

April 15, 2020

To: New York Community Banks

Here are the latest updates we wanted to pass along to you this morning.

IBANYS Urges New York Congressional Delegation To Support Additional PPP Funding, Adopt Modifications

In an email to the New York Congressional Delegation, IBANYS attached the letterset by ICBA to congressional and key committee leadership that included a request for additional funding of at least \$250 million for the Paycheck Protection Program (PPP) and a set of other recommended modifications. We have attached both the ICBA letter and the text of IBANYS follow-up email to the New York Delegation.

FROM ICBA

SBA provides PPP answers on directors, partnerships

The Treasury Department and Small Business Administration issued a new interim final rule <https://home.treasury.gov/system/files/136/Interim-Final-Rule-Additional-Eligibility-Criteria-and-Requirements-for-Certain-Pledges-of-Loans.pdf> answering key ICBA questions about the Paycheck Protection Program relating to bank directors, partnerships, self-employed borrowers, and more. The new interim rule supplements the one that was issued on April 2.

- Participating PPP lenders are not barred by existing SBA restrictions from lending to outside bank directors and shareholders that own less than 30 percent equity in the bank. The rule notes that lenders should comply with all other state and federal regulations concerning loans to associates.
- Officers and key employees of a PPP lender may not obtain a PPP loan from the lender in which they are associated but may borrow from a different PPP lender.
- Self-employed individuals should complete IRS Schedule C for 2019, line 31, to determine self-employment income for 2019, and use that amount both for computing the maximum loan amount and for computing the allowable salary/payroll costs that may be forgiven during the eight-week period following loan disbursement. Self-employed individuals that have employees should also include the gross wages and tips computed using 2019 IRS Form 941.
- Partners in a partnership should apply for PPP loans at the partnership level, not as self-employed individuals. Instead, self-employment income of active partners (up to \$100,000 annualized) may be reported as a payroll cost by the partnership.
- Pledging 7(a) loans to a Federal Reserve Bank or Federal Home Loan Bank, among others, does not require the SBA's prior written consent or a notice to the SBA.
- Businesses that are otherwise eligible for a PPP loan are not rendered ineligible due to receipt of legal gaming revenues if certain conditions are met.

Treasury and SBA also released updates to their PPP FAQ document <https://home.treasury.gov/system/files/136/Paycheck-Protection-Program-Frequently-Asked-Questions.pdf>. Among the newest FAQs, the agencies clarify that lenders must collect the information and certifications contained in the borrower application form and fulfill their obligations under the PPP final rule before submitting a PPP loan application.

ICBA is adding this latest information to its frequently asked questions on the PPP and other elements of the federal response to the COVID-19 outbreak.

https://www.icba.org/advocacy/industry-issues/lending/small-business-lending/community-bank-covid-19-faqs/?utm_source=informz&utm_medium=email&utm_campaign=informz&zs=4jQgU&zl=mIx32
More information from the agencies is available on the SBA's PPP landing page. <https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/paycheck-protection-program-ppp#section-header-9>

SBA is taking questions at 7aPaycheckLoanProgramQuestions@sba.gov. However, the auto reply notes that SBA might not be able to provide an individual response due to the high volume of inquiries and cannot answer E-Tran or Capital Access Financial System questions via that email address. E-Tran assistance questions should continue to be directed to the hotline 833-572-0502 or cls@sba.gov. Further, SBA has clarified that E-Tran users should choose “PPP” from the drop-down menu, not “7(a),” which will apply a set of requirements that aren’t relevant to PPP. ICBA will continue keeping community bankers informed of the very latest developments on the PPP and other elements of the federal response to the COVID-19 pandemic.

ICBA seeks new PPP resources as funds run out

ICBA called on congressional leaders to immediately approve at least \$250 billion in additional funds for the Paycheck Protection Program and dedicate a quarter of it to community banks with \$50 billion or less in assets. https://www.icba.org/news/news-details/2020/04/14/icba-recommendations-for-covid-19-new-legislation?utm_source=informz&utm_medium=email&utm_campaign=informz&zs=4jQgU&zl=qIx32. ICBA urged lawmakers to reform the PPP by instituting more workable loan terms, more flexibility in the timing of loan disbursements, and a robust safe harbor; expanding PPP loan uses; and suspending beneficial ownership rules for applicants that are not current customers.

