

Matt Ferris and Alex Grishman in Law360: Small Biz Bankruptcy Rules Come Just in Time For Many

April 28, 2020 Matt Ferris, Alexander Grishman

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Haynes Boone Partners [Matt Ferris](#) and [Alex Grishman](#) talked with *Law360* about how changes in the rules governing small business bankruptcies came at a fortuitous time earlier this year and could provide an easier path to reorganization as many more companies are likely to become insolvent due to the continued effects of the COVID-19 outbreak.

Here is an excerpt:

In effect since mid-February, the Small Business Restructuring Act makes Chapter 11 proceedings faster, cheaper and more efficient for companies that come to court with debt loads below a new statutory cap — just in time for them to navigate the financial turmoil resulting from the coronavirus pandemic, according to bankruptcy professionals.

While the new process hasn't been widely used over the past two months, according to Matt Ferris, a restructuring partner with Haynes Boone, that will likely change as more and more businesses tip into bankruptcy.

"It's going to open the door for many more parties to access a potential restructuring," Ferris told *Law360*. "The timing was kind of incredible, frankly."

According to the Small Business Administration, which is administering the PPP [Paycheck Protection Program], the median amount of the loans granted is about \$200,000, but Alex Grishman, also of Haynes Boone, said some businesses are left in an impossible situation where the money isn't helpful.

He said the terms of the loan program allow for the forgiveness of the entire amount if at least 75% is used to cover payroll expenses. The rub is that many of the businesses that applied are subject to mandatory shutdown orders and don't have any payroll at the moment. If the money isn't used for the intended purposes, it converts into a low-interest loan that needs to be repaid.

Increased unemployment benefits are making a return to work in a potentially dangerous environment a less attractive option for rank-and-file employees, Grishman said, and small businesses like independent restaurants and auto service stations are finding it difficult to use the PPP money for its intended purposes.

"It's making it difficult for everyone from the local mechanic to the restaurant chain to attract back the workers they need for that eight-week period to make the PPP portion of the CARES Act work correctly," he said. "It does have a beneficial aspect — it's just for many businesses, it's not going to be a solution that's going to keep them out of failure."

The funds were appropriated with the intention of bridging the gap through the crisis over the next

eight to 10 weeks, but Grishman said the money could end up just delaying the inevitable collapse of many of these businesses.

"It's yet to be seen if it's going to save a lot of these businesses or if it's just going to push it down the road eight to 10 weeks," he said of the PPP..

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