



# SBA Procedural Notice

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**TO:** All SBA Employees and Paycheck Protection Program Lenders

**CONTROL NO.:** 5000-20075

**SUBJECT:** Repeal of EIDL Advance Deduction Requirement for SBA Loan Forgiveness Remittances to PPP Lenders

**EFFECTIVE:** January 8, 2021

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Section 1110(e)(6) of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) required SBA to deduct the amount of any Economic Injury Disaster Loan (EIDL) Advance received by a PPP borrower from the PPP forgiveness payment remitted by SBA to the PPP lender. On October 2, 2020, SBA began remitting forgiveness payments to PPP lenders, with the required EIDL Advance deductions. On December 27, 2020, the President signed the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act (Economic Aid Act), which repealed Section 1110(e)(6) of the CARES Act.<sup>1</sup>

In order to implement the repeal, the [Forgiveness Platform](#) has been updated and, effective immediately, SBA will no longer deduct EIDL Advances from forgiveness payments remitted to PPP lenders. This change will be applied to SBA forgiveness payments with a status of “Payment Confirmed” dated December 29, 2020 or later.

For those loans where SBA remitted a forgiveness payment to a PPP lender that was reduced by an EIDL Advance, SBA will automatically remit a reconciliation payment to the PPP lender for the previously-deducted EIDL Advance amount, plus interest through the remittance date. PPP lenders are not required to request remittance of the reconciliation payment.

SBA will identify forgiveness payments that were reduced by EIDL Advances and automatically remit a reconciliation payment to the ACH account identified by the PPP lender in the [Forgiveness Platform](#). Upon confirmation that the payment has been accepted by the PPP lender, SBA will generate a Notice of Paycheck Protection Program Reconciliation Payment that will be available in the [Forgiveness Platform](#).

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<sup>1</sup> See Section 333 of the Economic Aid Act.

The PPP lender is responsible for notifying the borrower of the reconciliation payment. The PPP lender is also responsible for re-amortizing the loan and notifying the borrower of the amount of the next payment due, or advising the borrower that the loan has been paid in full, whichever is applicable. If the amount remitted by SBA to the PPP lender exceeds the remaining principal balance of the PPP loan (because the borrower made a payment on the loan), the PPP lender must remit the excess amount, including accrued interest paid by the borrower, to the borrower.

Questions concerning this Notice may be directed to the Lender Relations Specialist in the local SBA Field Office. Local SBA Field Offices can be found at <https://www.sba.gov/tools/local-assistance/districtoffices>

Jihoon Kim  
Director  
Office of Financial Program Operations



# SBA Procedural Notice

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**TO:** All SBA Employees and Paycheck Protection Program Lenders

**CONTROL NO.:** 5000-20076

**SUBJECT:** First Draw Paycheck Protection Program Loan Increases After Enactment of the Economic Aid Act

**EFFECTIVE:** January 13, 2021

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The Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act (Economic Aid Act or Act) (Pub. L. 116-260) changed the existing Paycheck Protection Program (PPP) rules regarding increases to PPP loans. Under previous PPP rules, a First Draw PPP Loan could not be increased unless the loan was made to a partnership or seasonal employer and the Lender approved the increase before the Lender submitted the initial SBA Form 1502 (1502) report for the loan. Section 312 of the Economic Aid Act provides for additional narrow circumstances under which certain eligible borrowers that received a First Draw PPP Loan may reapply for a First Draw PPP Loan or request an increase in a First Draw PPP Loan that was approved on or before August 8, 2020. The purpose of this Notice is to guide SBA employees and Lenders on the procedures for such reapplications or requests for increases for a First Draw PPP Loan that was approved on or before August 8, 2020. This Notice also discusses how Lenders can obtain the additional processing fee that is due on the increased loan amount (if not previously paid by SBA), and how Lenders can obtain a processing fee on a reapplication.

The interim final rule titled “Business Loan Program Temporary Changes; Paycheck Protection Program as Amended by Economic Aid Act” (the “Consolidated IFR”) [posted](#) on SBA’s website on January 6, 2021, describes the additional narrow circumstances under which certain eligible borrowers may reapply for a new First Draw PPP Loan or request an increase to a First Draw PPP Loan approved on or before August 8, 2020. First Draw PPP Loan increases can be made only by the Lender of Record,<sup>1</sup> and only under the circumstances outlined in this Notice. No

