

Wednesday, May 27, 2020

To: New York Community Banks

FROM ICBA

ICBA Comments On FDIC Proposal To Mitigate Deposit-Insurance Impact Of PPP

ICBA commended the FDIC’s proposal to partially mitigate the effects of participating in the Paycheck Protection Program and other emergency programs on deposit-insurance assessments, while calling for additional relief measures. In its filed comment letter, ICBA asked the FDIC to ensure that community banks that originated and hold PPP loans, but do not participate in Federal Reserve’s PPP Lending Facility, are not unfairly penalized. “All PPP loans should be excluded not only from the calculation of the loan mix index, but from any measure used to calculate an insured depository institution’s assessment rate if their inclusion would have an adverse impact on an IDI’s assessment rate. Furthermore, all PPP loans should be excluded from an IDI’s assessment base,” ICBA wrote.

Read ICBA's letter:

https://www.icba.org/news/news-details/2020/05/26/comment-letter-to-fdic-on-capital-treatment-of-ppp-loans?utm_campaign=NewsWatch%20Today&utm_source=hs_email&utm_medium=email&utm_content=88527131&hsenc=p2ANqtz-9vhrwk_kB7RcNGkqfeeGsLblZNzWBijwRqCAqV8O8adLteN7368eUX67WejyvTh6zT5WGcu1tzXfcqm7NCDALeqi0hiw&hsmi=88527382

SBA: Resolve Loans Marked “Research” In PPP Portfolios

The Small Business Administration sent out a notice reminding lenders that loans marked with a “research” status in their Paycheck Protection Program portfolios should be reviewed for accuracy and completeness, by 8 p.m. (Eastern time) Thursday, May 28. If necessary, lenders should contact borrowers to determine whether a loan should be cancelled, SBA said. The SBA provides [step-by-step instructions](#) on how to use the search functionality within the E-Tran Servicing section of the Capital Access Financial System to locate loans with the “research” designation and to review and confirm records on those loans. The notification follows the release last week of a [procedural notice](#) on submitting the initial SBA Form 1502 to report on PPP loans and collect the processing fees on fully disbursed loans. ICBA last week provided its [comprehensive recommendations](#) for Congress to include in the next COVID-19 response package, including PPP reforms on spending restrictions and loan forgiveness.

ICBA Webinar Friday On PPP Loan Forgiveness

ICBA's is planning to host its next webinar on the COVID-19 response at 11 a.m. (Eastern time) on Friday, May 29. The complimentary Community Bank Briefing will focus on the loan forgiveness and loan review elements of the Small Business Administration’s Paycheck Protection Program, and will include a robust Q&A session. The ICBA website will be updated shortly with registration information.

USDA \$16B Direct Payment Program Available

USDA is [accepting applications](#) for direct payments to farmers and ranchers now through August 28, 2020. [A CFAP Payment Calculator](#) is also available to assist with the Coronavirus Food Assistance Program application process. The Microsoft Excel workbook allows producers to input information specific to their operation to determine estimated payments and populate the application form. Applicants can also manually [download the application form, AD-3114](#), and as needed, the [AD-3114A continuation form](#).

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FROM THE WHITE HOUSE

- [SBA Paycheck Protection Program Loan Report Round 2](#) – Updated 5/25
- [Summary of Paycheck Protection Program Round 2 Data](#) – Updated 5/26

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FROM THE OCC

Bulletin | OCC 2020-55 May 26, 2020

[Director, Shareholder, and Member Meetings : Interim Final Rule](#)

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

Summary

The Office of the Comptroller of the Currency (OCC) is issuing an interim final rule that amends 12 CFR 5 and 7 to clarify that national banks and federal savings associations (FSAs) (collectively, banks) may permit telephonic and electronic participation at all board of directors, shareholder, and, as applicable, member meetings.

This interim final rule is effective on May 28, 2020. Comments on the interim final rule must be received no later than July 13, 2020.

Note for Community Banks

This interim final rule applies to all community banks.

