CLFP Recertification | 2021

The Impacts of COVID-19

COVID-19 has impacted our industry, economy, country, and world. We are seeing delays in implementation of the new Lease Accounting Standard (ASC 842) and CECL (Current Expected Credit Loss) as a result. The IRS has finalized its 100% Bonus Depreciation rules, adding some relief. Chapter 5 bankruptcy is new and may assist small businesses in the bankruptcy process.

The **Coronavirus Aid, Relief**, and **Economic Security Act**, also known as the **CARES Act**, is a $2.2+ trillion economic stimulus bill passed by Congress and signed into law by President Trump on March 27, 2020 in response to the COVID-19 pandemic. It included $300 billion in one-time cash payments to individual Americans, $260 billion in increased unemployment benefits, the creation of the Paycheck Protection Program that provides forgivable loans to small businesses with an initial $350 billion in funding (later increased to $669+ billion by subsequent legislation), $500 billion in aid for large corporations, and $339.8 billion to state and local governments.

Unprecedented in size and scope, the legislation is the largest economic stimulus package in U.S. history, amounting to 10% of total U.S. Gross Domestic Product. The Congressional Budget Office estimates that it will add $1.7+ trillion to the deficits over the 2020–2030 period.

Loans
The Act:

- Allocates up to $500 billion to the Economic Stabilization Fund ("Main Street Lending Program") for assistance to eligible businesses, states, and municipalities. A business is eligible if it has significant operations in the United States, a majority of its employees are based in the United States, and it either has fewer than 10,000 employees or has less than $2.5 billion of revenue.
- Creates a $669 billion small-business loan program called the Paycheck Protection Program (PPP). Most firms with at most 500 employees are eligible for the PPP funds. These loans are designed to be forgiven in whole or part upon meeting certain requirements.
- Expands the Small Business Administration's Economic Injury Disaster Loans (EIDL) to cover most nonprofit organizations, including faith-based organizations. An EIDL may not replace lost revenue or lost profits. An EIDL may not be used for business expansion.
- Provides the Secretary of the Treasury with the authority to make loans or loan guarantees to states, municipalities, and eligible businesses.

Lots more to come on the CARES Act, loan forgiveness, and future COVID-19 impact on the country. Amounts are likely to increase.

FASB Delays

On May 20, 2020, the Financial Accounting Standards Board (the "FASB" or the "Board") held a virtual meeting in which it voted to affirm its intent to delay the effective dates of its lease standard (ASC 842) for certain entities. The delays were first proposed in April 2020 as a means to provide relief to entities struggling to respond to the COVID-19 pandemic and simultaneously implement the significant new accounting standard. The Board affirmed its intent to support the deferral of the required implementation date for ASC Topic 842, *Leases*.

Under the proposal, the new lease standard is expected to be delayed for one additional year for the following entities:

- **Private entities, including companies and not-for-profits; and**
- **Public not-for-profits, meaning any not-for-profit that has issued or is a conduit bond obligor for securities that are traded, listed, or quoted on an exchange or over-the-counter market that has not yet issued financial statements.**

Under the proposal, it is expected that the new lease standard will be effective for private entities for fiscal years beginning after December 15, 2021, and interim periods within fiscal years beginning after December 15, 2022. This marks the second time the effective date has been delayed for private entities; in November 2019, the FASB issued ASU 2019-10, which provided effective date deferrals for a number of new standards, including leases.

For public not-for-profits, the new lease standard is now expected to be effective for fiscal years beginning after December 15, 2019, including interim periods within those years.

The schedule for the implementation of the new lease standards for public business entities will remain unchanged.

The FASB has stated it plans to continue to monitor the impact of COVID-19 and will consider additional relief from the strain of implementation if necessary. Several projects on the FASB's agenda have been temporarily suspended so that priority may be given to the impact of the global pandemic.

CECL Update

For years, financial institutions across the country have been preparing for the implementation of the new Current Expected Credit Loss (CECL) accounting standard. CECL applies to **ALL** financial institutions, not just banks. The creation of CECL was a direct result of the 2008 financial crisis where financial institutions had recorded losses too little and too late.

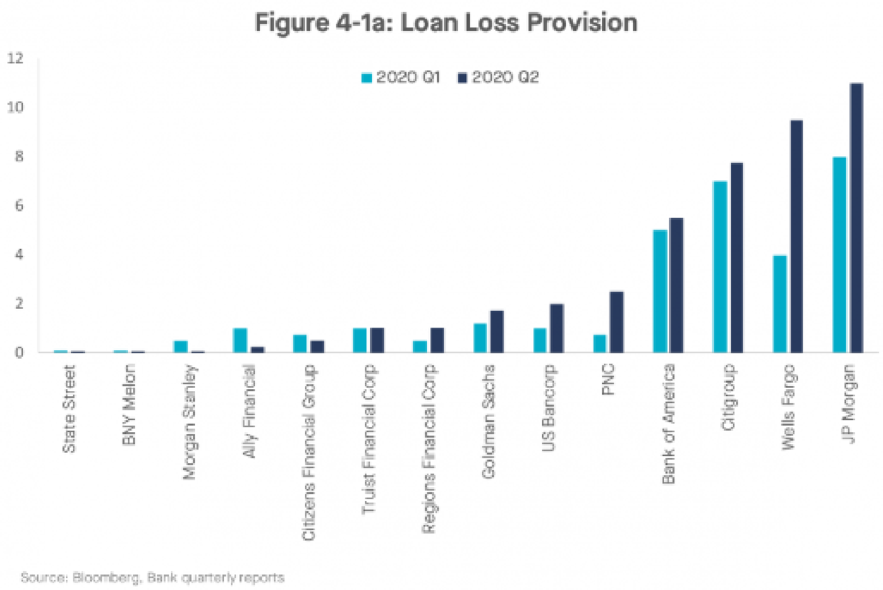
For equipment lessors, the CECL model also applies to a lessor's net investment in sales-type and direct financing leases (operating leases are not in scope). The net investment in a lease includes the lease receivable, the unguaranteed residual asset and deferred selling profit (for direct financing). **The entire net investment in the lease is used to estimate the CECL, including the amount that the lessor expects to derive from the unguaranteed residual asset,** which would be based on the expected value of the residual asset at the end of the lease term. In addition, the expected cash flows from the disposal of leased assets (including any gains and losses) should be included in the estimate of expected credit losses on net investments in leases.

