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*Compliance Information for Community Bankers by Community Bankers*

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**Paycheck Protection Program Updates  
The Economic Aid to Hard Hit Small Businesses, Nonprofits, and Venues Act**

Topic	Guidance	How this affects Existing PPP Loans
<b>1<sup>st</sup> Time PPP Borrowers</b>	<p>Eligibility is based on the Consolidated First Draw PPP IFR, Frequently Asked Questions (FAQs) and previously issued IFRs however, the Economic Aid Act overrides any conflicting guidance in the FAQs, and SBA will be revising the FAQs to fully conform to the Economic Aid Act as quickly as feasible.</p> <p>Differences:</p> <ol style="list-style-type: none"> <li>1) Borrowers do not have to meet the 25% reduction in gross receipts requirement</li> <li>2) Maximum Loan Amount \$10MM</li> <li>3) Maximum number of employees 500 (unless otherwise exempted by SBA guidance)</li> </ol>	<b>Applies to all first time PPP borrowers.</b>
<b>2<sup>nd</sup> Draw PPP Borrowers</b>	<p>Eligibility criteria for a 2<sup>nd</sup> loan include:</p> <ol style="list-style-type: none"> <li>1) Must have received a First Draw PPP loan in accordance with the eligibility criteria</li> <li>2) Must have used, or will use, the full amount of its First Draw PPP Loan (including the amount of any increase on such First Draw PPP Loan) on authorized uses on or before the expected date on which the Second Draw PPP Loan will be disbursed</li> <li>3) Must not employ more than 300 employees, unless it satisfies the alternative criteria for businesses with a North American Industry Classification System (“NAICS”) code beginning with 72 and eligible news organizations with more than one physical location;</li> <li>4) Must have had a reduction of 25% or more in gross receipts in any quarter of 2020 when compared with the same quarter of 2019</li> </ol> <p>Note: The amount of any forgiven First Draw PPP Loan shall not be included toward any borrower’s gross receipts. Maximum loan amount of \$2MM</p>	<b>PPP loan proceeds must be used prior to disbursement of 2<sup>nd</sup> PPP loan.</b>

<p><b>Increases to 1<sup>st</sup> PPP Loans</b></p>	<p>Increase requests must be submitted electronically in E-tran on or before March 31, 2021 and are subject to availability of funds.</p> <p>Lenders must submit updated 1502 information within 20 calendar days after a PPP loan increase is approved.</p> <p>Seasonal employers who received a PPP loan prior to December 27, 2020 can receive an increase in their loan amount based on the revised calculation of maximum loan amount.</p> <p>Other PPP borrowers eligible for an increase include:</p> <ol style="list-style-type: none"> <li>1) A borrower who returned all of PPP loan</li> <li>2) A borrower who returned part of PPP loan may obtain a loan equal to the difference between the amount retained and the amount for which they are eligible</li> <li>3) A borrower who did not accept the full amount of PPP loan for which it was eligible may obtain a loan equal to the difference between the amount they accepted and the amount for which they are eligible</li> <li>4) A borrower who is eligible because of a revision in calculation or rules</li> </ol>	<p><b>Applies to all increases to 1<sup>st</sup> round PPP loans</b></p>
<p><b>Eligibility Clarifications</b></p>	<p>Businesses who were not in operation on February 15, 2020 are <b>NOT</b> eligible.</p> <p>Entities that receive a grant under the Shuttered Venue Operator Grant Program are <b>NOT</b> eligible.</p> <p>Ineligible entities include those entities listed in <a href="#">13 CFR 120.110</a> except for those otherwise made eligible by statute or guidance.</p> <p>Additional ineligible borrowers:</p> <ol style="list-style-type: none"> <li>1) Those engage in any activity that is illegal under Federal, State, or local law</li> <li>2) Household employer (those who employ household employees such as nannies or housekeepers)</li> <li>3) Any entity where an owner of 20% or more of the equity is incarcerated or under indictment for certain felony criminal activity</li> <li>4) Any owner or business who is currently delinquent on an SBA guaranteed debt or has defaulted within the last 7 years and caused a loss to the government</li> <li>5) A business where the President, Vice President, head of an Executive Department or Member of Congress or the spouse of such person directly or indirectly holds a controlling interest</li> <li>6) A business that is an issuer of securities which are listed on an exchange registered and a national securities exchange under of Section 6 of the Securities Exchange Act of 1934</li> <li>7) A business that has permanently closed</li> <li>8) A business in bankruptcy either at time of application or any time before the loan is disbursed</li> </ol>	<p><b>Applies to all PPP loans</b></p>