Highlights

This interim final rule:

- permits banks to provide for telephonic or electronic participation of members and shareholders, as applicable, at both annual and special meetings.
- requires banks that permit telephonic and electronic participation at member or shareholder meetings to have procedures for this remote participation and provides banks with a choice of procedures to follow based on elected state corporate governance procedures, the Delaware General Corporation Law, or the Model Business Corporation Act.
- codifies an OCC interpretation that permits national banks to provide for telephonic or electronic participation at board of directors meetings.
- updates OCC rules to clarify that all FSAs may provide for telephonic or electronic participation at board of directors meetings.

Concurrent with the issuance of this IFR, the OCC also is publishing optional model bylaw provisions for FSAs that permit telephonic and electronic participation as provided in this IFR. Pursuant to OCC rules, if an FSA adopts a bylaw amendment that includes the language of the OCC's optional bylaws without change and files the bylaw with the OCC within 30 days after adoption, the bylaw is effective upon adoption.

Background

The National Bank Act, the Home Owners' Loan Act, as applicable, and OCC regulations do not require that director, shareholder, or member meetings take place in person. Furthermore, banks have access to remote communication tools, such as telephone or internet-based conferencing, to enable them to comply with internal and regulatory meeting requirements within the parameters of the COVID-19 social distancing guidelines. The OCC is issuing this IFR to update its regulations to conform with modern technologies and to clarify that banks may use remote communication tools to conduct these meetings. The amendments made by this IFR are permanent and will not expire after the COVID-19 emergency has ended.

Further Information

Please contact Frances C. Augello, Special Counsel, or Heidi M. Thomas, Special Counsel, Chief Counsel's Office, at (202) 649-5490, or Donald W. Dwyer, Thrift Licensing Lead Expert, at (202) 649-6260.

Jonathan V. Gould, Senior Deputy Comptroller and Chief Counsel

Related Link

- [Director, Shareholder, and Member Meetings](#) (PDF)

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FROM NEW YORK

Legislature Returns -- COVID-19 Bills On Agenda, Including Bills On Mortgages, Rent

The State Legislature will be considering "a slew" of COVID-19-related bills when session convenes today for the first time since the budget was enacted. Among the initiatives are expected to be legislation addressing homeowners and renters. IBANYS has been busy working with legislators, the Governor's office and the NYS Department of Financial Services representing the interests of New York's community banks. Note: We sent out copies of legislation, IBANYS' memo in opposition and correspondence with senior DFS officials over the weekend. **Read some of the details of what is expected in this week's session using the link provided below.**

https://buffalonews.com/2020/05/26/new-york-state-lawmakers-to-reconvene-to-ok-covid-19-bills/?mc_cid=8756e8fc82&mc_eid=e55c2af3e3

Cuomo: New York Will "See Pain" In The New Economy

Governor Cuomo warned Tuesday New York's economy is not going to "just bounce back" even as the state begins its phased reopening plan in some regions. "We've lost thousands of small businesses that are just not going to reopen their doors...You're going to see pain in this new economy, and let's start to dissipate that, and let's start to deal with that now."

OTHER SOURCES

House, Senate Close On PPP Loan Extension?

According to Bloomberg News, House Majority Leader Steny Hoyer said the House and Senate should be able to quickly agree on changes to the Small Business Administration's Paycheck Protection Program to give loan recipients more flexibility in using funds. **The House is poised to pass a bill on Thursday that would extend the current eight-week period during which businesses must use funds to have loans forgiven to 24 weeks or Dec. 31, whichever comes sooner.**

McConnell: Phase Four Probable, But More Narrowly Tailored

Senate Majority Leader McConnell told CNBC Congress will "probably" need to pass another coronavirus relief bill -- but he wants it to be more narrowly tailored than the \$3 trillion bill House Democrats approved earlier this month, and said state re-openings will inform how broad of a scope the bill will have. McConnell also said relief for state and local governments would be limited to help only with expenses and revenue lost during the coronavirus pandemic.

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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 (Steve@ibanys.net)