Q1 2020, SEC-filing financial institutions began reporting under the new CECL standard. Unlike the incurred loss model (previous standard), the CECL methodology requires a forward-looking estimate that lends itself to a comparatively more quantitative approach. The wild economic uncertainty that emerged shortly after the standard's effective date has created a significant challenge to forecasting losses and making the macroeconomic assumptions that are necessary for CECL. The current conditions underscore the importance of the new standard and financial institutions' preparedness to weather economic crises. Therefore, whether an institution is a 2020 CECL adopter or preparing for 2023, it's essential to understand the implications the pandemic may have on their transition to the new accounting standard.

The passage of the CARES Act allowed for 2020 CECL adopters to delay the presentation of CECL's impact on their financial statements until the end of the pandemic or Dec. 31 – whichever comes first. Remember, this is a presentation delay; the effective date has not changed. Financial institutions will need to continue running their CECL calculations throughout 2020 in order to determine the impact and make necessary adjustments.

Financial institutions complying with CECL have tackled their approaches differently, and reserves for loan losses have varied, dependent on an institution's:
• implementation methodology
• core assumptions and nature of lending practices
• estimates for future economic outcomes.

While institutions anticipated that their loan loss provisions would likely increase by action of the accounting change, the coronavirus pandemic created a perfect storm for more increases in loan loss provision.



Initial Q1 reports – revealed a significant uptick in loan-loss provisions, totaling nearly five times as much as the previous period. Figures were all over the place, especially for the smaller financial institutions. Q2 figures reflect COVID-19 impact and are generally higher than Q1 with all things being even.

There is neither a crystal ball to know when the pandemic will wane nor any certainty as to how long economic recovery will take. To be sure, the current unprecedented conditions complicate forecasting, but financial institutions – whether 2020 or 2023 adopters – should not lose sight of CECL.

Source is Abrigo and ELFA October Leasing Today magazine

Subchapter 5 Bankruptcy

Effective February 19, 2020, the Bankruptcy Code provides for a somewhat more compact and hopefully, easier version of Chapter 11 Reorganizations for Small Business Corporate and Individual Debtors. It is commonly referred to as a "Subchapter 5."

The purpose of this new section of the Bankruptcy Code is to allow business debtors and certain individuals with debts below $2.75 million to reorganize their obligations under Chapter 11 without the need for obtaining the consent of a class of "impaired" creditors as required under basic Chapter 11. It also relaxes some of the rules for administration of the Chapter 11 plan and the payment of United States Trustee quarterly fees. Certain individual debtors may also benefit from the elimination of the so-called "absolute priority rule" which prevented exemption of real or personal property in some cases.

There are still some large unknowns, most notably the amount of compensation which will be sought by the administering Trustee, or for the Trustee's retention of professionals to assist with the case. There is the potential that these costs may far outweigh any of the intended benefits of this new provision of the Code. There is also under this section a new "disposable income" requirement which may compel a minimum payment to a creditor higher than what is now compelled under Chapter 11. There as well remain some of the traditional Chapter 11 burdens such as monthly operating reports, special Debtor in Possession bank accounts and an intensive inquiry by the appointed Trustee.

It is too early to determine whether this section will actually produce the intended result of an easier, truncated and more affordable Chapter 11 filing- yet it may still offer a valuable remedy for small business debtors and individuals leery of a full-blown Chapter 11 filing. Stay tuned.

extract from Abelson Law Offices article and Bankruptcy Code

IRS Finalizes Regulations for 100% Bonus Depreciation

IR-2020-216, September 21, 2020

WASHINGTON — The Treasury Department and the Internal Revenue Service today released the last set of final regulations implementing the 100% additional first year depreciation deduction that allows businesses to write off the cost of most depreciable business assets in the year they are placed in service by the business.

The 100% additional first year depreciation deduction was created in 2017 by the Tax Cuts and Jobs Act and generally applies to depreciable business assets with a recovery period of 20 years or less and certain other property. Machinery, equipment, computers, appliances and furniture generally qualify.

The deduction applies to qualifying property (including used property) acquired and placed in service after September 27, 2017. The final regulations provide clarifying guidance on the requirements that must be met for property to qualify for the deduction, including used property.

Additionally, the final regulations provide rules for consolidated groups and rules for components acquired or self-constructed after September 27, 2017, for larger self-constructed property on which production began before September 28, 2017.

The Treasury Department and the Internal Revenue Service plan to issue procedural guidance for taxpayers to opt to apply the final regulations in prior taxable years or to rely on the proposed regulations issued in September 2019.