In a detailed report breaking down PPP data on a state-by-state basis <https://content.sba.gov/sites/default/files/2020-04/PPP%20Report%20SBA%204.14.20%2020-%2020Read-Only.pdf>, the Small Business Administration said more than 1 million loans and \$247 billion in funding have been entered into the PPP system and approved. By midday Tuesday, allocations had reportedly reached \$257 billion <https://www.bloomberg.com/news/articles/2020-04-14/kudlow-says-small-business-loan-funds-to-run-out-this-week>, with White House economic adviser Larry Kudlow saying the program is expected to run out of funds by tomorrow. Treasury Secretary Steve Mnuchin has been working with Congress to approve an additional \$250 billion for the program. ICBA’s letter follows separate letters from **ICBA** and **state banking associations** to policymakers on the PPP seeking enhanced support for SBA systems, additional funds and specific funding allocations for community banks, and an expanded Federal Reserve liquidity facility.

Treasury issues new consumer FAQs on stimulus payments

The Treasury Department released frequently asked questions about Economic Impact Payments and how they relate to the Treasury Offset Program, which collects federal nontax and state debts <https://www.fiscal.treasury.gov/top/faqs-for-the-public-covid-19.html>. The FAQs focus on how the payments interact with delinquent debts.

ICBA this week issued consumer-facing FAQs https://www.icba.org/advocacy/industry-issues/lending/small-business-lending/community-bank-covid-19-faqs?utm_source=informz&utm_medium=email&utm_campaign=informz&zs=4jQgU&zl=0Jx32#EIP on the federal EIP stimulus payments for eligible individuals and households. The consumer-facing FAQs include answers on how and when these payments are going out and other details. The IRS, through the U.S. Treasury Fiscal Service, plans to issue as many of these payments as possible electronically. Treasury began distributing the first tranche of ACH payments on Friday, with an effective date of today, April 15. Subsequent files will be sent weekly.

ICBA has also updated its frequently asked questions on the federal response to the COVID-19 pandemic with new information for community bankers on the EIPs and other issues, including mortgage rules, the Federal Reserve's new facilities, loan modifications, and more. https://www.icba.org/advocacy/industry-issues/lending/small-business-lending/community-bank-covid-19-faqs/?utm_source=informz&utm_medium=email&utm_campaign=informz&zs=4jQgU&zl=1Jx32

The Consumer Financial Protection Bureau released its own guide to COVID-19 economic stimulus relief with answers to consumer questions about EIPs <https://www.consumerfinance.gov/about-us/blog/guide-covid-19-economic-stimulus-checks/> . . .

And Nacha has separately published FAQs on the EIPs with information about what to do when an ACH payment hits a closed account, garnishment, and more:

<https://www.nacha.org/system/files/2020-04/ACH%20Network%20Rules%20Pandemic%20FAQs%20%28April%20%2C%202020%29.pdf>.

OTHER UPDATES

NFIB ALSO Urges Congress To Add More Funds To PPP

The National Federation of Independent Business on Tuesday urged Congress to provide more support for the Paycheck Protection Program — a key relief provision for small businesses struggling during the pandemic, noting: “The original appropriation for the PPP forgivable loans may be exhausted as soon as this week. As the program operates on a first-come, first-served basis, further delays in appropriations will slow the forgivable loan approval process and lock out those business owners who are only recently eligible to apply such as independent contractors and self-employed individuals. If the funds are exhausted or financial institutions are forced to limit applications, the smallest businesses will be harmed the most.” The group says an additional \$251 billion is needed to support the program

Still No Movement On Additional PPP Funding

As of this morning there was still no movement on the small business aid bill in the Senate. Majority Leader McConnell said he hopes Democrats will stop holding things up and "let Congress act this week." House Speaker Pelosi said "we cannot accept Leader McConnell's proposals that would ... do nothing to aid desperate hospitals and state and local governments."

Meanwhile, the New York and New Jersey delegations are urging House and Senate leaders to create a new \$40 billion fund that hands out cash to states based on infections — rather than the standard lump sum given to each state. The bipartisan group, which includes roughly 40 members, sent a letter to congressional leaders after an analysis showed that states like Nebraska and Montana have received roughly \$300,000 in aid per reported case, compared to New York, which received about \$12,000 per case. **Senate Majority Leader McConnell announced the Senate won't convene again until May 4, joining House leaders in delaying their return to the Capitol. The decision means bills can only pass by unanimous consent for the next three weeks.**

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

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