

Wednesday, May 13, 2020 (Update #2)

To: New York Community Banks

FROM THE SMALL BUSINESS ADMINISTRATION

IBANYS received this information from SBA Deputy District Director/Upstate New York Dan Rickman:

Just a few updates as we wait for the PPP forgiveness guidance to be issued. We've been receiving a lot of questions on a few topics, particularly the following:

- An updated FAQ has been posted today on treasury.gov addressing how SBA will evaluate the good faith certification regarding the necessity of the PPP loan request: <https://home.treasury.gov/system/files/136/Paycheck-Protection-Program-Frequently-Asked-Questions.pdf>
- The safe harbor deadline for businesses to return PPP funds if they determine that they were ineligible has been extended until tomorrow, 5/14, pending publication of the procedures for returning the funds. If the guidance is not ready by then, I would expect another extension of the deadline. We've been receiving a lot of questions from PPP borrowers about the "economic uncertainty" certification, and I would encourage you to direct questions from your constituents to our office if they're concerned.
- There are no updates to the 8-week forgiveness period, and we can't speculate on any legislative or regulatory changes to this. Businesses should plan based on the rules as they are now.
- The first PPP Interim Final Rule requires that 75% of the **use of proceeds** be used for payroll costs. This is distinct from the rule that 75% of the forgivable expenses must be payroll.
- The EIDL Advance has no reporting requirements and does not have to be repaid. It is designed to provide immediate economic relief. This is independent from the EIDL Loan and not part of the Loan's terms and conditions. Any Advance funds will be deducted from PPP forgiveness, however.
- The EIDL Loan funds may only be used for working capital expenses. Business expansion or acquiring fixed assets are not eligible uses of proceeds.

Updated PPP and EIDL Advance numbers:

In Round Two of the Paycheck Protection Program (April 27 - May 8, 2020), the SBA has guaranteed 2,571,167 loans. For more information on Round Two loan activity, [click here](#).

[Report: EIDL Advances as of 5-8-20](#)

-- Dan Rickman, Deputy District Director, Upstate New York, U.S. Small Business Administration: (315) 471-9393 ext. 241

SBA Regional Administrator To Join Tomorrow's IBANYS Executive Management Call -- Have You Signed Up?

IBANYS' Executive Management Discussion Group will be held tomorrow, Thursday, May 14 – 10:30 – 11:30 a.m. via Zoom Video Conferencing. Below is this week's agenda. **Please note, Steve Bulger, Regional Administrator, SBA will be joining our meeting.** If you are not yet signed up, please contact Linda Gregware (lindag@ibanys.net. 518.436-4646). Then, if you have a question(s) you would like addressed, please email (respond all) and the question(s) will be forwarded for response as we will have a limited amount of time with the SBA.

Thursday May 14 – AGENDA

- Association Updates - John Witkowski
- PPP Update - **Steve Bulger, SBA Region II Administrator**

- Forgiveness, Fees, Agent Fee Issue, Loan Update
- Coronavirus Update - Karl Nelson
- Re-Opening New York - Participants Views
- Lobby Re-Opening Strategies - Participants View
- Federal Loan Programs Beyond PPP - Karl Nelson
- Loan Portfolio Performance - Participants View
- Polling Question

Note: Next week's Executive Management Call (on Thursday, May 21) will include a discussion and update with either Adam Goldstein or Tom Settino from the Federal Home Loan Bank of New York. Mark your calendars!

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FROM ICBA

The SBA and Treasury Department just announced a safe harbor that will apply to reviews of good-faith certifications concerning the necessity of Paycheck Protection Program loan requests.

In the latest update to their [frequently asked questions](#) on the program, the agencies said any borrower that, together with its affiliates, received PPP loans with an original principal amount of less than \$2 million will be deemed to have made the required certification concerning the necessity of the loan request in good faith.

The agencies added:

- Borrowers with loans below this threshold are generally less likely to have access to adequate sources of liquidity, and the safe harbor will promote economic certainty for them.
- The SBA previously said all PPP loans over \$2 million—and other loans as appropriate—will be subject to review.
- Borrowers with loans greater than \$2 million that do not satisfy this safe harbor may still have an adequate basis for making the required good-faith certification.
- If SBA determines that a borrower lacked an adequate basis for the required certification, it will seek repayment of the outstanding PPP loan balance and will inform the lender that the borrower is not eligible for loan forgiveness.
- If the borrower repays the loan after receiving notification from SBA, the agency will not pursue administrative enforcement or referrals to other agencies.
- SBA's determination on these certifications will not affect its loan guarantees, which remain in place.

Today's update follows yesterday's FDIC [approval of a proposed rule](#) that would mitigate the effects on deposit insurance assessments of participating in the PPP and PPP Liquidity Facility.

Community bankers who continue to have trouble with the SBA's E-Tran and SBA Connect Lender Gateway portals can direct assistance questions to the SBA at 833-572-0502 or cls@sba.gov. Additional guidance and resources are available on [Treasury's PPP webpage](#) and ICBA's [COVID-19 resource center](#).

ICBA will continue to keep you informed of the latest updates on the resumption of the program. Thank you for all you are doing to meet the needs of your customers and communities during this challenging time.

-- Rebeca Romero Rainey, President & CEO

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FROM NEW YORK STATE

Governor Cites House Democrats Phase Four Plan

The House Democrats' proposed \$3 trillion federal stimulus bill was cited by Governor Cuomo in his coronavirus update today. New York would stand to receive tens of billions of dollars in aid if the bill passes, including giving the governor [the ability to make](#) his desired [changes](#) to the state's Medicaid system. The bill would even repeal the limits that the 2017 GOP tax law imposed on state and local tax (SALT) deductions, which Cuomo has previously described as an "[economic missile](#)" hitting New York. "I applaud them for putting that in," Cuomo told reporters on Wednesday. "They have to make sure it's in the final bill." House Democrats want to pass the bill Friday, but Republicans are [calling it "dead on arrival"](#) in the Senate. While there will doubtless be negotiations, it suggests that New York City and State may remain in "economic limbo for the foreseeable future."

Governor Says Four Regions Of State Ready To Reopen Friday

Governor Cuomo said today that four regions of the New York State are ready to begin reopening on Friday. The [latest regional breakdown on the seven conditions for reopening](#) shows that the North Country, Southern Tier, Mohawk Valley and Fingers Lakes can begin to reopen on May 15. Testing limits are holding Central New York back, and Long Island, the Capital Region and the Mid-Hudson each scored a five. New York City remains at the back of the line with four. The Cuomo administration has outlined a reopening process that includes four phases, which, he said, would [not necessarily require two weeks](#) to complete.

New York Has Paid Out \$7.4 Billion In Unemployment Since March

New York has paid out \$7.4 billion in unemployment benefits since March when the coronavirus pandemic began to wreak havoc on the state's economy. The state Department of Labor on Wednesday announced 330,000 people who filed to receive benefits from the Pandemic Unemployment Assistance Program were approved. The state has struggled with the wave of unemployment claims as non-essential businesses close and workers lose their jobs or face furloughs. The total paid out in benefits in 2019 was \$2.1 billion.

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

- **John J. Witkowski, President & CEO (Johnw@ibanys.net; 716.880.0518)**
- **Stephen W. Rice, Director, Communications & Government Relations (Stever@ibanys.net)**