

COVIC-19 Update (3) - Wednesday, April 29, 2020

To: New York Community Banks

This update includes important information IBANYS received from Hailey Hart, White House Office of Public Liaison. IBANYS has worked closely with Hailey, and she has provided significant assistance for New York community banks throughout the PPP process.

We also are including an update on the Treasury Department's Interim Final Rule on Disbursements issued Tuesday night. <https://home.treasury.gov/system/files/136/Interim-Final-Rule-on-Disbursements.pdf>

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I. Update From The White House

President Trump welcomed small business owners and employees who received Paycheck Protection Program loans to the White House to share their stories. To learn more about these small businesses and their stories, please see the below links.

- Amy Wright / Bitty + Beau's Coffee ([VIDEO](#))
- Brandon Hutson / Ed and Jim's Body Shop ([VIDEO](#))
- Tony Stafford / Ford's Fish Shack ([VIDEO](#))
- Tisa Clark / J.D. Clark Professional Services ([VIDEO](#))

The U.S. Department of the Treasury and the U.S. Small Business Administration released additional guidance regarding the Paycheck Protection Program today:

- [Joint Statement by Secretary Steven T. Mnuchin and Administrator Jovita Carranza on the Review Procedure for Paycheck Protection Program Loans](#)
- [Interim Final Rule on Disbursements](#)
- [Frequently Asked Questions \(Question 37\)](#)

Assistance for Small Businesses

The Paycheck Protection Program is providing small businesses with the resources they need to maintain their payroll, hire back employees who may have been laid off, and cover applicable overhead.

Program Overview

- [Top-line Overview of PPP](#)
- [SBA Paycheck Protection Program Loan Report](#)

For Borrowers

- [More information](#)
- [Search Tool: Find an Eligible Lender](#)
- [Borrower Application Form](#)
- [Applicable Affiliation Rules](#)
- [How to Calculate Loan Amounts](#)

For Lenders

- [More information](#)
- [Lender Application Form](#)
- [Lender Application Form for Federally Insured Depository Institutions, Federally Insured Credit Unions, and Farm Credit System Institutions](#)
- [Lender Application Form for Non-Bank and Non-Insured Depository Institution Lenders](#)
- [SBA Procedural Guidance on Participation Sales– Updated 4/24](#)
- Lender Assistance Hotline: (833) 572-0502

Program Rules

- [Frequently Asked Questions – Updated 4/28](#)
- [Interim Final Rule 1](#)
- [Interim Final Rule on Applicable Affiliation Rules](#)
- [Interim Final Rule on Additional Eligibility Criteria and Requirements for Certain Pledges of Loans](#)

- [Interim Final Rule on Requirements for Promissory Notes, Authorizations, Affiliation, and Eligibility – Updated 4/24](#)
- [Interim Final Rule on Additional Criterion for Seasonal Employers – Updated 4/28](#)
- [Interim Final Rule on Disbursements – Updated 4/28](#)

For more information and updates, visit [Treasury.gov/CARES](https://www.treasury.gov/CARES) and [SBA.gov/PayCheckProtection](https://www.sba.gov/PayCheckProtection).

Joint Statement by Secretary Steven T. Mnuchin and Administrator Jovita Carranza on the Review Procedure for Paycheck Protection Program Loans (HERE)

- “The Paycheck Protection Program is providing critical support to millions of small businesses and tens of millions of hardworking Americans... We have noted the large number of companies that have appropriately reevaluated their need for PPP loans and promptly repaid loan funds in response to SBA guidance reminding all borrowers of an important certification required to obtain a PPP loan. To further ensure PPP loans are limited to eligible borrowers, the SBA has decided, in consultation with the Department of the Treasury, that it will review all loans in excess of \$2 million, in addition to other loans as appropriate, following the lender’s submission of the borrower’s loan forgiveness application. Regulatory guidance implementing this procedure will be forthcoming... We remain fully committed to ensuring that America’s workers and small businesses get the resources they need to get through this challenging time.”

Information for Businesses:

- [Guidance for Businesses and Employers](#)
- [Information for Communities, Schools, and Businesses](#)
- [Environmental Cleaning and Disinfection Recommendations – Community Facilities](#)
- [SBA: COVID-19 Resources](#)
- [DOL: Guidance for Preparing Workplaces for Coronavirus](#)
- [DOL: OSHA Resources for Workers and Employers on COVID-19](#)
- [WHO: Get Your Workplace Ready for COVID-19](#)
- [CISA: Risk Management for COVID-19](#)
- [EPA: Disinfectants for Use Against COVID-19](#)

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II. Update On Treasury Department's Interim Final Rule On Disbursements Issued Tuesday Night

Tuesday evening the Treasury Department issued an additional [Interim Final Rule on Disbursements](#), addressing several questions and dropping a few bombs in the process. The questions, with guidance summary, are below:

Can a borrower take multiple draws from a PPP loan and thereby delay the start of the eight-week covered period?

NO! The lender must make a one-time, full disbursement of the PPP loan within ten calendar days of loan approval. Approval is defined as when the SBA assigns a loan number.

Comment:

This guidance contradicts earlier guidance which allowed for a one-time disbursement within ten calendar days, with the caveat that the loan be fully disbursed within eight weeks of approval.

For loans that were previously made and not fully disbursed, they must be now be disbursed fully within 10 calendar days of today, April 28, 2020 and the eight-week covered period began on the date of the first disbursement.

Comment

We have heard from many banks today that are experiencing delays in receiving loan numbers due to

instability of the loan platforms. It is our assumption that the assignment date will be the date the loan was submitted into the system, even if the email confirmation did not come until the next day or not at all.

Additional Flexibility on 10 Day Funding

However, here is the good news: the IFR provides flexibility in the ten-day funding of loans under the following circumstances. "Lenders are not responsible for delays in disbursement attributable to a borrower's failure to timely provide required loan documentation, including a signed promissory note... Loans for which funds have not been disbursed because a borrower has not submitted required loan documentation within 20 calendar days of loan approval shall be cancelled by the lender."

Additionally, the footnote on page 5 of the guidance provides that, if the tenth calendar day after approval is a Saturday, Sunday or legal holiday, the period continues to run until the end of the next business day.

Comment

While the flexibility is good news, this now places the burden on the lender to communicate with borrowers as the twenty calendar day deadline approaches that the loan will be cancelled.

EIDL Refinance

From the rule:

"When disbursing loans, lenders must send any amount of loan proceeds designated for refinance of an EIDL loan directly to the SBA and not to the borrower."

Comment

No instructions are provided for how to provide these proceeds to the SBA.

By when must a lender electronically submit an SBA Form 1502 indicating that PPP loan funds have been disbursed?

- A specific SBA Form 1502 reporting process will be made available.
- Lenders must electronically upload the form 1052 within 20 calendar days after a PPP loan is approved, or by May 18, 2020 for loans approved before the availability of an updated SBA Form 1502.
- The lender's processing fee will not be paid prior to the full disbursement of loans, if the PPP loan is cancelled or voluntarily terminated, or if the borrower repays the loan to conform to the certification regarding the necessity of the loan.
- Lender fees will be paid via ACH, after confirmation that all PPP loans for which the lender is requesting a processing fee have been fully disbursed on the disbursement dates and in the loan amounts reported.

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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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