

COVID-19 Alert

CARES ACT PAYCHECK PROTECTION PROGRAM LOANS APRIL 23, 2020 UPDATE

APRIL 2020

This continues our effort to provide up-to-date information on the Paycheck Protection Program (PPP) loan offerings created by the CARES Act and overseen by the Small Business Administration (SBA) in consultation with the Department of the Treasury. Our prior pieces can be found on our website from [April 1, 2020](#), [April 3, 2020](#), [April 9, 2020](#), and [April 16, 2020](#).

WHAT HAS CHANGED?

The CARES Act originally authorized \$349 billion for the PPP. On April 15, 2020, SBA announced that applications had been approved exhausting that degree of funding. SBA's announcement that "The SBA is currently unable to accept new applications for the Paycheck Protection Program based on available appropriations funding" continues to be featured on its [PPP web page](#).

While that remains the case, the House of Representatives is at the moment considering legislation approved in the Senate on April 21, 2020. If it becomes law, that legislation will increase the PPP authorization for SBA loan guarantees to \$659 billion, with another \$10 billion plus added for expenses related to the PPP. The additional \$310 billion available for loans will continue to be offered through the SBA Section 7(a) loan program, as originally modified by the CARES Act. Of the new \$310 billion, \$30 billion is specifically set aside for loan offerings by medium-sized banks and credit unions, and another \$30 billion is specifically set aside for loan offerings by "community financial institutions" and small banks and credit unions. It is expected that the House will pass the legislation later today, and that the President will shortly thereafter sign it into law.

WHAT SHOULD ELIGIBLE EMPLOYERS BE DOING NOW?

For those who have not yet applied, identify a participating lender and get your application in immediately. [Here is a link](#) to a list of participating lenders by state as of April 23, 2020, as compiled by

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SBA. Application is through a participating lender. Here is SBA's [model application](#).

For those who previously applied but did not receive a loan in "round one" due to closure of the program (as opposed to denial), communicate with your lender on the status of your application package and likely timing.

For those who did receive a loan, the focus should be on maximizing the amount of the loan that is to be forgiven. Please see our [original piece](#) for details on forgiveness. We are generally advising our clients to focus on the following, preferably with the advice of their accountants:

- Identifying expenses that give rise to forgiveness
- Identifying which of those expenses can be paid in the eight week period commencing at loan funding, and then paying them to the extent possible
- Identifying appropriate documentation of the expenses to be maintained and ultimately used to evidence and justify claimed forgiveness
- Identifying possible limitations on forgiveness (e.g., on account of reduction in full-time equivalent employees or compensation reductions)

In addition, they should be consulting with their lenders on this topic and surfacing any issues that may exist. Anecdotally we have heard of lenders making it difficult to claim all applicable "Payroll Costs" in initial loan applications, and now again in initial communications on amounts to be forgiven. "Payroll Costs" are not limited to cash payroll, and clearly should include employer provided retirement plan fundings and health insurance premiums (among other things).

WHERE DID THE ORIGINAL MONEY GO?

In our last update we identified some data on the award details of the first 70% of "round one." SBA has [updated the information](#) through the completion of "round one."

To summarize, nationwide 1,661,367 loans were made by 4,975 lenders in an aggregate amount in excess of \$342 billion (the balance of the initial \$349 billion went to reimbursements to lenders). The average loan size was \$206,000. More than 95% of the loans, representing 55% of the total amount loaned, were for loans of \$1 million or less.

Comparing the data we previously provided with the final data

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indicates that a large volume of the final 30% of lending went to states in the Northeast and California, with Connecticut's portion nearly doubling. This is consistent with many reports we have heard of Connecticut applicants learning of approval a day or more following SBA announcement that it was no longer accepting applications. For Connecticut, there were 18,345 loans totaling in excess of \$4.15 billion (an average loan size of approximately \$225,000).

FINAL THOUGHTS

SBA and the participating lenders acted with amazing speed to implement the PPP and get much needed funding out to the small business community. It was far from glitch-free, and litigation over it has been announced, with more likely to follow. Hopefully the learning curve is now largely behind us, and "round two" will be approved and move much more smoothly.

We are interested to hear your experiences with the PPP.

Please contact the Reid and Riege attorney with whom you regularly work, or a member of our Business Services practice listed to the right, for more up to date information, or questions about your unique circumstances.

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