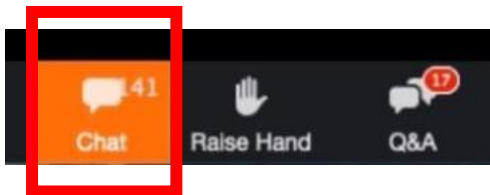


Copy of Today's Presentation

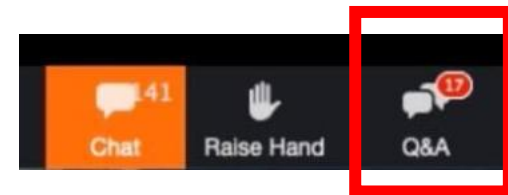
Please see the link posted in the Webinar **Chat** to download a copy of today's presentation.



Submitting Questions

Please use the Webinar **Q&A option** to submit your questions.

If we don't have time to answer them live today, we'll respond by email.





J.R. Bruno
& ASSOCIATES

504 WEBINAR SERIES

What's Going on with the 504?

October 29, 2020

Upcoming Webinars Ask the Experts

- We're switching to monthly webinars, but we'll still cover any new changes announced by SBA. Next sessions are schedule for:
 - Thursday November 19th, 2020
 - Thursday December 10th, 2020
- You'll use the same dial-in you use for all sessions
- More importantly, we want to answer your questions

So please send us your questions here:

<https://www.jrbrunoassoc.com/contact-jr-bruno/>

- Names, dollar amounts and other specific details will remain confidential, but we want to address the issues you're facing – none of us is alone in dealing with 504 problems.

PANELISTS

Guest:

- Jan Garlitz, Esq. Janice E. Garlitz, P.C.
 - jangarlitz@netzero.net

J. R. Bruno & Associates:

- Sanford (Sandy) Mortan, Senior Associate
- Richard Jeffrey, Senior Associate CDC Outreach
- Alex Liberchuk, President, J R Bruno & Associates

TODAY'S TOPICS

**Why You Should Be
Doing Debt Refinance
without Expansion**

Richard Jeffrey & Jan Garlitz

**When to Accelerate
the 504 Loan**

Sanford (Sandy) Mortan

Why You Should Be Doing Debt Refinance without Expansion

**Richard Jeffrey
Jan Garlitz**

Historically Low 504 Interest Rates

- With historically low 504 interest rate, NOW is the TIME for your CDC to do Debt Refi without Expansion
- We're here to give you're the Basics



Debt Refinance without Expansion Basics



Eligible Borrower

- For profit eligible small business
- In operation for not less than the 2 years prior to application
- Tangible net worth of < \$15 million and average net income after taxes of < \$5 million for the past 2 fiscal years
- Must occupy at least 51% of the Project Property at date of 504 Loan application

Qualified Debt to be Refinanced

LOANS

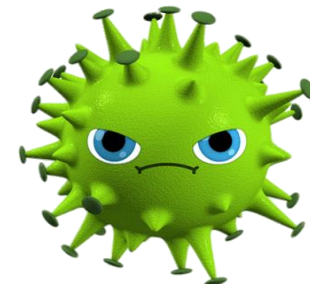
- One or more commercial loans
- 100% of the Loan proceeds was incurred for the small business applicant (EPC and/or OC)
- Substantially all (85% or more) of the original loan proceeds were used for 504-eligible purposes: to acquire land, buildings or long-term equipment or to construct or renovate buildings
 - ▣ The remainder of the debt (up to 15%) must have been incurred for the small business and used for business purposes
- Loan was incurred/originated at least 2 years prior to 504 Loan application

Qualified Debt to be Refinanced *cont.*

- Loan has been secured by 504-eligible fixed assets for at least 2 years
- Loan can have been refinanced previously with the existing debt being the most refinancing
 - Equity can have been used in subsequent refinancing(s) for non-504-eligible purposes
- Loan refinanced within 2 years of application may be eligible if refinancing was to extend maturity date without advancing any additional proceeds except for closing costs and collateral is, at a minimum, the same as for the original loan

Qualified Debt to be Refinanced *cont.*

- Borrower is current on payments (no payments more than 30 days past due) for not less than 1 year prior to date of application
- Through December 31, 2020, a **Loan that was granted a COVID-19-related deferment** (regardless of whether the loan is still on deferment, in catch-up or returned to regular payments) will qualify for 504 Debt Refinancing under the following conditions per SBA Notice 5000-20039:



Qualified Debt to be Refinanced *cont.*

- (1) The 504 Loan Application must be processed on a non-delegated basis through the SLPC;
- (2) Borrower must bring the Loan current on all the payments that were deferred prior to the Qualified Debt being approved for Debt Refinancing;
- (3) The deferment on the Qualified Debt must have been granted on or after **March 1, 2020**; and
- (4) Borrower must include a statement in the 504 Loan application that the **deferment was granted due to the borrower being adversely affected by COVID-19**

