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JOHN ALFONSO, CPA, CGMA

Partner and Not-for-Profit Industry Practice
Leader

Moderator



ANITA PELLETIER

Counsel, Not-for-profit Team, Nixon Peabody,
LLP

Presenter



ROBERT C. MOSS

Principal, National Director of Governmental

Affairs

Presenter



KEVIN CLANCY, CPA, JD, CIRA, CFF
Global Director, Restructuring and Dispute
Resolution, CohnReznick
Presenter



HILLARY BACA

Labor & Employment Associate, Nixon Peabody,

LLP

Presenter

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AGENDA

- Industry Impact
- Overview of the CARES Act
- Legislative Update CARES 2
- Employment Related Legal Issues/Employee Assistance Programs
- Changing Business Strategies: Liquidity & Alternative Financing Strategies
- Questions and Answers





THE CORONAVIRUS PANDEMIC HAS SEVERELY IMPACTED NONPROFITS



Strain on liquidity

Most nonprofits are **thinly capitalized** and "live on the edge" to fulfill their missions, meaning the coronavirus outbreak could **dramatically exacerbate existing challenges.**

A 2018 survey by the Nonprofit Finance Fund found that **75% of nonprofits only had enough cash on hand to survive for six months**, with nearly 20% only having enough to keep operating for a month or less.



Weaker private fundraising

According to the National Council of Nonprofits (NCN), 14% of non-profit revenue comes from private contributions.

Nonprofits have had to cancel critical spring fundraisers.

Due to the coronavirus, most donors are dealing with new problems of their own, in addition to likely having seen their personal financial situations change for the worse.



Inability to provide services

Services and government grants/contracts account for 80% of nonprofit revenue.

The coronavirus has made it more difficult for nonprofits to provide their services, with orders to restrict large gatherings making it near-impossible for many nonprofits to operate.

Other revenue-generating events like conferences have also had to be cancelled in the wake of the pandemic.



Asset depreciation

6% of nonprofit revenue comes from other sources, such as investment income.

This means that nonprofit assets have **likely depreciated** as the stock market and other financial markets have generally tumbled because of the coronavirus.

Sources: New York Times, Wall Street Journal, Nonprofit Finance Fund.



DEMAND FOR MANY NONPROFIT SERVICES IS INCREASING EVEN AS FINANCIAL PRESSURES MOUNT



"Everyone is losing revenue, and many have skyrocketing demand. You do the math."

- Tim Delaney, President and CEO of the National Council of Nonprofits.

Community demand for many nonprofit services – especially in the case of charities – will only grow as coronavirus takes its toll.

- United Way has already seen an influx of requests for help as more and more Americans are laid off or face other financial difficulties.
- Over one third of YWCA member organizations have already seen increases in demand for domestic violence services.
 - O Space in shelters, however, is limited, and social distancing measures complicate matters further.
- Demand for food assistance is soaring, and most food banks are struggling to meet it.
 - o These organizations often rely on older volunteers (who are now generally sheltering in place) and are unable to receive donations from typical providers like restaurants and hotels.

Even for nonprofits that can still operate, providing services that the community needs is proving to be difficult due to:



Less donations and loss of fees



Staffing/volunteer reductions and layoffs



Delays in grant processing



Difficulty securing necessary supplies (such as PPE)

Sources: New York Times, NPR, KUSI



THERE ARE VARIOUS FORMS OF RELIEF AVAILABLE FOR NONPROFITS



Nonprofits can take advantage of many of the same relief options being offered to small businesses and other employers, as well as some nonprofit-specific relief.



Federal loans: The SBA is providing low-interest disaster loans to small businesses *and private nonprofits* that have been hurt financially by COVID-19. Certain nonprofits also qualify for emergency loans of up to \$10 million as part of the Paycheck Protection Program enacted through the CARES act. Nonprofits are expected to be able to qualify for Economic Stabilization Fund (also created as part of the stimulus) loans, though this is not yet clear.



