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## Law Firms Scramble For Federal Money With Mixed Results

By **Aebra Coe**

Law360 (April 28, 2020, 7:20 PM EDT) -- Small and midsize law firms have flocked to the federal government's paycheck protection loan program in search of capital to prevent layoffs and weather the economic storm caused by the coronavirus pandemic, but some have encountered challenges accessing the funds.

In a recent survey of 75 managing partners at small and midsize law firms conducted by consulting firm The Remsen Group, a whopping 90% of the firm leaders said they had applied for a forgivable Paycheck Protection Program loan from the government.

At the time the survey was conducted, April 15, about half had been approved and the other half were still waiting to hear back on the status of their applications. And stories still abound of small and midsize law firms waiting to hear back on loans, even as April draws to a close.

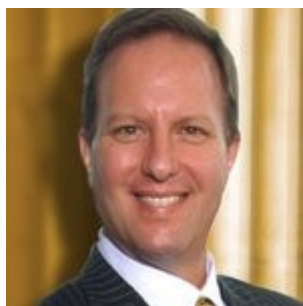
"Firms are being hit on money coming in the door and they'd like to retain their employees and take good care of their people," The Remsen Group founder John Remsen said. "They suspect we'll get through this. We're not sure when, but when we do, we'd like to have most of our people still on board."

That is the intended purpose of the \$350 billion program implemented by the federal government on April 3, with Congress approving an additional infusion of \$310 billion last week.

The loans, whose main purpose is to keep people working, are administered through the federal Small Business Administration and are available to any U.S. business with fewer than 500 employees.

The loans are forgivable as long as they are used primarily to pay employees and for other business operating expenses such as rent and utilities.

The fact of the matter is most law firms are small businesses. As far as eligibility, almost all will qualify.



Ian Berkowitz

Berkowitz & Associates

Unlike disaster relief loans, which are capped at \$200,000, the paycheck protection loans can be quite large — as much as \$10 million, depending on the size of the company's payroll.

Ian Berkowitz, a former attorney adviser with the Small Business Administration who for the last two decades has helped clients obtain SBA loans in private practice, says that there is massive interest right now among law firms to access the program.

He recently offered a webinar about the PPP for the Broward County Bar Association in Florida, drawing 500 attendees. After his presentation ended, he said he was hit with a massive influx of emails from law firms asking for help and advice when applying.

"The fact of the matter is most law firms are small businesses. As far as eligibility, almost all will qualify," said Berkowitz, who is based in Boca Raton.

Just 200 of the tens of thousands of law firms in the U.S. have more than 200 attorneys, which very likely puts the remainder below 500 total employees.

Leaders of law firms that have been able to access the funds say they have put them to good use. Sabrina Presnell Rockoff, managing partner of McGuire Wood & Bisette in Asheville, North Carolina, said her firm applied for the program on April 5 and was funded on April 22.

"The key piece at least for us is we still have everyone working. We have not cut any staff or attorneys," Rockoff said.

She says the attorneys at her firm anticipate that they will have some clients who may not be able to pay bills in the normal time frame and that some of their practice areas will see a slowdown.

"This allows us to feel like we have some financial security at least through the summer, and if we have some slow months, it provides us with some confidence we'll be able to keep everyone employed," she said.

To determine how much they can receive under the program, law firms can take their payroll costs per month, as an average of their payroll costs each month during the past year, and then multiply that number by 2.5.

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McGuire Wood & Bisette

Workers who are contractors, those receiving a 1099 form, do not count as employees. But associates and partners receiving a K-1 tax form do count, although only the first \$100,000 of their salaries can be funded and anything over that is not included in the calculation, Berkowitz said.

At least 75% of the loan must be used for payroll purposes in order to be forgiven, he added.

Despite qualification requirements that are much more relaxed than with most SBA loans, there are a number of law firms that missed out on the first \$350 billion in funding and still have not yet received funding during the second round despite applying early.

Dorothy Lawrence, the owner of Dorothy Butler Law Firm in Texas, says that she first attempted to apply through her bank, Wells Fargo, on April 3, but was put on a queue by the bank and told she would be emailed when she could apply.

She was not able to submit an application until well into April, the day before funds ran out, she said, and as of April 28 had still not heard back on whether a loan for her firm has been approved.

Anthony Marré, managing shareholder of Wilson Cribbs & Goren in Houston, said that while his law firm has been approved, he has heard of a wide range of experiences from the leaders of small and midsize law firms who participate along with him in an online forum.

"It's definitely not seamless," Marré said. "No experience is the same."

According to Berkowitz and a number of others who are helping small businesses and law firms apply for the loans, those who have submitted applications through the largest banks such as Wells Fargo or Bank of America have generally not had as much luck as those who have applied through smaller community banks and credit unions.

For large banks, administering the SBA loans is not a significant moneymaker, especially considering the amount of staff power that goes into them, Berkowitz said. He says he has heard from people around the country who have applied through the big banks and heard nothing back.

"That uncertainty, I think, is what's giving a lot of people the biggest headache or a lot of anxiety related to it," he said.

One small law firm, Kennard Law PC, has even filed a proposed class action lawsuit against large banks on behalf of itself and others, alleging breach of fiduciary duty over their administration of the loans.

"This is not a time for more greed," Kennard Law managing shareholder Alfonso Kennard Jr. said in a public statement. "It is a time to fairly distribute taxpayer money for the companies that need it most."

A spokesperson for Bank of America told Law360 on Tuesday that the bank is focused on finalizing applications and getting them to the government.

"We submitted nearly 200,000 loans to the SBA on Monday when they began accepting applications for the first time since April 16. We will continue to submit and, when the SBA approves the loans, provide the funding to small businesses," the spokesperson said.

A spokesperson for Wells Fargo said the bank is working as quickly as possible to assist small business customers with the program.

"We have mobilized thousands of employees and launched new technology to better assist customers seeking assistance via the Paycheck Protection Program," the spokesperson said.

Remsen, of the consulting firm, runs the managing partner forum to which Marré belongs. He says his sense is that, even if they do eventually get the funds for which they've applied, some small and midsize law firms using large banks now have a bad taste in their mouths over the

experiences they've had during the coronavirus crisis.

"We just might reconsider our banking relationships coming out of it," Remsen said.

--Editing by Jill Coffey and Alanna Weissman.

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