



# WRIGHT LINDSEY JENNINGS

## COVID-19 CLIENT ALERT: FINAL INTERIM RULE ON PAYCHECK PROTECTION PROGRAM

APRIL 2, 2020

### **FINAL INTERIM RULE ON PAYCHECK PROTECTION PROGRAM**

On the eve of implementation, the Small Business Administration issued the [Final Interim Rules](#) (the “Rule”) for the Paycheck Protection Program (“PPP”). The Rule comes after the March 31, 2020 issuance of informal Dept. of Treasury guidance on PPP and the enactment of the CARES Act on March 27, 2020. The Rule is effective immediately but SBA will consider public comments and consider additional regulations and clarification in the future. The Rule clarifies the SBA’s interpretation of a number of aspects with respect to the PPP, including the following:

#### **FOR BORROWERS:**

- Compensation to independent contractors is excluded from calculation of payroll costs. Independent contractors are encouraged to apply for a PPP loan “on their own.” This will cause a significant increase in the number of applications and paperwork to be processed by lenders.
- For now, affiliation rules under 13 CFR § 121.301 apply to PPP applicants. An overview of SBA affiliation rules is discussed [here](#). However, the SBA is expected to promptly implement additional exemptions from affiliation rules. Currently, many venture-backed businesses and businesses with common ownership but that are otherwise not affiliated are ineligible for PPP due to existing SBA affiliation rules.
- The interest rate for all PPP loans will be fixed at 1%.
- The maturity date for PPP loans is 2 years from date of origination.
- Loans are first come, first served.
- 75% of loan proceeds must be used for payroll costs.
- Borrowers who submit false applications or use PPP loan proceeds for costs other than those allowed under PPP are subject to civil fines and penalties.
- Individuals, officers, shareholders, partners, or LLC members may be held personally liable for the misuse of PPP loan proceeds.
- Documents can be completed using e-signatures.

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## FOR LENDERS:

- Lenders must submit SBA Form 2484 (Paycheck Protection Program Lender's Application for 7(a) Loan Guaranty) electronically to the SBA and maintain the forms and supporting documentation provided by the borrower to support loan requirements.
- Lenders may rely on certifications of the borrower in order to determine eligibility and use of loan proceeds. Lenders must comply with the applicable lender obligations set forth in this interim final rule, but will be held harmless for borrowers' failure to comply with program criteria.
- SBA will pay lenders fees for processing PPP loans in the following amounts:
  - ◆ 5% for loans of not more than \$350,000;
  - ◆ 3% for loans of more than \$350,000 and less than \$2,000,000; and
  - ◆ 1% for loans of at least \$2,000,000.
- A lender may request that the SBA purchase the expected forgiveness amount of any PPP loan following the end of the seventh week following origination of the loan. Such advance purchases will occur within 15 days of the SBA receiving a complete report of the expected forgiveness amount from the lender.
- PPP loans may be issued by any federally insured depository institution, federally insured credit unions, Farm Credit System institutions and other approved financial institutions.

Paycheck Protection Program Lender and Borrower applications are posted [here](#).

The Lender Application can be found [here](#).

The Borrower Application can be found [here](#).

See additional items below:

- [Lender Information](#)
- [Borrower Information](#)
- [Interim Final Rule](#)

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Information on all SBA coronavirus relief options can be found [here](#).

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