Federal Reserve Main Street Business Lending Program: Nonprofits with less than \$2.5 billion in 2019 revenues or with less than 10,000 employees that have incurred losses due to COVID-19 qualify for the Fed's new lending facility



Tax code changes in the CARES act: The CARES act codifies a charitable giving incentive through the creation of a new charitable contributions deduction. The bill also establishes a refundable employee retention payroll tax credit and will allow employers to delay their payroll tax liabilities until 2021 or 2022. Nonprofits now also qualify for an extended tax filing deadline of July 15, 2020.



Community foundation relief programs: Just under 300 community foundations across all 50 states and DC have made relief funds available to support local nonprofits in their efforts to manage the effects of the coronavirus in their communities.



Corporate relief programs: Many corporations are offering new grant awards geared towards nonprofits with coronavirus-related programs. For example, Sony has established a \$100 million relief fund and Bank of America is pledging \$10 million in grants for nonprofit Community Development Financial Institutions (CDFIs).



INDUSTRY IMPACT – CARES ACT 2

- Nonprofit Community Letter to Congress on Priorities for CARES ACT 2
- Letter urges Congress to include the following clarifications and provisions
 - Expand nonprofit access to Credit
 - PPP Loans
 - Prioritize processing of applications
 - Modify the 500 employee cap
 - Mid-Size Business Loan Program
 - Support NFP employers between 500 to 10,000 employees
 - Include loan forgiveness provisions
 - Strengthen Charitable Giving Incentives
 - Treat Self-Funded Nonprofits Fairly
 - o Increase Emergency Funding by appropriating funds for targeted state grants and programs





FEDERAL RESPONSE

Congress's three-phase response to the coronavirus crisis

Phase

1

Initial support and vaccine development

H.R. 6074 — Coronavirus Preparedness and Response Supplemental Appropriations Act

- \$8.3 billion in COVID-19 response funding for developing a vaccine and preventing further spread of the virus
- Became law on 3/6/20

Phase

2

Paid leave, unemployment and food assistance

H.R. 6201 — Families First Coronavirus Response Act

- \$100 billion in worker assistance, including emergency paid sick leave, food assistance, and unemployment payments
- Became law on 3/18/20

Phase

3

Major economic stimulus package

H.R. 748 Stimulus package

- Major stimulus package (\$2 trillion)
- Loans and support to major industries, including airlines and small businesses
- Direct payments to individuals and families
- Became law on 3/27/20



CARES ACT

Phase 3 (H.R. 748): Coronavirus Aid, Relief, & Economic Security Act

Introduced 3/23/20

Passed Senate 3/25/20 Passed House 3/27/20 To president 3/27/20 Signed into law 3/27/20

Total cost: \$2 trillion

- · Direct payments to individuals:
 - \$1,200 per adult, with an additional \$500 per child
 - The full amount will go to individuals who earn
 \$75,000/year or \$150,000 for married couples; the
 payments scale down for higher-earning individuals,
 phasing out completely at \$99,000 for individuals,
 \$146,500 for heads of households with one child, and
 \$198,000 for joint filers without children
- \$500 billion lending funds for industries, states, and localities
 - Loans for companies with more than 500 employees
 - \$25 billion in loans to airlines; \$4 billion to cargo carriers
 - Bans loans to businesses owned by the president, vice president, heads of executive departments, or members of Congress

- Hospital investments
 - \$100 billion for hospitals
 - \$1 billion to Indian Health Service
 - \$16 billion for building a stockpile of medical equipment
 - Increases reimbursements by 20% for treating Medicare patients with coronavirus
- \$350 billion in loans for small businesses
 - Loans to small businesses would be forgiven if payrolls are maintained
- Unemployment benefits increased \$600/week for four months
- New Treasury IG and Congressional Oversight Board
- State and Local Funds
 - \$150 billion for state and local funds, including \$8 billion for tribal governments