What Debt is NOT Eligible



- A loan is not eligible for refinancing if it is:
 - A loan subject to a guarantee by a Federal agency or department (e.g., a 504, 7(a) or USDA loan)
 - A loan that is a Third Party Loan which is part of an existing 504 Project
 - Loan owed to an Associate of the Borrower
 - Loan owed to a Small Business Investment Company (SBIC) or a New Markets Venture Capital Company (NMVCC)
 - Loan owed to an existing creditor is in a position to sustain a loss and refinancing would shift all or part of the potential loss to SBA
 - Loan that involves expansion of the small business

Refinancing Project Structure

- Project is structured based on the Fair Market Value (FMV) of the 504-eligible fixed assets established by a current appraisal
- Borrower must contribute at least 10% (its equity in the fixed assets, other collateral or cash)
 - If Project involves Limited or Special Purpose Property, Borrower must make a greater Borrower Contribution
- Third Party Loan and 504 Loan must be no greater than 90% of FMV
- Third Party Loan can be $< 50\%$ of the Project, but must be at least as much as the 504 Net Debenture Proceeds, which cannot be $> 40\%$ of total Project

Eligible Business Expenses (EBE)

- If Borrower has sufficient equity, then it may tap into that equity for EBE
- EBE: Any operating expense of the small business now due or becoming due within 18 months of the 504 Loan application other than:
 - Acquiring a new business
 - Acquiring a new property
 - Funding change of ownership with buyout or buy down of co-owner(s)
 - Paying off or paying down debt owed to owners
 - Paying business debt other than business credit card or business line of credit expenses
 - Paying owner's personal expenses



Refinancing Project Costs

- Qualified Debt(s) to be refinanced
- Professional Fees:
 - Appraisals
 - Environmental investigations
 - Title insurance for interim loan, Third Party Loan and 504 Loan
- Points, fees and interest on any interim financing



Advantages of 504 Debt Refinancing for Lenders and Small Businesses



Advantages of 504 Debt Refinance to Third Party Lenders

- Usually 50% Loan-to-Value
- First lien position on collateral (land/building and equipment)
- Greater portfolio diversity and credit risk management
- Improved ability to compete in the market
- Able to refinance notes/loans coming due without losing customer
- Balance sheet management: 504 Loan take-out can occur before the close of major reporting periods



Advantages of 504 Debt Refinance to Third Party Lenders *cont.*

- Pricing requirements can be met in advance to facilitate selling Lender's mortgage in the secondary market
- Federal government is subordinate lienholder
- Community Reinvestment (CRA) Credit may be available



Advantages of 504 Debt Refinance to Small Businesses

- Low Borrower Contribution (10%)
 - Except for Limited or Special-Purpose properties
- Third Party Lender may offer more favorable terms on its first mortgage
- Low, fixed interest rate for second lien position 504 Loans
- Up to 25 years on 504 real estate Loans
- Can finance Professional Fees and other soft costs

Advantages of 504 Debt Refinance to Small Businesses *cont.*

- Collateral usually limited to the fixed assets securing the Qualified Debt
- Tap equity for cash to pay Eligible Business Expenses
- Refinance loan
 - With higher interest rate
 - That is maturing
 - That has balloon payment coming due
- Does not have to provide at least 10% savings over existing monthly debt payments



Who Is The Target Market for 504 Debt Refinance?

- Businesses that own and occupy their land and buildings
- Businesses that have real estate or long-term equipment loans maturing or ballooning
- Businesses that own their facilities and want to capitalize on historically low interest rates
- Businesses that want to capitalize by refinancing existing mortgages with historically low interest rates **AND** using equity for cash to pay Eligible Business Expenses



Marketing 504 Debt Refinance



How Can Third Party Lenders Market the 504 Debt Refinance Program?

- Contact existing portfolio of clients who did conventional owner user loans to offer another chance to take advantage of historic low 504 interest rates
- Market to all owner users to bring new business customers to the Third Party Lender
- Contact title companies to get lists of owner users who purchased commercial real estate in your area 4-5 years ago with loans coming due



Why Market 504 Debt Refinance?

- Attract new business to the Third Party Lender: both real estate loans and other banking business from new clients
- Increase loan volume and revenue to the Third Party Lender
- Help small businesses by providing favorable loan terms and assisting with loans coming due
- The larger the 504 Loan volume, the more Debt Refinance Loans CDCs and Third Party Lenders can do

Marketing Tools for Lenders

- Webinars to educate customers about the 504 Debt Refinance program
- Provide materials on the Debt Refinance program with highlights and guidelines
- In-house seminars on owner user real estate financing to bank clients
- Mailings and email blasts to existing bank clients



Marketing 504 Debt Refinance Directly to the Small Business Community

- Seminars to trade groups of owner users such as franchisees, manufacturers, hospitality businesses, medical practitioners, veterinarians, etc.
- Attend virtually trade conferences targeting owner users
- Webinars to the small business community on the benefits of refinancing their owner user commercial real estate loans
- Contact commercial real estate brokers to let them know about the program and how it can help their previous clients



How Do Banks and Small Businesses Find Your CDC

- Work with your SBA District Office
- Market to all banks, credit unions and other financial institutions in your Area of Operations
- Remember you, the CDC, are the expert: the Third Party Lender and Small Business don't have to know or remember all the rules – they can call their CDC expert for information on 504 Debt Refinancing

EXPERT



Questions?

