

COVID-19 Update (1) - April 26, 2020

To: New York Community Banks

We received the following information from Grovetta N. Gardineer Senior Deputy Comptroller for Bank Supervision Policy at OCC. OCC is urging PPP lenders to "prudently document" their decisions, and to identify and track PPP loans to small business borrowers with revenues of \$1 million or less in low-to-moderate-income areas.

Best Regards,

John

FROM THE OCC

To: Chief Executive Officers of All National Banks, Federal Savings Associations, and Federal Branches and Agencies; Department and Division Heads; All Examining Personnel; and Other Interested Parties
<https://www.occ.gov/news-issuances/bulletins/2020/bulletin-2020-44.html>

Summary

The Office of the Comptroller of the Currency (OCC) is encouraging banks¹ providing loans under the Small Business Administration's (SBA) Paycheck Protection Program (PPP) to prudently document their implementation and lending decisions. Additionally, banks are encouraged to identify and track the PPP loans made to small business borrowers that have annual revenues of \$1 million or less and are located in low- to moderate-income areas.

Highlights

As part of the PPP, banks may accept applications from both existing small business customers and applicants who are not current loan customers. When working with all applicants, in addition to adherence to the SBA PPP program requirements, banks are encouraged to collect and track information provided during the application process regarding borrowers' annual revenue, and for loans that are made in LMI census tracts, distressed areas, and underserved areas, and that benefit LMI individuals, families, and communities.² Maintaining and monitoring this information, where available, in the administration of the SBA PPP is a prudent banking practice consistent with the principles of safety and soundness and fair access and fair treatment of borrowers,³ and other applicable legal requirements. Prudent practices may also include documenting implementation decisions—such as the bank's business justifications and any alternatives considered—when setting eligibility criteria, establishing processes for considering applications, and approving or denying PPP applications. Relevant business considerations may include estimates of resources needed to implement and offer the SBA PPP, current available resources (including staff resources), and ability to access needed information about an applicant in a timely way, among other factors.

In addition to thorough documentation of program administration and loan decisions, banks are encouraged to identify and track PPP loan volumes. Such documentation serves to enhance overall credit risk management while enabling the bank to demonstrate the full spectrum of businesses served, including small businesses and those in LMI areas. When exercising supervisory and enforcement responsibilities in this area, the OCC will take into account the unique circumstances resulting from the National Emergency and good faith efforts to comply with applicable legal requirements.

For further details, please contact Lou Ann Francis, Director for Commercial Credit, at 202-649-6670 or Vonda Eanes, Director for CRA and Fair Lending at 202-649-5470.

Related Link

- [SBA PPP](#)
- [SBA PPP Frequently Asked Questions](#)

¹"Banks" refers collectively to national banks, federal savings associations, and federal branches and agencies of foreign banking organizations.

²Such information may be used to track loan volumes for Community Reinvestment Act (CRA) purposes. Refer to the Joint Statement on Community Reinvestment Act Consideration for Activities in Response to COVID-19, available at <https://www.occ.gov/news-issuances/bulletins/2020/bulletin-2020-19.html>.

³The Equal Credit Opportunity Act (ECOA) and Regulation B prohibit discrimination against an applicant on a prohibited basis regarding any aspect of a credit transaction, and prohibit discouraging a reasonable person, on a prohibited basis, from making or pursuing an application. *See* 12 C.F.R § 1002.4(a), (b). The prohibition on lending discrimination in ECOA and Regulation B applies to all creditors and to both business credit and consumer credit.

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Governor Cuomo Talks About How & When New York May Reopen Economically

Governor Cuomo said today that the "New York Pause" shutdown will remain in effect until May 15 statewide. The state will then assess two weeks of infection decline by region. New York's economic reopening will be done in phases, with the first focusing on construction and manufacturing. He expects phase one to begin in upstate regions.

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IBANYS will continue to provide updates as additional information becomes available. Thank you all for your continued participation and support.

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- **Stephen W. Rice, Director, Communications & Government Relations (Stever@ibanys.net)**