PAYROLL PROTECTION PROGRAM

- \$349B appropriated
- 501(c)(3) and 501(c)(19) organizations
- Loan forgiveness
- 2-year term and 1% interest rate (if not forgiven)
- Loan of last resort requirement waived
- Max loan amount 2.5 times average monthly payroll costs





PAYROLL PROTECTION PROGRAM

- No more than 25% of loan for non-payroll costs
- Forgiveness amount limited
 - 8 weeks of expenses from date loan disbursed
 - Loans to be disbursed within 10 days after application approved
- Beware of SBA affiliation rules for 500 employee rule
 - not typical corporate affiliation rules
 - Faith based organization exception
- https://www.sba.gov/document/support--faq-lenders-borrowers



ECONOMIC INJURY DISASTER LOAN

- Established before CARES Act
- CARES Act added forgivable emergency advance of \$10k
- 2.75% interest rate for nonprofit organizations
- Principal and interest can be deferred up to 1 year
- Term of loan varies (up to 30 years)
- Credit score based
- Collateral and guaranty rules apply
 - No guaranty if loan less than \$200k



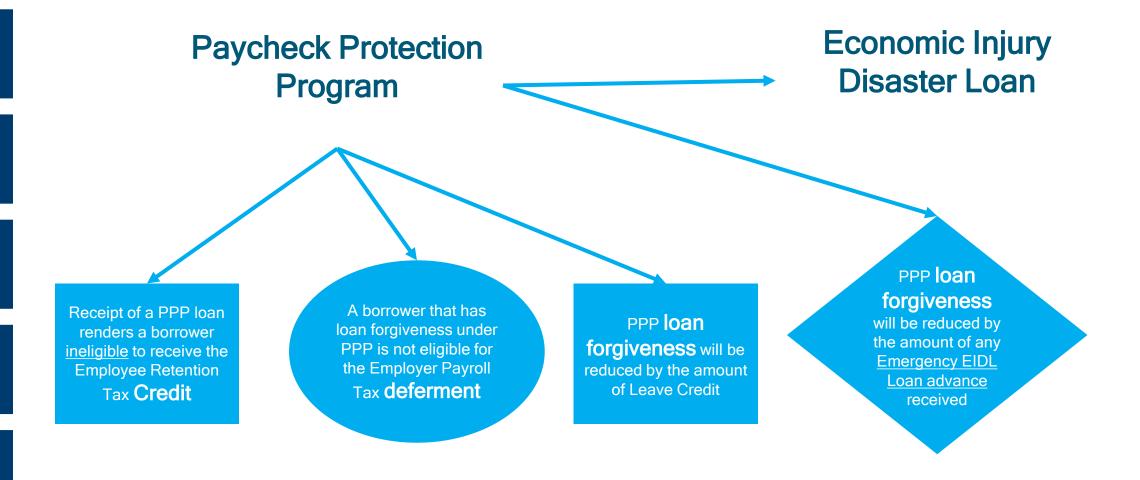
TAXES AT A GLANCE

- Employee Retention Tax Credit
- Tax credit for 50% of eligible wages (up to \$5,000 per employee)
- Covered Period: Wages paid between March 12, 2020 and January 1, 2021
- Applies to eligible employers which generally includes employers with ≤ 500
- Ineligible if employer received a loan under PPP

- Deferral of Employer Payroll Taxes
- Deferral of employer's portion of the 6.2% FICA tax from March 27, 2020 to December 31, 2022
- 50% of such deferred amount must be paid by December 31, 2021 and the remaining 50% by December 31, 2022
- Ineligible if employer had loan forgiveness under PPP; okay to get PPP, just can't get forgiveness

- Payroll Tax Credit for Paid Sick, Family, and Medical Leave
- Tax credit for wages required to be paid under the sick leave and/or family and medical ("FML") leave rules
- Covered Period: wages paid between <u>April 1, 2020 and</u> <u>December 31, 2020</u>
- Applies to eligible employers, which generally includes employers with < 500 employees
- Self-employed individuals are also eligible

KEY LOAN RESTRICTIONS





MAIN STREET LENDING NEW LOAN FACILITY

- Max 10,000 employees and \$2.5B 2019 annual revenue
- U.S. entity with significant operations in U.S. and majority employees located in US
- Not eligible if participating in Main Street Expanded Loan Facility or Primary market Corporate Credit Facility
- Unclear whether nonprofits eligible





LEGISLATIVE UPDATE – CARES 2 – SUPPLEMENTAL

- The Madness of March 2020 for Congress
- This week on Capitol Hill
- What is driving CARES 2 policy makers
- The goal of sustainability
- What is next for relief in COVID bill 4- and when?





