

PUBLICATION

Paycheck Protection Program Extended; SBA Releases Borrower Data

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On July 4, President Trump signed S. 4116 extending the deadline for applying for a loan under the Paycheck Protection Program (PPP) from June 30 to August 8, 2020. Other than extending the deadline for applying for a PPP loan, S.4116 makes no statutory changes to the PPP or borrower eligibility although as noted below, SBA continues to ease certain eligibility requirements.

The extension of this deadline will allow eligible borrowers to access approximately \$130 billion remaining from the \$310 billion appropriated in the second tranche of PPP funding on April 24. To date, lenders have made almost 4.8 million loans under the PPP with an average loan size of approximately \$108,000. During the first round of PPP loans made with the initial CARES Act funding of \$349 billion, the average loan size was approximately \$205,000.

Based on the original application deadline of June 30, many lenders have closed their application portals in order to transition to forgiveness review. Between lenders closing their application portals and the declining average loan size, borrowers may need to contact a couple of lenders to find one that is continuing to make PPP loans.

SBA Releases Borrower and Loan Data

On the heels of the extension of the PPP by Congress, SBA and Treasury released individual loan information on all loans made under the PPP. For loans of less than \$150,000, this information includes the loan amount, borrower location (city, state, zip code, Congressional District), lender, loan date, number of jobs retained, for-profit/nonprofit status, NAICS code and optional demographic information if provided by the borrower (including race/ethnicity, gender and veteran status). Information for loans under \$150,000 was made available in individual downloadable files for each state and territory.

SBA and Treasury made the same information available for loans of \$150,000 or more, except the information also includes the borrower name and, in lieu of providing an individual loan amount, the loans are categorized in the following groups: loan amounts of \$150,000 to \$350,000; \$350,000 to \$1,000,000; \$1,000,000 to \$2,000,000; \$2,000,000 to \$5,000,000; and, \$5,000,000 to \$10,000,000. Data for all loans of \$150,000 or more is made available in a single downloadable file.

The files with loan data are available [here](#).

SBA Continues to Ease Eligibility Requirements

On June 24, the SBA issued an Interim Final Rule further relaxing eligibility requirements for applicants with owners who had previously been convicted of a felony offense or are currently under indictment. Initially, applying general SBA 7(a) loan program requirements, the SBA had indicated that an applicant would not be eligible if any owner of 20 percent or more of the applicant (1) had been convicted of any felony within preceding five years, (2) was currently on probation or parole, or (3) was subject to any criminal indictment,

criminal information or similar criminal charges. The SBA granted some relief on June 12 by stating that the five-year exclusionary period would only apply for felony convictions involving fraud, bribery, embezzlement, or a false statement in a loan application or an application for federal financial assistance, with a one-year period being applied to all other offenses. Under the most recent Interim Final Rule, the SBA has indicated that the exclusion based on an owner being on parole or probation will only apply if the parole or probationary period commenced within the preceding five years. Likewise, the SBA clarified that to be disqualified for being under indictment or similar criminal charge, the indictment must be for a felony offense.

June 5, 2020, the SBA issued an Interim Final Rule determining that a telephone cooperative exempt from income tax under Section 501(c)(12) constitutes a "business entity organized for profit" under the PPP and is potentially eligible for a PPP loan since it is required to return net revenues above operating costs to its owner members. The SBA had taken a similar position in an Interim Final Regulation issued on May 12 with respect to electric cooperatives and had previously expanded the definition of "nonprofit hospital" beyond hospitals tax exempt under Section 501(c)(3) of the Internal Revenue Code to certain hospitals exempt from tax under Section 115 of the Internal Revenue Code.

On June 25, the SBA issued an Interim Final Rule stating that fishing boat owners could include fisherman that are considered "employees" under Section 3121(b)(20) of the Internal Revenue Code notwithstanding that these individuals are paid under a 1099-MISC and are not W-2 employees. The SBA analogized these individuals more like "partners" with the owner of the fishing vessel with the fisherman sharing in the profits of fishing operations and receiving no more than nominal additional compensation.

We are continuing to monitor the PPP program and forgiveness areas and will provide updates as appropriate. If you have any questions regarding these matters, please contact [Jeff Wagner](#) or [Stuart Schabes](#). You may also visit the [Coronavirus \(COVID-19\): Navigating the Path Ahead information page](#) on our website.