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[This memorandum is not legal advice, and it is intended for general information purposes only]

To: Strategic Planning Group
From: Frank P. Nagorney

RE: Foreign Owned Small Businesses Can Qualify for PPP Loans

1. General Rule. The SBA permits non-US citizens to own and control a “small business” so long as the owners are legal permanent residents of the United States. Typically this means that the owners have a “green card”. Even if the borrower is not a legal resident, a business can qualify, but the analysis becomes more complex. This would be the situation if the owner is a foreign corporation or other legal entity.
2. Form 2483 Application. An early version of SBA Form 2483 indicated that unless the owners were US citizens or lawful permanent residents, that the PPP loan would be denied. This appeared to disqualify small businesses owned by foreign legal entities, even though CARES did not contain such a limitation. The final version of Form 2483 eliminated this question, and so it appears that foreign ownership will not adversely affect eligibility for a PPP loan so long as the covered employees are residing in the United States.
3. Additional Requirements for Foreign Owned Small Businesses. There are other requirements that the foreign owners must satisfy under the SBA regulations. This includes a 12 month operating history for the business, collateral located in the United States, and loan guarantees by principals. Further information on this subject is provided in Addendum A to the SBA Eligibility Questionnaire for Standard 7(a) Guaranty.

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