EMPLOYEE-RELATED LEGAL ISSUES

Families First Coronavirus Response Act

- FMLA Expansion
- Emergency Paid Sick Leave

Workforce Management Options

- Hours Reductions
- Furloughs
- Layoffs

Employee Assistance Options

- Unemployment Insurance Benefits
- State Disability Insurance Benefits
- PTO Donations



FAMILIES FIRST CORONAVIRUS RESPONSE ACT

- Signed by President Trump on March 18
- Effective April 1, 2020
- Applies to leaves from April 1 to December 31, 2020
- Applies to employers with less than 500 employees
- Exemptions
 - Certain health care professionals and emergency responders, and
 - Small businesses with fewer than 50 employees when these requirements could jeopardize the validity of the business as a going concern





FAMILIES FIRST CORONAVIRUS RESPONSE ACT – FMLA EXPANSION

- Usual FMLA eligibility requirements do NOT apply
- An employee is eligible if she has been employed for at least 30 days and is unable to work (or telework) due to a need to care for children under 18 years of age, if the school or place of care has been closed, or if the child care provider is unavailable, due to a public health emergency





FAMILIES FIRST CORONAVIRUS RESPONSE ACT – FMLA EXPANSION

- First two weeks of leave unpaid; subsequent weeks paid
- 12 workweeks during a 12-month period
- Leave must be paid at a rate of 2/3 the employee's regular rate of pay, and at the number of hours the employee is regularly scheduled to work
- Paid leave is capped at \$200 a day or \$10,000 in the aggregate



FAMILIES FIRST CORONAVIRUS RESPONSE ACT – EMERGENCY PAID SICK LEAVE

- Any employee working for an employer can use this there are no accrual or length of employment requirements
- Employer shall provide 80 hours of paid sick leave to be used this year for a covered reason
- No carryover from year to year
- No payout upon separation





FAMILIES FIRST CORONAVIRUS RESPONSE ACT – EMERGENCY PAID SICK LEAVE

Covered reasons:

- The employee is subject to a federal, state, or local quarantine or isolation order due to COVID-19.
- The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.
- The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis.
- 4. The employee is caring for an individual who is subject to an order as provided in (1) or has been advised as per (2).

- 5. The employee is caring for a son or daughter if the school or place of care for the child has been closed, or the child care provider is unavailable, due to COVID-19 precautions.
- 6. The employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of Treasury and the Secretary of Labor.



FAMILIES FIRST CORONAVIRUS RESPONSE ACT – EMERGENCY PAID SICK LEAVE

The following caps apply:

- The first three covered reasons have a cap of \$511 per day and \$5,110 in the aggregate
 - Must be paid at the employee's regular rate of pay or the state/federal/local minimum wage, whichever is greater (up to the cap)
- The fourth through sixth covered reasons have a cap of \$200 per day and \$2000 in the aggregate
 - Must be paid at 2/3 the of the greater of the amounts above (up to the cap)





WORKFORCE MANAGEMENT OPTIONS



Voluntary leaves and exit packages



Reduction of hours and compensation

- Salary basis test for exempt employees
- Conversion to nonexempt



Temporary furloughs

Exempt employees
 must generally be
 paid a full week's
 salary in any week in
 which they perform
 any work



Layoffs

- WARN/mini-WARN Acts
- Exceptions to federal WARN's notice requirements
- Mini-WARN Acts



