

# Significant Paycheck Protection Program Guidance for Franchisees, Hotels, and Lenders

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The Small Business Administration ("SBA") has guaranteed over one million loans under the Paycheck Protection Program ("PPP") through April 13, 2020. Over 4,600 lenders throughout the U.S. have been tasked with serving as conduits for distributing \$350 billion in federal loan funds made available for the PPP, with 85% of those funds having already been approved for distribution in the first eleven days.

*Ed. note: As of this morning, the SBA has exhausted the \$350 billion allocated for the PPP program. We understand Congress is likely to take further action to make additional funds available. We will keep you informed.*

## On April 14, 2020, the SBA issued additional Interim Rules, which confirm and clarify eligibility of the following:

- Businesses who have certain directors or certain equity holders that sit on the board of directors of PPP Lenders; and
- Businesses that receive legal gaming revenues.

Additionally, since our last updates on SBA FAQs, the SBA has updated the FAQs to contain the following additional guidance to franchisees, and hotels and restaurants:

### Franchises

If a franchise brand is listed on the SBA Franchise Directory, each of its franchisees that meets the applicable size standard can apply for a PPP loan. Franchisors do not apply on behalf of each of its franchisees. The \$10 million cap is a limit per franchisee, and each franchisee is limited to one PPP loan.

### Hotels and Restaurants

Any single business entity that is assigned a NAICS code beginning with 72 and that employs not more than 500 employees per physical location is eligible to receive a PPP loan. The SBA's affiliation rules do

not apply to business entities that are assigned a NAICS code beginning with 72 and that employ not more than a total of 500 employees. Examples are provided within the updated FAQ's linked above.

## **Information for Lenders:**

This update also includes multiple points of procedural clarifications for Lenders. These include:

- Lenders can use their own form Promissory Note or the SBA form Promissory Note.
- Lenders are not required to have an SBA Authorization; however, lenders must have executed SBA Form 2484 (Lender Application Form for Paycheck Protection Program) in order to issue PPP loans and receive a loan number for each originated PPP loan.
- All lenders that are not currently 7(a) lenders are encouraged to apply to the SBA to act as a PPP lender by submitting form SBA 3507 to [NFRApplicationForPPP@sba.gov](mailto:NFRApplicationForPPP@sba.gov). Submission of the application does not result in automatic enrollment – the SBA will confirm whether or not they need additional information from the lender.
- Lenders have a responsibility to collect the information and certifications contained in the Borrower Application Form, and must have fulfilled its obligations set forth in the PPP Interim Final Rule before submitting a PPP loan application to SBA through E-Tran.

## **Authorizations**

Typically, before issuance of an SBA loan to an entity whose sole proprietor, partner, officer, director, or 10% stockholder is an employee of a governmental department or agency, the SBA requires a written statement of no objection by the applicable department or military service. However, for PPP loans, no such written statement is required.

Typically, before issuance of an SBA loan to an entity whose sole proprietor, partner, officer, director, or 10% stockholder is a current SBA employee, member of Congress, appointed official or employee of the legislative or judicial branch, a member or employee of an SBA Advisory Council, or SCORE volunteer, SBA requires approval by SBA's Standards of Conduct Committee ("SCC"). However, for PPP loans, SCC has authorized blanket approval for such loans, so that no further action is required.

## **Verification of Information**

Lenders are required to collect owner name, title, ownership percentage, TIN/SSN, and address for each owner of 20% ownership stake in any applicant for a PPP loan. If a PPP loan is being made to a new customer, the lender's collection of such information will satisfy the BSA and FinCEN regulations regarding collection of beneficial ownership information. If any ownership interest of 20% or greater in the applicant business belongs to a business or other legal entity, lenders must collect appropriate beneficial ownership information for that entity as well.

If a PPP loan is being made to an existing customer and lender previously verified the necessary beneficial ownership information, the lender does not need to re-verify the information.

Federally insured depository institutions and federally insured credit unions eligible to participate in PPP who have not collected beneficial ownership information on existing customers are not required to collect and verify such information for customers applying for new PPP loans unless otherwise indicated by the lender's risk-based approach to Bank Secrecy Act compliance.

## **Electronic Signatures**

Lenders may accept scanned copies of signed loan applications and loan documents from applicants, and any form of E-consent or E-signature that complies with the Electronic Signatures in Global and National Commerce Act.

## **Conclusion**

We will continue to keep you updated as we receive further information. Visit our COVID-19 Resources page for additional information for businesses, individuals, and employers or contact a member of Ward and Smith's COVID-19 Response Team for more assistance.

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