<b>Eligibility Clarifications (cont.)</b>	<p>9) A hedge fund or private equity firm</p> <p>10) Certain business concerns created in or operating in or director from the People’s Republic of China or the Special Administration Region of Hong Kong</p> <p>11) Person required to submit a registration statement under Section 2 of the Foreign Agents Registration Act of 1938</p>	
<b>New Entities Eligible for PPP Loans</b>	<p><b>Housing Cooperatives</b> defined in section 216(b) of the Internal Revenue Code of 1986 which employ no more than 300 employees</p> <p><b>FCC license holders and newspapers</b> with more than one physical location if the business has not more than 500 employees per physical location or the applicable SBA size standard including 511 public colleges and universities that have a public broadcasting station if the organization certifies the loan will support locally focused emergency information.</p> <p><b>501(c)6 organizations</b> if:</p> <ol style="list-style-type: none"> <li>1) The organization does not receive more than 15% of receipts from lobbying</li> <li>2) Lobbying activities do not comprise more than 15% of activities</li> <li>3) The cost of lobbying activities did not exceed \$1MM during the most recent tax year that ended prior to February 15, 2020</li> <li>4) The organization has 300 or fewer employees</li> </ol> <p>Professional sports leagues or organizations with the purpose of promoting or participating in a political campaign or other political activities are not eligible under this section.</p> <p><b>Destination Marketing Organizations</b> if:</p> <ol style="list-style-type: none"> <li>1) The organization does not receive more than 15% of receipts from lobbying</li> <li>2) Lobbying activities do not comprise more than 15% of activities</li> <li>3) The organization has 300 or fewer employees</li> <li>4) The organization is registered as a 501(c) organization, a quasi-government entity or a political subdivision of a state or local government.</li> </ol>	<p><b>Applies to all PPP loans.</b></p>
<b>Prohibition on Use of Loan Proceeds</b>	<p>Proceeds of a PPP loan CAN NOT be used for lobbying activities as defined by the Lobbying Disclosure Act, lobbying expenditures related to stare of local campaigns, and expenditures to influence the enactment of legislation, appropriations, or regulations.</p>	<p><b>Applies to all PPP loans.</b></p>

