Detailed summary of the CARES Act

Note- A big part of the reason for the 500 employee cap is the fact that these are the firms that took on the new family/medical leave mandates in the previous assistance package — firms above that threshold were exempt, as were small firms (under 50 employees). Also, the tax provisions in the new package released today are not limited by firm size.

Below is the bill language released earlier today on the relief package being negotiated presently (the CARES Act), along with a summary of key provisions below. Note that the business tax provisions are new, building on the refundable tax credits included in the previous assistance package (which is now law) with the goal of addressing cash flow concerns. Senate Majority Leader Mitch McConnell has indicated that he will begin floor proceedings this evening, although that will hinge on negotiations with Senate Democrats. The House also isn’t on board yet, but for now the action appears to be centered in the Senate. We will send you additional information as final language becomes available.

Title I: Small Business Loans/Assistant

- Small Business Assistance – the proposal provides for $349B in SBA 7(a) loans to be used for payroll costs and other obligations including rent, mortgage, utilities, with potential loan forgiveness based on employee retention, for firms with fewer than 500 employees.

- Small Firm Federal Contracting Assistance – the agreement includes language to extend contract deadlines for small firms, exclusive of mission critical contracts, as well as language to facilitate payment for contract terms that have been delayed due to COVID-19 response measures.

Title II: Business Tax Relief Provisions

- Employers and self-employed individuals can defer paying the employer share of the Social Security payroll tax (6.2%) over the following two years – half due by December 31, 2021 and the other half due by December 31, 2022.

- Expanded use of net operating losses by removing the taxable income limitation and including the ability to carryback net operating losses for 5 years for corporations and non-corporate businesses (pass throughs and sole proprietors).

- Temporary increase in interest deducibility for businesses from 30 percent to 50 percent for 2019 and 2020.

Title II: Health Care/Labor Provisions
• Clarifies the limits on paid emergency sick leave in the Families First Coronavirus
  Response Act (HR 6201).
• Expands the authority of the Department of Labor to exempt firms with fewer than 50
  employees from the paid leave requirements in HR 6201.
• Allows employers and the self-employed to receive an advance tax credit from Treasury
  for emergency paid leave and sick leave under HR 6201 instead of having to be
  reimbursed on the back end.

Title IV: Economic Stabilization

• Establishes $500 billion Treasury Department program of loans, loan guarantees, and
  other financial investments for distressed industries.
  o $50 billion for passenger airlines
  o $8 billion for cargo airlines
  o $17 billion for businesses essential to national security
  o $425 billion for the Federal Reserve to bolster liquidity in the financial system to
    support lending to continue operations of businesses in jeopardy.
• Suspends federal aviation taxes.