<u>Coronavirus Aid, Relief, and Economic Security Act" or the "CARES Act" Summary</u>

DIVISION A—SMALL BUSINESS INTERRUPTION LOANS

Definitions

7(a) Loan Program

Defines the covered loan period as beginning on March 1, 2020 and ending on December 31, 2020.

Defines eligible businesses as those businesses with 500 employees, unless the covered industry's SBA size standard allows more than 500 employees.

Allows not for profit entities to be eligible for loans made under this Act.

Increases the maximum 7(a) loan amount to $10 million through December 31, 2020.

Expands allowable uses of 7(a) loans to include payroll support, such as paid sick or medial leave, employee salaries, mortgage payments, and any other debt obligations.

Provides delegated authority, which is the ability for lenders to make determinations on borrower eligibility and creditworthiness without going through all of SBA's channels, to all current 7(a) lenders who make these loans to small businesses, and provides that same authority to lenders who join the program and make these loans.

For eligibility purposes, requires lenders to, instead determining repayment ability, which is not possible during this crisis, to determine whether a business was operational on March 1, 2020, and had employees for whom it paid salaries and payroll taxes.

Does not allow a borrower who receives this loan for employee salaries, payroll support, mortgage payments, and other debt obligations to receive a SBA economic injury disaster loan (EIDL) for the same purpose, or comingle funds from another loan for the same purpose.

Waives both borrower and lender fees for 7(a) loans.

Increases the government guarantee of 7(a) loans to 100 percent through December 31, 2020, at which point guarantee percentages will return to 75 percent for loans exceeding $150,000 and 85 percent for loans equal to or less than $150,000.

Allows complete deferment of 7(a) loan payments for not more than one year and requires SBA to disseminate guidance to lenders on this deferment process within 30 days.

Removes any statutory limitations on SBA's 7(a) lending authority through December 31, 2020.

Increases the maximum loan for an SBA Express loan from $350,000 to $1 million through December 31, 2020, after which point the Express loan will have a maximum of $500,000.

Entrepreneurial Development
Authorizes SBA to provide additional financial awards to resource partners (including Small Business Development Centers and Women's Business Centers) to provide counseling, training, and education on SBA resources and business resiliency to small business owners impacted by COVID-19.

Authorizes SBA to provide an association or association representing resource partners with grants to establish:

- an online platform that consolidates resources and information available across multiple Federal agencies for small business concerns related to COVID–19; and
- a training program to educate resource partner counselors on the various federal resources available to ensure counselors are directing small businesses appropriately.

Waiver of Matching Funds Requirement under the Women's Business Center Program
Eliminates Women's Business Center (WBC) the non-federal match requirement for a period of three months.

Loan Forgiveness
Provides a process by which borrowers who receive this loan to be eligible for loan forgiveness in an amount equal to the payroll cost and costs related to debt obligations for the period of March 1, 2020 through June 30, 2020. The amount of the loan eligible for forgiveness will be reduced proportionally the number of employees laid off during this period relative to the borrowers prior employment levels.

Direct Appropriations
This section appropriates funds for the following uses:

- $299.4 billion for loan guarantees and loan subsidies,
- $300 million for salaries and expenses,
- $240 million for small business development centers and women's business centers for technical assistance for businesses,
- $25 million for resource partner associations to provide online information and training, $10 million for minority business development centers for technical assistance for businesses, and
- $25 million for the Office of Inspector General.

Minority Business Development Agency
Authorizes $10 million for the Minority Business Development Agency within the Department of Commerce to provide grants to Minority Business Centers (MBCs) for the purpose of providing counseling, training, and education on federal resources and business response to coronavirus for small businesses.

Waiver of Prepayment Penalty
Removes any prepayment penalties for loans made under this title on or before December 31, 2020.

United States Treasury Program Management Authority
Allows the Department of Treasury, in consultation with the SBA, and other Federal financial regulatory agencies, to establish a process by which lending institutions that are not currently authorized to offer SBA loan products are able to provide SBA small business interruption loans for the length of the Presidents national emergency declaration.

Allow Treasury to determine the eligibility criteria and terms for the lenders they approve to disseminate small business interruption loans and to write regulations outlining these criteria and terms.

DIVISION B—RELIEF FOR INDIVIDUALS, FAMILIES, AND BUSINESSES

Title I – Recovery Checks & Other Individual Provisions

Section 2101. 2020 recovery rebates for individuals
Recovery checks of up to $1,200 will be put into the hands of most taxpayers, providing cash immediately to individuals and families. Married couples who file a joint return are eligible for up to $2,400. Those amounts increase by $500 for every child. These checks are reduced for higher income taxpayers and begin phasing out after a single taxpayer has $75,000 in adjusted gross income and $150,000 for joint filers. The IRS will base these amounts on the taxpayer's 2018 tax return. The rebate amount is reduced by $5 for each $100 a taxpayer's income exceeds the phase-out threshold. The amount is completely phased-out for single taxpayers with incomes exceeding $99,000 and $198,000 for joint filers. The IRS will base these amounts on the taxpayer's 2018 tax return.