<p><b>Eligible Expenses</b></p>	<p><b>New Eligible Expenses:</b></p> <ul style="list-style-type: none"> <li>➤ <b>Covered Operations Expenditure</b> --defined as a payment for any business software or cloud computing service that facilitates business operations, product or service delivery, the processing, payment, or tracking of payroll expenses, human resources, sales and billing functions, or accounting or tracking of supplies, inventory, records, and expenses</li> <li>➤ <b>Covered Property Damage Cost</b>—defined as a cost related to property damage and vandalism or looting due to public disturbances that occurred during 2020 that was not covered by insurance or other compensation</li> <li>➤ <b>Covered Supplier Cost</b>—defined as an expenditure made by an entity to a supplier of goods for the supply of goods that are essential to the operations of the entity at the time at which the expenditure is made and is made pursuant to a contract, order or purchase order in effect at any time before the covered period with the respect to the applicable covered loan; or with respect to perishable goods, in effect before or at any time during the covered period with respect to the applicable covered loan</li> <li>➤ <b>Covered Worker Protection Expenditure</b>—defined as an operating or a capital expenditure to facilitate the adaptation of the business activities of an entity to comply with requirements established or guidance issued by the Department of Health and Human Services, the Centers for Disease Control, or the Occupational Safety and Health Administration, or any equivalent requirements established or guidance issued by a State or local government, during the period beginning on March 1, 2020 and ending on the date on which the national emergency declared by the President under the National Emergencies Act (50 U.S.C. 1601 et seq.) with respect to the Coronavirus Disease 2019 (COVID–19) expires related to the maintenance of standards for sanitation, social distancing, or any other worker or customer safety requirement related to COVID–19.</li> </ul> <p>May include—the purchase, maintenance, or renovation of assets that create or expand a drive-through window facility; an indoor, outdoor, or combined air or air pressure ventilation or filtration system; a physical barrier such as a sneeze guard; an indoor, outdoor, or combined business space; an onsite or offsite health screening capability; or other assets relating to the compliance with the requirements or guidance described above. Other kinds of personal protective equipment, as determined by the Administrator in consultation with the Secretary of Health and Human Services. Does not include residential real property or intangible property.</p>	<p><b>Retroactive except for borrowers who have already received forgiveness.</b></p>
<p><b>Eligible Group Insurance Costs</b></p>	<p>Description of eligible insurance costs included in payroll is updated by clarifying that group life, disability, vision, or dental insurance can be considered</p>	<p><b>Retroactive for all PPP Loans</b></p>
<p><b>Definition of a Seasonal Employer</b></p>	<p>Defines a seasonal employer as an eligible recipient if:</p> <ol style="list-style-type: none"> <li>1) Does not operate for more than 7 months in any calendar year; or</li> <li>2) If during the preceding calendar year, had gross receipts for any 6 months of that year that were not more than 33.33% of the gross receipts for the other 6 months of that year.</li> </ol>	<p><b>Retroactive to all loans</b></p>

<b>Gross Receipts Definition for Non-Profits and Veteran Organizations</b>	Defined as gross receipts within the meaning of section <a href="#">6033 of the IRS Code of 1986</a> .	<b>Applies to all PPP loans</b>
<b>Maximum Loan Amount Calculations</b>	<p>The average total monthly payment for payroll costs incurred or paid by the borrower during 2019 or 2020 (at the election of the borrower); multiplied by 2.5; up to maximum of \$10MM for First Time PPP Loans and \$2MM for 2<sup>nd</sup> Draw PPP loans</p> <p><b>Seasonal Employers</b> At the election of the borrower, the average total monthly payments for payroll costs incurred or paid by the borrower for any 12-week period between February 15, 2019 and February 15, 2020; multiplied by 2.5; up to maximum of \$10MM for First Time PPP Loans and \$2MM for 2<sup>nd</sup> Draw PPP loans</p> <p><b>New Entities</b> The quotient obtained by dividing: the sum of the total monthly payments by the borrower for payroll costs paid or incurred by the borrower as of the date on which the borrower applies for the Second Draw PPP Loan; multiplied by 2.5; up to maximum of \$10MM for First Time PPP Loans and \$2MM for 2<sup>nd</sup> Draw PPP loans</p> <p><b>NAICS 72 Entities (Accommodation and Food Services)</b> At the election of the borrower, the average total monthly payments for payroll costs incurred or paid by the borrower for any 12-week period between February 15, 2019 and February 15, 2020; multiplied by 3.5; up to maximum of \$10MM for First Time PPP Loans and \$2MM for 2<sup>nd</sup> Draw PPP loans</p> <p>Note: For First Round PPP loans, EIDL Loans being refinanced should be included in the loan amount calculation.</p>	<b>For existing PPP loans, the borrower may apply for a loan modification to increase their loan amount if updated rules result in a higher eligible loan amount than they originally received if they have not already applied for forgiveness.</b>

