

## PPP Rules Changed to Better Target Funds

By Mallory Dreyer and Kaleb Nyegaard

Original post [here](#).

The Paycheck Protection Program (PPP) has undergone multiple revisions and updates since its launch at the beginning of April in order to better target funds to high-need small businesses and clarify program eligibility and operations.

The PPP is a key component of the US response to the COVID-19 crisis and provides forgivable loans for eight weeks of payroll and other expenses to eligible small businesses that retain or rehire employees. The program launched on April 3 and expended the initial \$349 billion in funding by April 16. Congress appropriated an additional \$310 billion in funding to the program, and the Small Business Administration (SBA) began accepting applications for the second round on April 27.

Rule changes and updates issued during the second round of the program include guidance to target small businesses through smaller lenders, exclude larger companies, manage application volumes, and clarify program requirements.

### Targeting Small Businesses Through Lender Eligibility

On April 26, the day before it began accepting applications again, the [SBA announced](#) that it would cap the total amount that a single bank could lend at \$60 billion (approximately 10% of the total). According to the SBA, no lender accounted for more than 5% of the total in the first round. The SBA also announced on April 26 that it would allow lenders to submit applications in bulk, with a 15,000 loan minimum. The SBA lowered this to 5,000 on April 27.

The [SBA also expanded](#) a previous interim final rule which allowed non-bank lenders and non-insured depository institutions to lend under the PPP if they originated, maintained and serviced at least \$50 million in commercial loans for at least a 12-month period in the past three years. Lenders who perform only one of the origination, maintenance or servicing activities, subject to the same volume and time period requirements, are now eligible. Lenders that have originated, maintained and serviced at least \$10 million in commercial loans are eligible to lend under the PPP if it is a community development financial institution (other than federally insured banks or credit unions) or if its lending portfolio includes a majority of businesses that are women, minority, or veteran/military-owned.

On April 29, the [SBA announced](#) that it would only accept loans from lending institutions with asset sizes less than \$1 billion between 4:00 p.m. and 11:59 p.m. ET. These lenders can also submit applications during normal operations. This eight-hour period was designed to ensure that the smallest lenders and their customers have access to the program.

### Excluding Larger Companies and Types of Firms

On April 28, the [Treasury and SBA](#) announced that all PPP loans greater than \$2 million will be reviewed by the SBA in order to verify that the businesses receiving such loans need the funds to continue operations. In order to receive a PPP loan, a borrower is required to make a good faith certification that the loan is necessary for the business to continue operating. The loans are subject to review prior to the amount being forgiven. In an [interim final rule](#) on April 24, the

SBA clarified that borrowers that certified that they needed the funds due to economic uncertainty but then fully repaid the loan prior to May 7 would be considered to have made the certification in good faith. According to [press coverage](#), multiple larger companies, including Shake Shack, received funding under the PPP but have announced plans to repay their loans. [On May 1](#), Treasury Secretary Steven Mnuchin tweeted that some private K-12 schools with large endowments received loans under the PPP, and he argued that they should return the funding, although he did not take any formal action against these schools.

On April 28 the Treasury also explicitly [prohibited](#) hedge funds and private equity firms from accessing PPP loans. No reporting had indicated that they had accessed the funds.

On [April 30](#), the SBA and Treasury released an interim final rule which limited the maximum loan size for a single corporate group to \$20 million. The limit became effective immediately. A business is considered a part of a corporate group if it is majority owned, either directly or indirectly, by a common parent. The maximum loan size for a single beneficiary remains \$10 million. Previously the SBA had not set a limit on corporate groups.

### **Managing the Application Process and Volume**

The SBA began accepting applications again on April 27 at 10:30 a.m. ET. In order to manage the expected load on the online system, the [SBA informed](#) lenders that it would pace the submission of applications into the system at 350 loans per bank per hour. Despite the limit, [lenders reported](#) issues with accessing the system. In response to the burden on the online system, the SBA informed lenders on [April 28](#) that they could no longer use robotic processing automation (RPA) to submit PPP loans. The SBA claimed that this would allow the processing system to become more reliable and equitable for small businesses.

#### **Adding Lender Requirements for Disbursement and Processing Fees**

The Treasury and SBA also released an [interim final rule](#) on disbursements on April 28. This rule requires lenders to distribute the loan funds within 10 days of approval in a single disbursement. Multiple disbursements are not permitted. The rule also formalizes the process through which the SBA will refund lenders' processing fees. To receive the refund, the lenders will be required to upload a SBA Form 1502 to report on PPP loans. Once the SBA makes the form available, lenders will be required to submit the form within 20 calendar days of loan approval and upload the form for loans made prior to the form becoming available by May 18.

### **Calculating Seasonal Employment Payroll**

The SBA released an [interim final rule](#) on April 27 allowing seasonal employers to use an alternate method to calculate the maximum loan amount. Because these employers have seasonal variation in their total employment and payroll expenses, the SBA guidance allows the borrower to elect a prior 12-week period between March 1, 2019 and June 30, 2019.

### **Lending to Date**

By [April 29](#), the SBA had approved 960,000 new loans amounting to \$90 billion. Of these loans, lenders with assets less than \$10 billion made 587,000 loans totalling \$43 billion; lenders with assets between \$10 and \$50 billion made 206,000 loans totalling more than \$20 billion; and lenders with total assets more than \$50 billion made 167,000 loans for more than \$25 billion.