

## Coronavirus Aid, Relief, and Economic Security Act (CARES Act)

Date: March 27, 2020

Reference: <https://www.congress.gov/bill/116th-congress/house-bill/748/>

## Paycheck Protection Program Summary

---

Please note that this tool summarizes Section 1102 of the CARES Act as it was enacted on March 27, 2020. As set out in the Act and the summary below, the Treasury and SBA have broad authority and will be releasing various guidance within the next 30 days, so additional details and changes are to be expected. We will include links to additional relevant guidance below. We are also including these on our Pandemic Resources page: <https://compliancealliance.com/pandemic-resources>

- Treasury initial guidance, March 31, 2020: <https://home.treasury.gov/policy-issues/top-priorities/cares-act/assistance-for-small-businesses>
  - SBA Guidance, March 31, 2020: <https://www.sba.gov/funding-programs/loans/paycheck-protection-program-ppp>
- 

### Overview

On March 27, 2020, the President signed into law the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) which provides a \$2 trillion stimulus package in response to the COVID-19 pandemic. In particular, Section 1102 of the Act creates a new “Paycheck Protection Program” (PPP) to be added to the existing Small Business Act. The Program authorizes the Small Business Administration (SBA) to 100% guarantee all PPP loans. The SBA is required to provide guidance to PPP lenders within 30 days of enactment of the CARES Act.

### Eligibility

#### Lenders

The Act authorizes the SBA and U.S. Department of Treasury to extend authority to make PPP loans to additional lenders beyond those already certified to make regular SBA 7(a) loans. This means that lenders do not have to currently be certified SBA lenders to participate in the PPP, which creates an important lending option for our community bank members. Note that additional lenders approved by Treasury are only permitted to make PPP loans, not regular SBA 7(a) loans. Additional lenders must have necessary qualifications to process, close, disburse, and service PPP loans. On the other hand, there is no requirement for any Bank to make PPP loans.

#### Borrowers

A borrower eligible for a PPP loan includes any for-profit business concern, nonprofit organization, veterans organization, or Tribal business concern, if the business employs 500 or fewer employees. “Employees” for this purpose includes full-time, part-time, and “other” employees. Sole proprietors, independent contractors and self-employed individuals are also eligible to receive a covered loan.

An eligible recipient applying for a covered loan must provide a good faith certification. The certification must state:

- *“That the uncertainty of current economic conditions makes necessary the loan request to support the ongoing operations of the eligible recipient;*
  - *Acknowledging that funds will be used to retain workers and maintain payroll or make mortgage payments, lease payments, and utility payments;*
  - *That the eligible recipient does not have an application pending for a loan under this subsection for the same purpose and duplicative of amounts applied for or received under a covered loan; and*
  - *During the period beginning on February 15, 2020 and ending on December 31, 2020, that the eligible recipient has not received amounts under this subsection for the same purpose and duplicative of amounts applied for or received under a covered loan.”*
-

---

## Covered Loan Terms

### **Maximum Loan Amount**

The maximum loan amount for a PPP covered loan is determined under the formula below. In any case, the maximum loan amount may not exceed \$10,000,000.

*The product obtained by multiplying: 2.5 x the average total monthly payments for payroll costs incurred over a one-year period prior to the origination date. PLUS The outstanding amount of any SBA EIDL loan (Economic Injury Disaster Loan).*

### **Maximum Maturity Date**

Covered loans shall have a maximum maturity of 10 years. New info as of 4/3/2020 is 2 years.

### **Maximum Interest Rate**

The interest rate for covered loans must not exceed 4 percent. New info as of 4/3/2020 is 1%.

### **Prepayment Penalties**

A prepayment penalty is not allowed for any payment made on a covered loan.

### **Nonrecourse**

The SBA Administrator shall have no recourse against any eligible recipient of a covered loan.

### **Collateral and Guarantee**

Borrowers cannot be required to provide a personal guarantee for a covered loan, and no collateral can be required for the covered loan.

## Covered Period

PPP loans must be made between February 15, 2020 and June 30, 2020. The deadline for applying for a PPP loan is June 30, 2020.

## Loan Deferment

PPP lenders must provide complete payment deferment relief for borrowers with PPP loans for a period of not less than 6 months and not more than 1 year. The deferment must include principal, interest, and fees, but interest accrues during the deferment period.

## Secondary Market

If a PPP loan is sold on the secondary market and an investor declines to approve a deferral request, the SBA will purchase the loan so that the borrower can receive the deferral period above.

## Allowable Uses

Loan proceeds may be used for:

- Payroll costs;
- Group healthcare benefits during the covered period, including paid sick, medical or family leave, and insurance premiums;
- Employee salaries, commissions, or similar compensations;
- Payments of mortgage interest (excluding principal);
- Rent;
- Utilities; and
- Interest on any other debt obligations that were incurred during the covered period.

In evaluating eligibility of a borrower for this purpose, a lender must consider whether the borrower:

---

- 
- Was in operation on February 15, 2020; and
  - Had employees for whom the borrower paid salaries and payroll taxes or paid independent contractors.

### **Payroll Costs**

Payroll costs equal:

- Salary, wage, commission, or similar compensation (maximum of \$100,000);
- Payment of cash tip or equivalent;
- Payment for vacation, parental, family, medical, or sick leave;
- Allowance for dismissal or separation;
- Payment for healthcare benefits;
- Payment for retirement benefits; and
- Payment of payroll taxes.

It also includes compensation to or income of a sole proprietor or independent contractor that is a wage, commission, income, net earnings or similar compensation from self-employment. This is also capped at a maximum of \$100,000 per year, prorated for the covered period.

### **Fees and Penalties**

During the covered loan period with respect to a covered loan, the SBA waives fees and penalties.

### **SBA Reimbursement for Processing PPP Loans**

#### ***Reimbursement Amounts***

SBA shall reimburse a lender authorized to make a PPP loan at a rate of:

- 5% for loans of not more than \$350,000;
- 3% for loans between \$350,000 and \$2 million; and
- 1% for loans over \$2 million.

The amount is based on the balance of the financing outstanding at the time of the disbursement of the PPP loan.

#### ***Fee Limits***

An agent that assists an eligible borrower for preparing an application for a PPP loan may not collect a fee in excess of the limits established by the SBA.

#### ***Timing***

A reimbursement shall not be made later than 5 days after the disbursement of the PPP loan.

### **Duplication**

A recipient of an Economic Injury Disaster Loan (EIDL) made between January 31, 2020 and June 30, 2020 is still eligible to apply for a PPP loan during the covered period.

### **Regulatory Capital**

- Covered loans shall receive a zero-percent risk weight.
  - Covered loans shall receive temporary relief from troubled debt restructuring (TDR) disclosures. An FDIC-insured institution that modifies a PPP loan in a TDR on or after March 13, 2020 shall not be required to comply with the FASB TDR standards until such time and under such circumstances as the appropriate federal banking agency deems appropriate.
-

---

### ACTION PLAN

- Review Section 1102 of the CARES Act in full and determine whether the Bank will originate Paycheck Protection Program loans.
  - If so, determine how originating PPP loans will affect the Bank procedurally, financially, strategically, and from regulatory reporting and monitoring perspective.
  - Document how the Bank will manage and implement any changes to its business lending process.
  - Train Compliance Staff, Lending Staff, Senior Management, and any other involved parties on relevant changes to the lending process.
  - Contact the Compliance Alliance Hotline with any additional questions.
-