<p><b>Maximum Loan Amount for Farmers and Ranchers</b></p>	<p>For farmers and ranchers who:</p> <ol style="list-style-type: none"> <li>1) Operate as a sole proprietorship, independent contractor or as an eligible self-employed individual</li> <li>2) Report farm income or expenses on Schedule F (or any equivalent successor schedule); and</li> <li>3) Was in business as of February 15, 2020</li> </ol> <p>With NO EMPLOYEES The <b>gross</b> income in 2019 as reported on Schedule F (or any equivalent successor schedule) that is not more than \$100,000 divided by 12 and multiplied by 2.5 up to a maximum of \$10MM for First Time PPP Loans and \$2MM for 2<sup>nd</sup> Draw PPP Loans</p> <p>With EMPLOYEES The sum calculated above would be added to the payroll calculation.</p> <p>RECALCULATION – The lender may recalculate using this new formula and advance additional funds to the borrower at the borrower’s request.</p> <p>Note: For First Round PPP loans, EIDL Loans being refinanced should be included in the loan amount calculation.</p>	<p><b>Retroactive unless forgiveness funds have already been received.</b></p>
<p><b>Simplified Revenue Test for Loans up to \$150,000</b></p>	<p>For loans of \$150M or less, the borrower may only submit a certification statement that it meets the revenue loss requirement at the time of application and provide proof of revenue loss at the time they submit a forgiveness application.</p>	<p><b>N/A</b></p>
<p><b>Loans \$150,000 or Below</b></p>	<p><b>For loans \$150,000 or less made to an eligible recipient, forgiveness will be granted with the following information:</b></p> <ol style="list-style-type: none"> <li>1. A signed and submitted 1-page application (to be established by SBA within 24 days of the enactment of this Act) providing: <ol style="list-style-type: none"> <li>A. A description of the number of employees retained because of the PPP loan</li> <li>B. Estimated amount of PPP loan spent on payroll costs</li> <li>C. Total loan amount</li> <li>D. Attestations that: <ol style="list-style-type: none"> <li>a. The information is accurate</li> <li>b. The borrower complied with the requirements of the statute</li> <li>c. The borrower will retain records that prove compliance as follows: <ol style="list-style-type: none"> <li>i. Employment records- 4 years after application submission</li> <li>ii. Other records-3 years after application submission</li> </ol> </li> </ol> </li> </ol> </li> </ol>	<p><b>Retroactive for all PPP Loans</b></p>

<b>Loans \$150,000 or Below (cont.)</b>	<p>Does not allow for additional information requests at the time of application for purposes of forgiveness but does allow requests to satisfy other statutory or regulatory requirements.</p> <p>The SBA will still have the right to audit and review these loans.</p>	
<b>Documentation Requirements</b>	<p>Documentation must be sufficient to establish eligibility and to demonstrate the qualifying payroll amount, which may include payroll records, payroll tax filings, Form 1099-MISC, Schedule C or F, income and expenses from a sole proprietorship, or bank records.</p> <p>Documentation for revenue reduction requirements may include relevant tax forms, including annual tax forms, or, if relevant tax forms are not available, quarterly financial statements or bank statements</p> <p>Documentation for self-employed borrowers must include the 2019 or 2020 (whichever you used to calculate loan amount) Form 1040 Schedule C with your PPP loan application to substantiate the applied-for PPP loan amount and a 2019 or 2020 (whichever you used to calculate loan amount) IRS Form 1099-MISC detailing nonemployee compensation received (box 7), invoice, bank statement, or book of record that establishes you are self-employed. If using 2020 to calculate loan amount, this is required regardless of whether you have filed a 2020 tax return with the IRS. You must provide a 2020 invoice, bank statement, or book of record to establish you were in operation on or around February 15, 2020.</p> <p>Note: The documentation required to substantiate an applicant’s payroll cost calculations is generally the same as documentation required for First Draw PPP Loans. However, no additional documentation to substantiate payroll costs will be required if the applicant (i) used calendar year 2019 figures to determine its First Draw PPP Loan amount, (ii) used calendar year 2019 figures to determine its Second Draw PPP Loan amount (instead of 29 See subsections (B)(4)(b) and (B)(4)(e) of the Consolidated First Draw PPP IFR. 16 calendar year 2020), and (iii) the lender for the applicant’s Second Draw PPP Loan is the same as the lender that made the applicant’s First Draw PPP Loan. In such cases, additional documentation is not required because the lender already has the relevant documentation supporting the borrower’s payroll costs.</p>	<b>Applies to all PPP loans</b>
<b>Audit and Review Process for Loans over \$150,000</b>	<p>Not later than 45 days after enactment of this Act, the SBA will submit an audit plan to the Committees on Small Business and Entrepreneurship of the House and Senate the following:</p> <ol style="list-style-type: none"> <li>1. Policies and procedures for conducting forgiveness reviews and audits</li> <li>2. Metrics used to determine which loans will be audited</li> </ol>	<b>Retroactive for all PPP Loans</b>
<b>Lender Processing Fees</b>	<p>Loans up to \$50,000 -50% of loan amount or \$2,500 whichever is less</p> <p>Loans \$50,001 to \$350,000- 5% of loan amount</p> <p>Loans over \$350,000-3 % of loan amount</p>	<b>Applies to all PPP loans</b>