EMPLOYEE ASSISTANCE

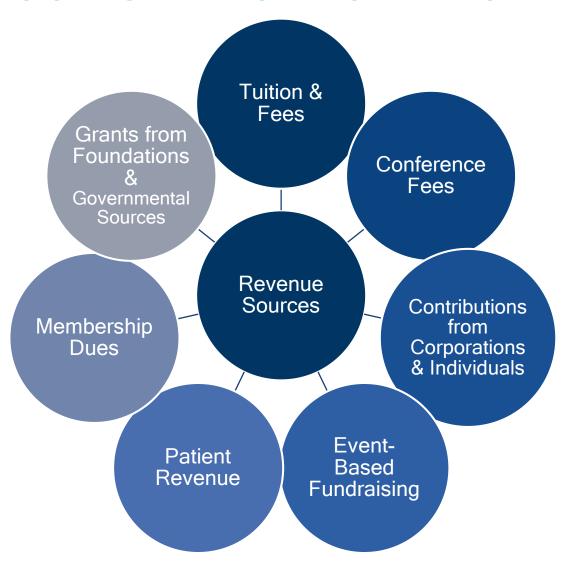
- Unemployment Insurance Benefits
 - Employees of nonprofits that pay SUTA or self-insure are generally eligible for UI benefits
 - Employees of nonprofits that are exempt (many faith-based nonprofits and small charitable organizations) generally can't access UI benefits
 - CARES and Disaster
 Unemployment Assistance

- State Disability Insurance Benefits
 - Employees unable to work due to having been exposed to COVID-19 and have supporting documentation should file
- PTO Donations
 - Most states do not restrict employees from voluntarily donating any unused PTO to a coworker who suffers a catastrophic event/medical emergency





THE LIFEBLOOD OF A NOT-FOR-PROFIT





LESSONS LEARNED FROM PAST DISRUPTIONS

Near Term Disruption

Drop in Demand

Supply Chain Constraints

Credit Tightening

Labor Availability

M&A Impact

Government Stimuli

D&O Duties & Liabilities

Employee Mobility

Available Relief from Courts

Travel Restrictions

Policy Changes

FEAR

Business Response

Now (Triage)

- Things you should check-on or do in this moment that are mission critical to survival
- Example: Evaluate your cash position

Next (Transition)

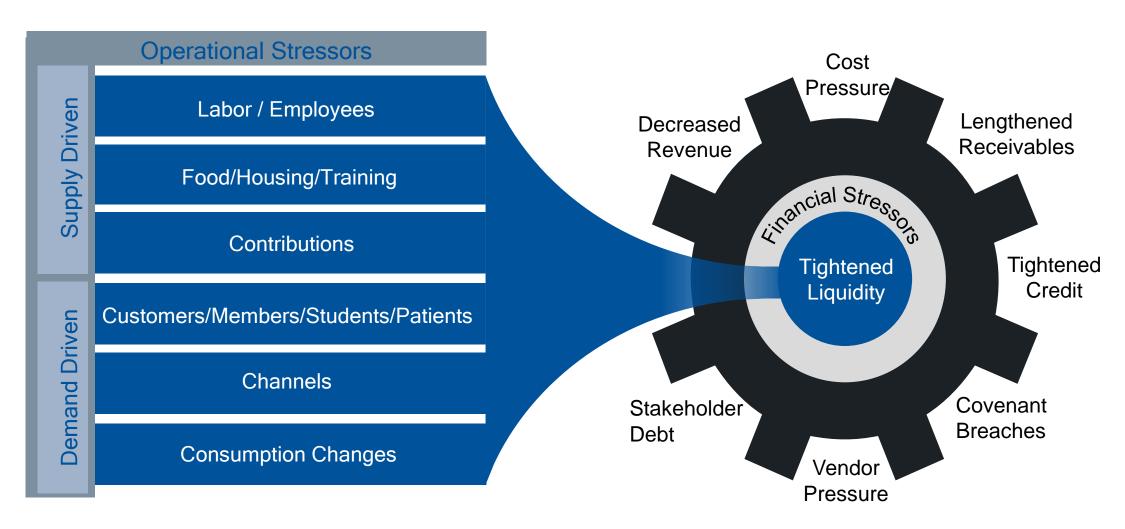
- Things you should do to steady the ship after you have solved for your immediate needs
- Example: Assess remote collaboration capability

