions.”

Amendment to the Emergency Economic Injury Disaster Loans (“EIDL”) and Grants

Phase 3.5 increased the previous authorization level for EIDLs by \$50 billion and added an additional \$10 billion for EIDL Grants (no repayment requirement). It also broadens the scope of businesses eligible for EIDLs and Grants by including

agricultural enterprises defined under Section 18(b) of the Small Business Act, 15 U.S.C. § 631 et seq., with 500 employees or less as eligible entities.

Health Care Funding

Phase 3.5 allocated additional funding to the Public Health and Social Services Emergency Fund (“Fund”). Specifically, \$75 billion is allocated to hospitals and other eligible health care providers for expenses and lost revenues attributable to coronavirus in addition to the \$100 billion previously provided for the Fund in the CARES Act. The Department of Health and Human Services (“DHHS”) is in charge of distributing these grants which are intended to reimburse healthcare providers for expenses and revenue losses attributable to coronavirus. Phase 3.5 specifies that the funds may be used for expenses related to building and construction of temporary structures, leasing of properties, purchasing medical supplies and equipment (including PPE and testing supplies), increased workforce utilization and training, establishing emergency operations centers, retrofitting facilities and managing surge capacity, among others. It is important to note that these payments may not be used to reimburse losses or other expenses reimbursed from other sources.

In addition, \$25 billion is allocated to expanded COVID-19 testing efforts. Of this amount, \$11 billion has been set aside for state, local, community, and tribal facilities to use for increasing capacity necessary for testing. Within 180 days of Phase 3.5’s enactment, DHHS must issue a report detailing the number of COVID-19 cases, deaths, and hospitalizations.

Phase 3.5 also requires states to submit plans for increasing testing capacity, the number of tests needed each month, monthly details regarding estimated testing laboratory and workforce capacity, and a description of how each state’s resources will be used for testing including as it relates to easing any COVID-19 community mitigation policies. DHHS must also submit a strategic plan to Congress discussing testing for COVID-19, to be updated every 90 days until funding runs out.

We will continue to provide updates on these issues as they evolve, including the potential Phase 4 stimulus legislation. In the meantime, if you have any questions related to coronavirus stimulus legislation or the business impact of coronavirus, please follow the links below to our several relevant practice areas for contact information on individual lawyers.

- [Business Organization](#)
- [Banking and Financial Institutions](#)
- [Lending and Finance](#)
- [Health Care](#)
- [Labor and Employment](#)

4816-3539-2698, v. 2