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<sup>1</sup> As used herein, the “Lender of Record” is the Lender that is reflected on SBA’s system as the current owner of the First Draw PPP Loan. If the First Draw PPP Loan was sold after loan origination, the Lender of Record is the Lender that purchased the loan. As used herein, the “Originating Lender” is the Lender that processed the First Draw PPP Loan application and received the SBA loan number.

other First Draw PPP Loan increases are allowed. If SBA has remitted a forgiveness payment to the Lender on a First Draw PPP Loan, no loan increases or reapplications are allowed.<sup>2</sup>

### **Partnerships:**

If a partnership received a First Draw PPP Loan that only included amounts necessary for payroll costs of the partnership's employees and other eligible operating expenses, but did not include any amount for partner compensation, and SBA has not remitted a forgiveness payment to the Lender on that loan, the Lender of Record may electronically submit a request through SBA's E-Tran Servicing site (E-Tran) to increase the First Draw PPP Loan amount to include appropriate partner compensation, even if the loan has been fully disbursed and even if the Lender's first 1502 report to SBA on the First Draw PPP Loan has already been submitted.<sup>3</sup> The amount of the increase may not exceed the maximum loan amount to which the borrower is entitled under PPP rules, and in no event can the increased loan amount exceed the maximum PPP loan amount (\$10 million for an individual borrower or \$20 million for a corporate group). Additionally, the borrower must provide the Lender of Record with all required documentation to support the calculation of the increase to include partner compensation, and the Lender must comply with the loan amount underwriting requirements in paragraph C.3. of the Consolidated IFR. Any request for an increase must be submitted electronically in E-Tran by the Lender of Record on or before March 31, 2021, and is subject to the availability of funds. SBA will pay an additional processing fee to the Originating Lender on the amount of the increase.

### **Seasonal Employers:**

Section 336 of the Economic Aid Act revised the method by which a seasonal employer may determine its maximum loan amount for purposes of the PPP to allow the seasonal employer to use the average total monthly payments for payroll for any 12-week period selected by the seasonal employer beginning February 15, 2019, and ending February 15, 2020.<sup>4</sup> If a seasonal employer received a First Draw PPP Loan and SBA has not remitted a forgiveness payment to the Lender on that loan, the seasonal employer would be eligible for an increase if application of the methodology in Section 336 of the Economic Aid Act results in the calculation of a higher loan amount. In that case, the Lender of Record may electronically submit a request through E-Tran to increase the seasonal employer's First Draw PPP Loan amount, even if the loan has been fully disbursed and even if the Lender's first 1502 report to SBA on the PPP loan has already been submitted. The amount of the increase may not exceed the maximum loan amount to which the borrower is entitled under PPP rules, and in no event can the increased loan amount exceed the maximum PPP loan amount (\$10 million for an individual borrower or \$20 million for a corporate group). Additionally, the borrower must provide the Lender of Record with all required documentation to support the calculation of the increase due to the newly-selected 12 week period, and the Lender must comply with the loan amount underwriting requirements in paragraph C.3. of the Consolidated IFR. Any request for an increase must be submitted

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<sup>2</sup> However, the borrower may be eligible for a Second Draw PPP Loan.

<sup>3</sup> See subsection D.6. of the Consolidated IFR.

<sup>4</sup> See subsection D.7. of the Consolidated IFR.

electronically in E-Tran by the Lender of Record on or before March 31, 2021, and is subject to the availability of funds. SBA will pay an additional processing fee to the Originating Lender on the amount of the increase.

### **Farmers and Ranchers:**

Section 313 of the Economic Aid Act changed the calculation of the maximum loan amount for certain farmers and ranchers. This calculation is described in subsection B.4.d. of the Consolidated IFR. If an eligible farmer or rancher received a First Draw PPP Loan and SBA has not remitted a forgiveness payment to the Lender on that loan, and such farmer or rancher would be eligible for a higher maximum loan amount based on the formula described in subsection B.4.d. of the Consolidated IFR, the Lender of Record may electronically submit a request through E-Tran to increase the First Draw PPP Loan amount, even if the loan has been fully disbursed and even if the Lender's first 1502 report to SBA on the PPP loan has already been submitted. The amount of the increase may not exceed the maximum loan amount to which the borrower is entitled under PPP rules, and in no event can the increased loan amount exceed the maximum PPP loan amount (\$10 million for an individual borrower). Additionally, the borrower must provide the Lender of Record with all required documentation to support the calculation of the increase under the new methodology, and the Lender must comply with the loan amount underwriting requirements in paragraph C.3. of the Consolidated IFR. Any request for an increase must be submitted electronically in E-Tran by the Lender of Record on or before March 31, 2021, and is subject to the availability of funds. SBA will pay an additional processing fee to the Originating Lender on the amount of the increase.

