<u>The RESTART Act</u>

Senator Todd Young (R-Ind.) and Senator Michael F. Bennet (D-Colo.)

<u>Summary</u>: The RESTART Act includes a new loan program to provide funding to cover 6 months of payroll, benefits, and fixed operating expenses for businesses that have taken a substantial revenue hit during the COVID-19 pandemic. A share of the loan will be forgiven based on the revenue losses suffered by the business in 2020 with the remainder to be repaid over 7 years. No interest payments are due in the first year, and no principal payments are due for the first two years. At its core, this program is designed to provide small- and medium-sized businesses with liquidity to get their businesses up and running again, and ensure that they receive loan forgiveness to help fill in the gap caused by revenue declines.

Terms of the RESTART Program

<u>Eligibility:</u> Businesses – including most nonprofits, veterans' organizations, self-employed individuals, independent contractors, and Tribal business concerns – with fewer than 5,000 full-time equivalent employees are eligible. Businesses with fewer than 500 full-time equivalent employees will receive more generous loan forgiveness, and the structure of the program is designed to reach the smallest businesses. Borrowers will be required to self-certify a revenue loss of no less than 25% for any 8-week period between February 15, 2020 and July 31, 2020, relative to a comparable 8-week period in 2019 or between January 1, 2020 and March 31, 2020.

<u>General Loan Terms:</u>

- <u>Maximum Loan Size</u>: The RESTART loan is designed to finance the equivalent of 6-months' worth of fixed operating costs, benefits, and payroll, up to a maximum loan size capped at the lesser of 45% of 2019 gross receipts or $12 million.
- <u>Interest Rates</u>: The RESTART loan has a 7-year term. For the first 2 years, the loan will have a fixed interest rate between 2% and 4%. For years 3 through 7, the rate will be based on the Applicable Federal Rate (AFR) plus a spread of 250 to 600 basis points based on revenue decline.
- <u>Guarantee</u>: The loan will be 100% guaranteed by the federal government.
- <u>Payment Schedule</u>: No principal payments are required for the first 24 months, and no interest payments are due for the first 12 months. Thus, no payments are due in the first year.
- <u>Origination Fee Structure</u>: Origination fees range from 3.75% to 0.75% depending on the loan size. The fee will not count toward the overall loan size, and the fee structure is designed to provide an incentive for banks and other financial institutions to assist the smallest businesses. For businesses with fewer than 500 full-time equivalent employees, 100% of the origination fee will be covered by the federal government. For larger businesses, 50% of the origination fee will be covered by the federal government for loans up to $10 million. Businesses may roll the non-federally-paid portion of the origination fee into the loan and it will not count toward the $12 million cap or other restrictions on loan size.

<u>Permitted Expenses</u>: A broad array of expenses can be paid for with a RESTART loan, including payroll, employee benefits, fixed operating expenses, personal protective equipment (PPE), accounts payable, and other ordinary and necessary business expenses.

<u>Forgivable Expenses</u>: Certain permitted expenses are eligible for forgiveness. Based upon a business's revenue declines from 2019 to 2020, a share of the loan used for the following expenses is eligible for forgiveness:

- Total payroll (up to $100k per employee);
- Employee benefits (for both current and furloughed employees);
- Rent;
- Utilities;
- Interest on mortgage payments existing as of February 15, 2020;
- Interest payments on other scheduled debt existing as of February 15, 2020; and
- Personal Protective Equipment (up to $5,000).

Prohibited Expenses: Borrowers are prohibited from using funds to:

- Purchase real estate;
- Pay interest or principal payments on loans originating after February 15, 2020;
- Invest or re-lend funds; or
- Contribute to, or on behalf of, any political party, party committee, or candidate for elective office.

Forgiveness Terms: The level of forgiveness is based on the losses in revenues and may be applied for within 2 years of loan origination.

For smaller business (< 500 employees), forgiveness will be based on the following formula:

$$\boldsymbol{Forgiveness} = \left(\mathbf{1} - \frac{\mathbf{2020}\ \boldsymbol{Gross\ Receipts}}{\mathbf{2019}\ \boldsymbol{Gross\ Reciepts}}\right) * \mathbf{0.90} * (\boldsymbol{Payroll} + \boldsymbol{Benefits} + \boldsymbol{Operating\ Costs})$$

Larger businesses (500 < X ≤ 5,000 employees) will do the same but exclude the cost of payroll:

$$\boldsymbol{Forgiveness} = \left(\mathbf{1} - \frac{\mathbf{2020}\ \boldsymbol{Gross\ Receipts}}{\mathbf{2019}\ \boldsymbol{Gross\ Reciepts}}\right) * \mathbf{0.90} * (\boldsymbol{Benefits} + \boldsymbol{Operating\ Costs})$$

In either case, comparisons between 2020 and 2019 gross receipts will either be between the full calendar years or between the RESTART loan's 6-month covered period and a comparable 6-month period a year earlier.

Forgiveness Restrictions: Publicly-traded companies are not eligible for loan forgiveness.

Nonprofits: All eligible nonprofits will have access to a loan with more favorable terms than businesses, including a longer duration of up to 10 years and a lower interest for the first 4 years. Alternatively, nonprofits with up to 500 employees are provided an option for loan forgiveness, with the remaining loan subject to the same terms as businesses.

Application Process: Once the RESTART Act is passed into law, Treasury and the Small Business Administration (SBA) will have 15 days to stand up the program. Borrowers will apply at their local bank, credit union, or Community Development Financial Institution (CDFI). Small businesses and small banks – including CDFIs and minority depository institutions (MDIs) – will receive set-asides to ensure that the funding reaches the smallest and most underserved businesses.

Lender Protections: Lenders will be held harmless for relying on a borrower's documentation and attestation.

[Note: As introduced, section 2 of the bill extended the 8-week covered period to a 16-week period for PPP loans. Since the date of introduction, the PPP Flexibility Act was enacted and extended the covered period to a 24-week period. Therefore, the sponsors would drop this section should the bill move forward in the legislative process. The House companion introduced on July 2, 2020, does not include this provision.]