Taxpayers with little or no income tax liability, but at least $2,500 of qualifying income, would be eligible for a minimum rebate check of $600 ($1,200 married). Qualifying income includes earned income, as well as Social Security retirement benefits and certain compensation and pension benefits paid to veterans. This ensures relief gets to low-income seniors and disabled veterans.

Section 2102. Delay of certain deadlines
The provision extends the April 15th filing date to July 15th, giving individuals more time to file their tax returns given the limitations caused by the COVID-19 emergency. The filing date would be aligned with the extended payment filing date already announced by the Internal Revenue Service.

The provision also allows all individuals to postpone estimated tax payments due from the date of enactment until October 15, 2020. There is no cap on the amount of tax payments postponed, and any individual required to make estimated tax payments can take advantage of the postponement. This delay should increase the available cash flow for individuals experiencing cash shortfalls as a result of the COVID-19 emergency.

Section 2103. Special rules for use of retirement funds
Consistent with previous disaster-related relief, this provision waives the 10-percent early withdrawal penalty for distributions up to $100,000 from qualified retirement accounts for coronavirus-related purposes. In addition, income attributable to such distributions would be subject to tax over three years, and the taxpayer may recontribute the funds to an eligible retirement plan within three years without regard to that year's cap on contributions. Further, the provision provides flexibility for loans from certain retirement plans for coronavirus-related relief.

A coronavirus-related distribution is a distribution made to an individual: (1) who is diagnosed with COVID-19, (2) whose spouse or dependent is diagnosed with COVID-19, or (3) who experiences adverse financial consequences as a result of being quarantined, furloughed, laid off, having work hours reduced, being unable to work due to lack of child care due to COVID-19, closing or reducing hours of a business owned or operated by the individual due to COVID-19, or other factors as determined by the Treasury Secretary.

Section 2104. Allowance of partial above the line deduction for charitable contributions.
The provision encourages Americans to contribute to churches and charitable organizations in 2020 by permitting them to deduct up to $300 of cash contributions, whether they itemize their deductions or not.

Section 2105. Modification of limitations on charitable contributions during 2020
The provision increases the limitations on deductions for charitable contributions by individuals who itemize, as well as corporations. For individuals, the 50-percent of adjusted gross income limitation is suspended for 2020. For corporations, the 10-percent limitation is increased to 25 percent of taxable income. This provision also increases the limitation on deductions for contributions of food inventory from 15 percent to 25 percent.

<u>Title II – Business Provisions</u>

Section 2201. Delay of estimated tax payments for corporations
The provision allows corporations to postpone estimated tax payments due after the date of enactment until October 15, 2020. There is no cap on the amount of tax payments postponed. This delay will provide critical cash flow to help businesses maintain operations and continue paying employees during the COVID-19 emergency.

Section 2202. Delay of payment of employer payroll taxes
The provision allows employers and self-employed individuals to defer payment of the employer share of the Social Security tax they otherwise are responsible for paying to the federal government with respect to their employees. All employers are responsible for paying a 6.2-percent Social Security tax on employee wages. The provision requires that the deferred employment tax be paid over the following two years, with half of the

amount required to be paid by December 31, 2021 and the other half by December 31, 2022. The Social Security Trust Funds will be held harmless under this provision.

Section 2203. Modifications for net operating losses

The provision relaxes the limitations on a company's use of losses from prior years. NOLs are currently subject to a taxable income limitation, and they cannot be carried back to reduce income in a prior tax year. This provision provides that a loss from 2018, 2019, or 2020 can be carried back five years. The provision also temporarily removes the taxable income limitation to allow an NOL to fully offset income. These changes will allow companies to utilize losses and amend prior years' returns, which will provide critical cash flow and liquidity during the COVID-19 emergency.

Section 2204. Modification of limitation on losses for taxpayers other than corporations

The provision modifies the loss limitation applicable to pass-through businesses and sole proprietors, so they can benefit from the NOL carryback rules described above and access critical cash flow to maintain operations and payroll for their employees.

Section 2205. Modification of credit for prior year minimum tax liability of corporations

The corporate AMT was repealed as part of the Tax Cuts and Jobs Act, but corporate AMT credits were made available as refundable credits over several years, ending in 2021. The provision accelerates the ability for companies to recover those AMT credits, permitting companies to claim a refund now and obtain additional cash flow during the COVID-19 emergency.