### **Other PPP Borrowers Eligible for a PPP Loan Increase (or Reapplication):**

#### 1. Eligible Borrowers that fully repaid a First Draw PPP Loan before December 27, 2020:

If an eligible borrower received a First Draw PPP Loan, the Lender reported to SBA before December 27, 2020 that the borrower fully repaid the loan, and SBA has not remitted a forgiveness payment to the Lender on that loan, the borrower may reapply for a new First Draw PPP Loan in an amount for which the borrower is eligible under current PPP rules.<sup>5</sup> All reapplications are subject to the availability of funds. Lenders may approve such a reapplication if the borrower is eligible for a First Draw Loan under current PPP rules. The reapplication procedure depends on whether the Lender reported the loan to SBA as "cancelled" or "paid in full" as a result of the borrower's repayment before December 27, 2020. The reapplication procedure applies only to those loans reported as "cancelled" or "paid in full" by the lender because the borrower returned the full amount of the original loan amount prior to December 27, 2020.

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<sup>5</sup> See subsection D.8. of the Consolidated IFR. For clarification, any First Draw PPP Loan reported as "paid in full" by a Lender due to SBA's remittance of a forgiveness payment in any amount to the Lender is not eligible for a reapplication. However, the borrower may be eligible for a Second Draw PPP Loan.

If the Lender reported the First Draw PPP Loan as “cancelled” to SBA after the borrower’s full repayment before December 27, 2020, no further action must be taken by the Lender in order for the borrower to be able to reapply for a new First Draw PPP Loan. Because the First Draw PPP Loan was reported as “cancelled,” such borrowers may in good faith make the certification on the PPP Borrower Application Form Revised January 8, 2021 (SBA Form 2483) that “the Applicant has not and will not receive another loan under the Paycheck Protection Program, Section 7(a)(36) of the Small Business Act (15 U.S.C. 636(a)(36)).” In this circumstance, the borrower may reapply for a new First Draw PPP Loan with any participating PPP Lender.

However, if the Lender reported the First Draw PPP Loan as “paid in full” following the return of all funds by the borrower before December 27, 2020, SBA’s loan processing system will not allow a reapplication to be processed until the Lender of Record changes the reported status of the First Draw PPP Loan in E-Tran from “paid in full” to “cancelled” by following the instructions below:

- a. On the 1502 information page in E-Tran: Change the loan status to “Disbursed Current,” enter the original total loan amount in the outstanding balance field, and then select save at the bottom of the screen.
- b. Pull up the loan in E-Tran again, select the 1502 information page, change the status to “Active Undisbursed,” enter zero in the outstanding balance field, enter the full loan amount in the total amount undisbursed field, and then select save at the bottom of the screen.
- c. After changing the status to “Active Undisbursed” (step b), pull up the loan in E-Tran again, select the cancel icon at the top of the screen, select the circle for “yes” to cancel, and then select save. The loan status should change to “Fully Cancelled.”

The Lender of Record must not change a loan status from “paid in full” to “cancelled” unless the borrower returned the full amount of the original loan amount prior to December 27, 2020. After the Lender of Record has successfully completed these steps, the Lender of Record (or any participating PPP Lender) can submit a reapplication for a new First Draw PPP Loan. Because the First Draw PPP Loan was successfully reported as “cancelled,” such borrowers may in good faith make the certification on the PPP Borrower Application Form Revised January 8, 2021 (SBA Form 2483) that “the Applicant has not and will not receive another loan under the Paycheck Protection Program, Section 7(a)(36) of the Small Business Act (15 U.S.C. 636(a)(36)).”

On all reapplications for new First Draw PPP Loans, the Lender must comply with the loan amount underwriting requirements found in subsection C.3. of the Consolidated IFR. Any disbursement on a reapplication must be reported by the Lender on a 1502 report within 20 days of approval of the reapplication. SBA will pay a processing fee to the Originating Lender on any new First Draw PPP Loan, calculated in accordance with subsection C.5. of the Consolidated IFR.

## 2. Borrowers that returned part of a First Draw PPP Loan before December 27, 2020:

If a borrower returned (or repaid) part of a First Draw PPP Loan, the Lender reported to SBA before December 27, 2020 that the borrower repaid the loan in part, and SBA has not remitted a

forgiveness payment to the Lender on that loan, the Lender of Record may approve a borrower's request for a loan increase and re-disburse funds equal to the difference between the amount retained by the borrower and the amount previously approved.<sup>6</sup> After re-disbursing the loan increase amount, the Lender must ensure that the loan amount and status are correctly reported on the next 1502 report submitted by the Lender.

