Friday, June 5, 2020

To: New York Community Banks

FROM ICBA

ICBA Developing Summary Of PPP Reforms

ICBA is developing a summary of legislation approved this week by Congress to address restrictions on the Small Business Administration's Paycheck Protection Program. The summary will be available for community banks to share with their small-business borrowers.

While further guidance and clarification from the SBA and Treasury is likely, the Paycheck Protection Program Flexibility Act of 2020:

- Establishes a minimum maturity of five years for new PPP loans made after the date of enactment (as opposed to the current two-year maturity date).
- Extends from eight to 24 weeks the amount of time borrowers have to spend PPP funds while remaining eligible for forgiveness.
- Lowers the amount that must be spent on payroll costs from 75 percent to 60 percent, though there is no forgiveness if payroll is less than 60 percent.
- Extends to Dec. 31 the period in which employers may rehire or eliminate a reduction in employment, salary, or wages that would otherwise reduce the forgivable loan amount.
- Replaces the six-month deferral of payments due under PPP loans with deferral until the date on which the amount of loan forgiveness is remitted to the lender.
- Eliminates a provision that makes PPP loan recipients who have such indebtedness forgiven ineligible to defer payroll tax payments.

ICBA strongly advocated additional reforms, such as allowing a forgiveness presumption of compliance for loans of $1 million or less. ICBA thanks community bankers for their strong grassroots outreach and will continue working with policymakers on PPP flexibilities. https://www.icba.org/?utm_campaign=NewsWatch%20Today&utm_medium=email&_hsmi=89025480&_hsenc=p2ANqtz-8Ip3cwBGfuMUrmYLg5yQ7l50LPq9ALliOsMIXIcAAx5SQu1r5vJlsyF2g0k4jymcU7fSyo5nEKmKzy4jMEq0pg31Kigg&utm_content=89025435&utm_source=hs_email

PPP Loan Forgiveness Webinar Available For Download

Yesterday's complimentary ICBA webinar on Paycheck Protection Program loan forgiveness is available for download. The webinar recording offers a deep dive into the accounting and technical aspects of loan forgiveness, including common questions from borrowers, gray areas for borrower expense, expected forgiveness applications, and more. Download the recording.

CFPB, State Regulators Issue Mortgage Forbearance Guidance

The Consumer Financial Protection Bureau and the Conference of State Bank Supervisors issued joint guidance to mortgage servicers on complying with CARES Act provisions granting forbearance rights to consumers affected by the COVID-19 pandemic.

Under the act, servicers of federally backed mortgages must grant forbearance to borrowers with pandemic-related hardships for as long as two consecutive 180-day periods. Further, additional interest, fees, and penalties beyond the amounts scheduled or calculated should be waived during the forbearance period.

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FROM THE WHITE HOUSE

Summary of Paycheck Protection Program Round 2 Data ***– Updated 6/04***

- The U.S. economy added 2.5 million jobs in May, *the greatest number of jobs created in a single month ever recorded*. The unemployment rate fell from 14.7 percent to 13.3 percent.
    - Employment increased significantly in leisure and hospitality (1.2 million), construction (464,000), education and health services (424,000), retail trade (368,000), and manufacturing (225,000).

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FROM OCC

O Bulletin | CC 2020-57 | June 2, 2020
Permissible Interest on Loans That Are Sold, Assigned, or Otherwise Transferred : Final Rule

To Chief Executive Officers of All National Banks, 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) issued a final rule today to clarify that when a national bank or savings association (bank) sells, assigns, or otherwise transfers (transfers) a loan, interest permissible before the transfer continues to be permissible after the transfer.
Note for Community Banks
This final rule applies to community banks.

Highlights

Federal law establishes that banks may charge interest on loans at the maximum rate permitted to any state-chartered or licensed lending institution in the state where the bank is located. In addition, banks are generally authorized to transfer loans and to enter into and assign loan contracts. Despite these clear authorities, recent developments have created legal uncertainty about the ongoing permissibility of the interest term after a bank transfers a loan. This rule clarifies that when a bank transfers a loan, interest permissible before the transfer continues to be permissible after the transfer.

Further Information

Please contact Andra Shuster, Senior Counsel; Karen McSweeney, Special Counsel; or Priscilla Benner, Senior Attorney, Chief Counsel's Office, at (202) 649-5490.