New (Transform)

- Things you could do to enhance your competitive position or respond to future market shocks
- Example: Evaluate supply chain agility



IDENTIFY YOUR FINANCIAL STRESSORS





BUSINESS CONTINUITY PLANNING





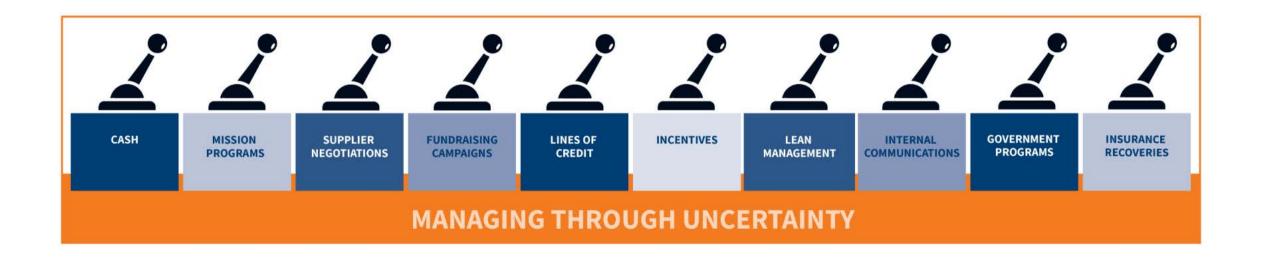
ACT NOW TO MANAGE UNCERTAINTY







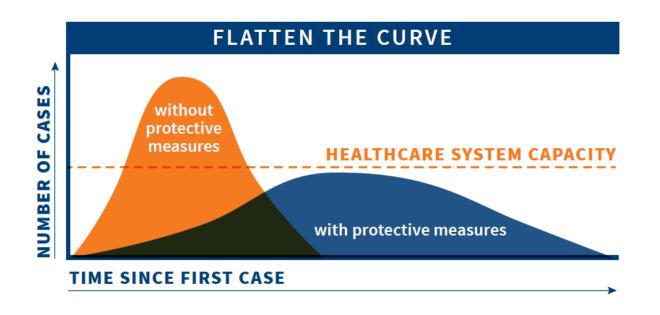
ASSESS THE IMPACT OF STRESSORS ON THE BUSINESS



PULL THE RIGHT LEVERS TO EXTEND LIQUIDITY



WORK TOGETHER WITH YOUR COMMUNITY









CONTACT US



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Labor & Employment Associate, Nixon Peabody,

LLP

Presenter

John.Alfonso@ CohnReznick.com Bob.Moss@ CohnReznick.com apelletier@ NixonPeabody.com Kevin.Clancy@ CohnReznick.com hbaca@ CohnReznick.com



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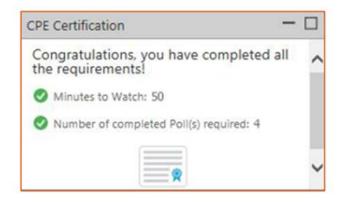
For additional insights, visit CohnReznick's Coronavirus Resource Center.

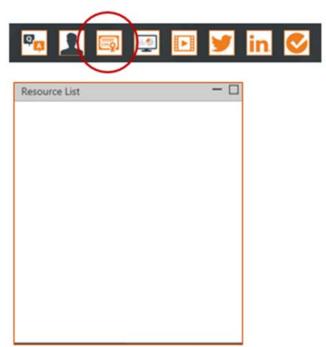
CohnReznick.com/covid19



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Thank you for attending today's webinar.

We wish you, your teams, and your families the best during this time and we are here for you.