Do I Need to Accelerate the 504 Loan?



Sanford (Sandy) Mortan

Is it Time to Accelerate the 504 Loan?

- The most common questions I've been receiving are:
 - How do I know when it's time to accelerate and repurchase the 504 Loan?
 - Should I accelerate this Loan or grant a deferral?
- There is no simple answer, but always check on the next semi-annual date in case SBA needs to repurchase the Debenture
- SOP 50 55 provides the basic guidelines for loan servicing and some of the options available



Can the Borrower Pay Debt Service as well as Its Operating Expenses?

- First, determine if the business is closed temporarily or permanently due to COVID-19
- Second, since SBA made the last 6 payments under CARES Act § 1112, it may be very difficult to determine the actual financial condition of the small business
- But the Borrower's ability to make the required loan payments on both the TPL and 504 Loans as well as its operating expenses is the primary determining factor



What's Going On with the Business?

- Factors to consider:
 - What are the COVID-19 restrictions where the business operates?
 - Can this type of business operate with the new “social distancing” requirements?
 - Will the staff be willing to return when the business reopens?
 - What are similar businesses doing?
 - If the business has to operate at reduced capacity for an extended period of time, will there be sufficient cash flow?
 - Does the business have a reopening plan or plan to continue operations with another wave of COVID-19?

What is Going On with the Business?

cont.

- Is granting a deferral just a short-term fix or will it enable the business to survive long term?
- The objective of any action you take is to provide relief so the business can survive, the Borrower can meet its operating expenses and monthly debt service payments and preserve jobs
- Is the Third Party Lender willing to provide any relief to the Borrower?
- What is the next semi-annual date?
- Should we be considering a multi-phase solution?

After the Debenture is Repurchased

- Once the 504 Loan is accelerated and the Debenture is repurchased, your CDC (whether ALP, PCLP or neither) still has responsibilities per SOP 50 55 pages 21 and 22 – be prepared to handle these:
 - You serve as the primary contact with all Obligor(s) (Borrower and Guarantors)
 - Be sure to maintain contact with the Borrower and monitor the business for any change(s)
 - You obtain information about the Third Party Loan
 - You need to remind the Third Party Lender about the Third Party Lender Agreement
 - You enforce the Third Party Lender Agreement

BE AWARE
BE PREPARED

After the Debenture is Repurchased

cont.

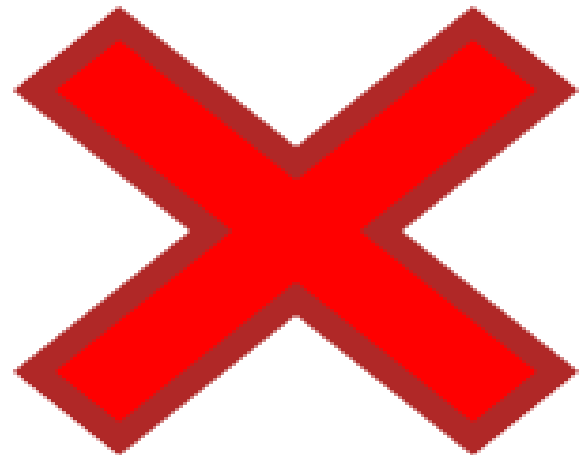
- You prepare the Liquidation Plan
 - The plan may just be restructuring the Loan, not actually “liquidating” the business – it can be a workout that restores the 504 Loan to regular servicing
- You conduct the site visit(s)
 - If in-person visits aren’t practical or safe, visit remotely using Zoom or similar software
- You notify the CLSC of any foreclosure, bankruptcy or other action or omission that could adversely impact the 504 Loan
- You prepare quarterly reports until the 504 Loan is either returned to regular servicing or charged off

After the Debenture is Repurchased *cont.*

- At SBA's request, you:
 - Identify local appraisers, auctioneers and other independent contractors
 - Attend foreclosure sales on behalf of SBA
 - Assist with the care and marketing of Real Estate Owned (REO) and acquired personal property
- With the expected increase in servicing actions and liquidations, the CLSCs have to rely more and more on every CDC to provide additional assistance
- PCLP and ACL CDCs have additional responsibilities
- Notify your senior management and Board of Directors of all actions or changes
- As with all servicing actions, document the file

Other Options

- During the prior webinars, I went over some options that may be available to assist your borrowers
- Monitor your Area of Operations for any new assistance that may be being provided and keep your Borrowers up to date
- Provide ideas, suggestions, **but not advice**



Final Thoughts

- Document your file
- Keep management informed
- Don't rely on the Third Party Lender
- Be proactive
- **FOLLOW-UP, FOLLOW-UP, FOLLOW-UP**



Questions?

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