<b>Agent Fees</b>	A lender shall only be responsible for paying fees to an agent for services for which the lender directly contracts with the agent.	<b>Retroactive for all PPP Loans</b>
<b>Standard Procedures</b>	Allows lenders to use existing SBA Standard Operating Procedures to the extent possible for PPP loans.	<b>Retroactive for all PPP Loans</b>
<b>Bankruptcy Provisions</b>	Special procedures are available in the bankruptcy process if an entity is determined to have met the eligibility requirements for a PPP loan. It requires court approval and requires any loan be given a super priority claim in the bankruptcy process. These provisions would take effect upon a written determination by the SBA and would sunset after two years.	<b>First Time PPP borrowers may not be in bankruptcy</b>
<b>EIDL Advance Deduction Repeal</b>	The Economic Aid Act repealed the CARES Act provision requiring SBA to deduct EIDL Advance  Any EIDL Advance Amounts previously deducted from a borrower's forgiveness amount will be remitted to the lender, together with interest to the remittance date.	<b>Retroactive for all PPP Loans</b>
<b>Covered Period</b>	Allows the borrower to use the 8-week or 24-week covered period The borrower may also use a covered period: <ul style="list-style-type: none"> <li>• Beginning on the date of loan origination, and</li> <li>• Ending on a date <ul style="list-style-type: none"> <li>○ After the end of the 8<sup>th</sup> week after loan origination, and</li> <li>○ Before the end of the 24<sup>th</sup> week after loan origination.</li> </ul> </li> </ul>	<b>Retroactive for all PPP Loans</b>
<b>Hold Harmless</b>	<p>RELIANCE.—A lender may rely on any certification or documentation submitted by an applicant for an initial or second draw PPP loan or an eligible recipient or eligible entity receiving initial or second draw PPP loan that— “(A) is submitted pursuant to all applicable statutory requirements, regulations, and guidance related to initial or second draw PPP loan, including under paragraph (36) or (37) of section 7(a) and under this section; and (B) attests that the applicant, eligible recipient, or eligible entity, as applicable, has accurately provided the certification or documentation to the lender in accordance with the statutory requirements, regulations, and guidance described in subparagraph (A).</p> <p>NO ENFORCEMENT ACTION.—With respect to a lender that relies on a certification or documentation described in paragraph (2) related to an initial or second draw PPP loan, an enforcement action may not be taken against the lender, and the lender shall not be subject to any penalties relating to loan origination or forgiveness of the initial or second draw PPP loan, if— (A) the lender acts in good faith relating to loan origination or forgiveness of the initial or second draw PPP loan based on that reliance; and (B) all other relevant Federal, State, local, and other statutory and regulatory requirements applicable to the lender are satisfied with respect to the initial or second draw PPP loan.</p>	<b>Retroactive for all PPP Loans</b>

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