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Related Link
- Permissible Interest on Loans That Are Sold, Assigned, or Otherwise Transferred (PDF)

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OTHER SOURCES/PRESS COVERAGE

Unemployment Rate Falls To 13.3 Percent

The U.S. unemployment rate fell to 13.3% in May, with 2.5 million jobs gained, the government said on Friday, far better-than-expected numbers that show a surprising improvement in the job market devastated by the pandemic. (The unemployment rate soared to 14.7% in April, up from 3.5% in February.) "These improvements in the labor market reflected a limited resumption of economic activity that had been curtailed in March and April," the government said in a release on Friday. The job gains may also reflect that the Paycheck Protection Program, meant to shore up the employees of small businesses, had an effect on the labor market. Economists were expecting the unemployment rate to surge to nearly 20%, with a net loss of around 8 million jobs.

What's Next? Phase Four Stimulus & Aid To States -- Or Business Tax Cuts & Regulation Reductions?

"The Washington Post" reports White House officials and President Trump's advisers said Trump is reluctant to pursue another stimulus package and is confident the reopening of states will boost the economy ahead of the presidential election. Conservatives are reportedly telling Trump that instead of giving aid to states, he should work on cutting business taxes, slashing regulations and focusing on the trade war with China. (The Washington Post)

The Man Calling The Shots On The State Budget & Fiscal Crisis

"City & State" has a profile of Governor Cuomo's State Budget Director Robert Mujica, a former top staffer with the (then) Republican State Senate Majority. With the state tumbling into its worst economic crisis since the Great Depression, Mujica is tasked with assembling a package of cuts to close a multibillion-dollar shortfall – and will likely have to use every budget trick he ever learned to get it done, as unemployment in the state is now around 15% and state revenues have fallen at least $13 billion below projections in recent months. The economic cost to the state could reach $243 billion over the next few years.
https://www.cityandstateny.com/articles/personality/interviews-profiles/new-york-is-in-mujicas-hands.html

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State Legislature Reconvenes Next Week -- New Mortgage Forbearance Initiatives In Discussion

New initiatives related to mortgage forbearance issues (commercial, second mortgages, investment properties and first mortgages in portfolio) are currently in discussion in the State Legislature, and appear likely to be introduced for consideration when the Legislature reconvenes next week. IBANYS is monitoring closely, and is in contact with legislators and the State DFS as t talks continue. We will keep you informed as this situation evolves.

As a reminder: The New York State Legislature late last week passed a Chapter Amendment (See link below) on mortgage forbearance. (The information is included in Part C). As of this morning, the Governor has not yet signed it.

Below is a copy of the summary and the Chapter Amendment we sent out last Friday afternoon, May 29, which may also be found on IBANYS website under the COVID-19 tab.

Subject: IBANYS Update On Coronavirus (COVID-19) & Impact On New York Community Banks -- Legislature Passes Mortgage Forbearance Chapter Amendment

To: New York Community Banks

New York State Legislature Passes Chapter Amendment On Mortgage Forbearance

We have linked the Chapter Amendment to the residential mortgage forbearance legislation initially passed by the Legislature Wednesday. (Part C is the forbearance chapter amendment; it is included with several other chapter amendments).

https://ibanys.net/wp-content/uploads/2020/06/LBDCinfo-36.html

The Chapter Amendment was passed Thursday night (May 28) by the Senate and early Friday morning (May 29) by the Assembly. It will be sent to the Governor for his signature. This initiative is targeted only at state chartered banks. Federally chartered banks are not impacted. (Interestingly, the credit unions supported the legislation.)

IBANYS issued a strong Memo in Opposition to the original legislation, and continued to work with the Legislature, Governor's Office and NYS Department of Financial Services (DFS) throughout the process that eventually resulted in the Chapter Amendment.

Mortgages currently receiving forbearance under the Governor's Executive Order 202.9, at the time of such forbearance, shall be considered as part of the requirement to provide forbearance under the new statute.

At the end of the 180 days of forbearance provided, the borrower has an option to extend the forbearance for a second 180 day period if still in financial distress, as provided in the Chapter Amendment.

While we opposed the initiative, the Chapter Amendment is an improvement over the original legislation. If a bank determines that it unable to offer a mortgagor relief based on concerns regarding sufficient capital and liquidity, it must notify DFS within 5 business days of making the determination. The bank must also notify the mortgagor, who may file a complaint with DFS.

The Chapter Amendment clarified that forbearance applies to "monthly payments" due on the mortgage. It also prohibits the bank from charging additional interest or any late fees or penalties on the forborne payment.

IBANYS intends to closely monitor developments and invites community banks to please provide updates on how this new scenario impacts your banks. We are committed to continuing to work on this and related issues going forward.

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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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