



PPP Continuation and other Small Business Support

January 5, 2021

On December 27, 2020 a new Covid relief package was signed into law. Among other relief for individuals and businesses, the new law includes funding to restart the Paycheck Protection Program ("PPP"). Atlantic Capital is monitoring updates of the recently passed legislation; however, official details from the SBA and Treasury have not been finalized.

The SBA recently released the following statement, "The SBA, in consultation with the Department of Treasury, is working expeditiously to identify changes to program rules, forms, and processes as laid out in legislative text, and to appropriately update guidance and systems for PPP lenders and borrowers. SBA and Treasury are committed to ensuring that the next round of PPP is launched as quickly as possible to deliver critical economic relief to America's small business."

Below are highlights of the changes to PPP, Section 1112 CARES Act payments, and the SBA lending program.

Second Draw PPP Loans

- Eligibility criteria. An eligible entity must:
 - Employ not more than 300 employees;
 - Have used or will use the full amount of its first PPP loan; and
 - Demonstrate at least a 25% reduction in gross revenues between comparable quarters in 2019 and 2020. Provides applicable timelines for businesses that were not in operation in Q1, Q2, Q3, and Q4 of 2019.
- Expansion of eligible entities.
 - In addition to businesses, certain non-profit organizations, housing cooperatives, veterans' organizations, tribal businesses, self-employed individuals, sole proprietors, independent contractors, and small agricultural co-operatives.
 - Creates eligibility for 501(c)(6)s, destination marketing organizations, housing cooperatives, newspapers, broadcasters, and radio stations that meet specific criteria.
 - Clarifies that a business or organization that was not in operation on February 15, 2020 is not eligible.
 - Prohibits publicly traded companies from receiving PPP funds, among other specific prohibitions.
- Eligible expenses. Allowable/forgivable expenses are expanded to include:
 - Covered expenditures for operations (software, cloud computing, and other human resources and accounting needs)
 - Covered property damage costs (due to public disturbances that occurred during 2020 that are not covered by insurance)
 - Covered supplier costs (payments to a supplier pursuant to a contract, purchase order, or order for goods that was in effect prior to taking out the loan and was essential to the recipient's operations at the time at which the expenditure was made)
 - Covered worker protection expenditures (investments in PPE and other measures to comply with health and safety guidelines)

- Terms.
 - Maximum loan amount is 2.5 times the average monthly payroll based on the 2019 calendar year or a one year look back, capped at \$2 million. NAICS 72 Businesses (Accommodations and Food Services) can receive 3.5 times average monthly payroll, capped at \$2 million.
 - Allows borrowers whose loan calculations have increased due to changes in interim final rules to work with lenders to modify their original PPP loan amounts.
 - Seasonal employers may calculate their maximum loan amount based on a 12-week period beginning February 15, 2019 through February 15, 2020.
 - Businesses with multiple locations that are eligible entities under the initial PPP requirements may employ not more than 300 employees per location.
 - Allows the borrower to elect a covered period ending at the point of the borrower's choosing between 8 and 24 weeks after loan origination.

Forgiveness

- Creates a one-page PPP loan forgiveness application for loans under \$150,000 dollars.
- Clarifies that other employer-provided group insurance benefits are included in payroll costs. This includes group life, disability, vision, or dental insurance.
- Repeals the CARES Act provision that requires PPP borrowers to deduct their EIDL Advance from their PPP loan forgiveness amount.
- Allows the borrower to elect a covered period ending at the point of the borrower's choosing between 8 and 24 weeks after loan origination.

Payments for SBA Loans

- Resumes the payment of principal and interest (P&I) on small business loans guaranteed by the SBA under the 7(a), 504 and Microloan programs, established under Section 1112 of the CARES Act
- Borrowers with qualifying loans approved by the SBA prior to the CARES Act (3/27/2020) will receive an additional *three months of P&I, starting in February 2021. Going forward, those payments will be capped at \$9,000 per borrower per month.
- Provides that after the three-month period described above, borrowers considered to be underserved will receive an additional *five months of P&I payments, also capped at \$9,000 per borrower, per month. This includes borrowers in the following industries as defined by the NAICS code on record with the SBA:
 - Accommodation and food services (NAICS 72)
 - Arts, entertainment, and recreation (NAICS 71)
 - Educational services (NAICS 61)
 - Mining and logging (NAICS 213)
 - Apparel (NAICS 315)
 - Clothing and clothing accessory stores (NAICS 448)
 - Sporting goods, hobby, book, and music stores (NAICS 451)
 - Air transportation (NAICS 481)
 - Transit and ground passenger transportation (NAICS 485)
 - Scenic and sightseeing transportation (NAICS 487)
 - Publishing industries, except internet (NAICS 511)
 - Motion picture and sound recording industries (NAICS 512)
 - Broadcasting, except internet (NAICS 515)
 - Rental and leasing services (NAICS 532)
 - Personal and laundry services (NAICS 812)

**If the \$3.5 billion appropriation is not enough, the Administrator (SBA) is required to develop a plan to proportionally reduce the number of months provided in each extension.*

- Provides SBA payment of P&I on the first *six months of newly approved loans for all loans approved between February 1 and September 30, 2021, also capped at \$9,000 per month.
- Clarifies eligibility that SBA payments should be made on any loan **approved** before the applicable deadline, and debt relief payments should be made only once the loan is fully disbursed. This impacts loans that had been approved prior to enactment of the CARES Act on March 27, 2020, but had not fully disbursed by the previous September 27, 2020 deadline.
- Any business or applicant may receive P&I payment for only one loan approved after CARES Act enactment.
- Specifies that all Section 1112 payments are considered non-taxable income, which shall apply both retroactively to any payment made to any borrower starting with the enactment of Section 1112 of the CARES Act and prospectively.

Temporary Enhancements to SBA's Lending Program

- Temporarily enhances the terms of the 7(a) loan program by increasing the loan guarantee to 90 percent and offering **reduced or no fees for the borrower and the lender**. Additionally, it would temporarily increase the 7(a) express loan limit and loan guarantee to provide access to needed working capital.
- Temporarily **eliminates fees for the 504 loan program** and favorable terms for refinancing loans.
- Provides SBA payment of P&I on the first *six months of loans approved between February 1 and September 30, 2021, capped at \$9,000 per month.

The information above was gathered from several government released summaries of *The Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act*. Additional details can be found at the following link:

https://www.sba.gov/sites/default/files/articles/12-29-20_SBA_provisions_in_new_legislation_0.pdf

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