Section 2206. Modification of limitation on business interest

The provision temporarily increases the amount of interest expense businesses are allowed to deduct on their tax returns, by increasing the 30-percent limitation to 50 percent of the taxable income for 2019 and 2020. As businesses look to weather the storm of the current crisis, this provision will allow them to increase liquidity with a reduced cost of capital, so that they are able to continue operations and keep employees on payroll.

Section 2207. Technical amendment regarding qualified improvement property

The provision enables businesses, especially in the hospitality industry, to immediately write off costs associated with improving facilities instead of having to depreciate those improvements over the 39-year life of the building. The provision, which corrects an error in the Tax Cuts and Jobs Act, not only increases companies' access to cash flow by allowing them to amend a prior year return, but also incentivizes them to continue to invest in improvements as the country recovers from the COVID-19 emergency.

Section 2208. Installments not to prevent credit or refund of overpayments or increase estimated taxes

Section 965, the one-time repatriation toll charge, imposed a tax on the untaxed foreign earnings of U.S. companies in 2017. Companies had the option to pay the tax up front, or in installments over eight years. Some companies overpaid their 2017 taxes as a result of Section 965, but were unable to claim a refund of those taxes due to an interaction with the rules for electing installment payments. This provision, which corrects an error in the Tax Cuts and Jobs Act, allows companies to recover the overpayment of taxes paid on the toll charge to help with liquidity during the current crisis.

Section 2209. Restoration of limitation on downward attribution of stock ownership in applying constructive ownership rules

This technical correction addresses the tax treatment of certain foreign subsidiaries resulting from changes made by the Tax Cuts and Jobs Act, which changed the ownership requirements for foreign entities that are subject to U.S. tax. The goal in changing these ownership rules was to target certain abusive transactions. However, the changes had the unintended consequence of subjecting some foreign entities to excessive tax and reporting requirements. The provision clarifies that certain foreign subsidiaries should not be subject to those requirements, which will permit companies to amend their 2018 tax return to free up critical cash for operations and payroll and significantly reduce their tax compliance burdens this year.

DIVISION C—ASSISTANCE TO SEVERELY DISTRESSED SECTORS OF THE UNITED STATES ECONOMY

- The legislation provides a total of $208 billion to the Secretary of the Treasury, through the Exchange Stabilization Fund, to provide sufficiently collateralized loans and loan guarantees to eligible entities, broken out in the following amounts:
    - Up to $50 billion for passenger air carriers;
    - Up to $8 billion for cargo air carriers; and
    - Up to $150 billion for other eligible entities.
- The Treasury Secretary is afforded flexibility to provide collateralized loans and loan guarantees to domestic entities “that have incurred losses as a direct result of the coronavirus global pandemic” so they can maintain operations.
- Entities eligible for loans or loan guarantees are those for whom credit is not otherwise reasonably available at the time of the transaction.
- An entity is only eligible for relief if the Treasury Secretary determines its continued operations are jeopardized as a result of losses stemming directly from the coronavirus outbreak.
- Interest rates on any loans extended by the Treasury Secretary may be no less than the current average yield on outstanding marketable obligations of the United States of comparable maturity.
- The legislation explicitly bars the Treasury Secretary from using the funds provided to make grants or direct cash payments to entities: “Nothing in this Act shall be construed to allow the President or Treasury Secretary to provide relief to eligible entities except in the form of sufficiently collateralized loans and loan guarantees.”
- The legislation also mandates that entities receiving assistance under the Act do not increase compensation for, or provide golden parachutes to, executives over a two-year period from the date of enactment.

- The legislation directs the Secretary of the Treasury, to the extent feasible and practicable, to ensure that the Government is compensated for the risk assumed in making loans and loan guarantees. To that end, "the [Treasury] Secretary is authorized to enter into contracts under which the Government, contingent on the financial success of the eligible entity, would participate in the gains of the eligible entity or its security holders through the use of such instruments as warrants, stock options, common or preferred stock, or other appropriate equity instruments."
- The provision repeals Federal Excise Taxes collected in relation to commercial aviation. Excise taxes are applied to the transportation of persons (the ticket tax), the transportation of property (cargo tax) and aviation fuel. This provision repeals those excise taxes from the date of enactment of this legislation through December 31, 2020.

DIVISION D—HEALTH CARE RESPONSE

Attached separately.

DIVISION E—TEMPORARY PERMIT USE TO GUARANTEE MONEY MARKET MUTUAL FUNDS

- Temporarily suspend the statutory limitation on the use of the Exchange Stabilization Fund (Section 131 of the Emergency Economic Stabilization Act of 2008) for guarantee programs for the United States money market mutual fund industry.

- Sunset date: Terminate authority to establish any new MMMF guarantee program upon the conclusion of the National Emergency Concerning the Coronavirus Disease 2019 (COVID-19) Outbreak declared by the President on March 13, 2020.

DIVISION F—BUDGETARY PROVISIONS

- Emergency designation.