For example, if a First Draw PPP Loan was originally approved in SBA's loan processing system for \$100,000, the Lender disbursed \$100,000 to the borrower, the Lender reported the fully disbursed amount to SBA on the 1502 report, and the Lender reported before December 27, 2020 that the borrower repaid \$25,000 to the Lender because the borrower could not spend the funds during the covered period (retaining \$75,000), the lender can make an additional disbursement of \$25,000 on the loan to increase the outstanding balance of the loan back to the approved amount of \$100,000, provided SBA has not remitted a forgiveness payment to the Lender on that loan. Because the Lender previously reported the \$25,000 borrower repayment on the loan to SBA on the 1502 report and E-Tran currently reflects an outstanding balance of \$75,000 on the loan, the Lender must report a corrected balance of \$100,000 on the loan on the first 1502 report submitted by the Lender after the \$25,000 re-disbursement. If SBA previously paid the Originating Lender a processing fee based on the \$100,000 fully disbursed amount, SBA will not pay the Originating Lender any additional processing fee as a result of the re-disbursement.

Any re-disbursement of the increased amount must be reported by the Lender on a 1502 report on or before March 31, 2021, and is subject to the availability of funds.

### 3. Borrowers that did not accept the full amount of a First Draw PPP Loan for which they were approved:

If a borrower did not accept before December 27, 2020 the full amount of a First Draw PPP Loan for which it was approved in SBA's E-Tran Origination site and SBA has not remitted a forgiveness payment to the Lender on that loan, the borrower may request an increase and the Lender of Record may approve and disburse a loan increase in the amount of the First Draw PPP Loan up to the amount previously approved.<sup>7</sup> The process for obtaining the loan increase in this situation differs depending on how the Lender previously reported to SBA before December 27, 2020 that the borrower did not accept the full amount of the First Draw PPP Loan.

If the Lender reported the loan as partially disbursed for the lower amount and did not process a decrease of the loan in E-Tran, the Lender may make a second disbursement on the loan to the borrower up to the full approved amount in E-Tran, provided that SBA has not remitted a forgiveness payment to the Lender on that loan. For example, E-Tran currently reflects an approved loan amount of \$100,000. The Lender reported to SBA on the 1502 report that it disbursed \$50,000 on the loan. If the Lender never decreased the approved loan amount in E-Tran to \$50,000, the Lender can disburse an additional \$50,000 to the borrower and report that disbursement on the next 1502 report filed for the loan. The disbursement of the increased

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<sup>6</sup> See subsection D.8. of the Consolidated IFR.

<sup>7</sup> See subsection D.8. of the Consolidated IFR.

amount must be reported by the Lender on a 1502 report on or before March 31, 2021, and is subject to the availability of funds. In this example, SBA will pay the full processing fee to the Originating Lender because it has not been previously paid.

If the Lender processed a decrease of the approved loan amount in E-Tran, the Lender may process an increase on the loan. For example, a borrower was originally approved for \$100,000, but the borrower only accepted \$50,000 (never receiving the full approval amount), the Lender decreased the approved loan amount in E-Tran to \$50,000, and reported disbursement of \$50,000 on the 1502 report. In this scenario, the Lender may process a loan increase of \$50,000 on the loan, provided that SBA has not remitted a forgiveness payment to the Lender on that loan. The process for obtaining a loan increase using E-Tran is set forth in the “Section 1102 of the CARES Act – Paycheck Protection Program (PPP)” section of the FTA’s [Downloads and Resources](#) page. After the Lender successfully processes a loan increase in E-Tran, the Lender must disburse the increased amount to the borrower within 10 calendar days and report the increase on the next 1502 report. In this example, SBA will pay the Originating Lender a processing fee on the increased amount.

Any request for an increase must be submitted electronically by the Lender in E-Tran on or before March 31, 2021, and is subject to the availability of funds.

### **Other Applicable Procedures:**

#### 1. Disbursement:

If a First Draw PPP Loan is increased in any of the manners described above, the lender must make a single additional disbursement of the increased loan proceeds within 10 calendar days of the Lender’s successful processing of the increase in E-Tran. If a reapplication for a new First Draw PPP Loan is approved as described above, the Lender must make a one-time, full disbursement of the PPP loan within ten calendar days of loan approval; for the purposes of the PPP, a loan is considered approved when the loan is assigned a loan number by SBA.<sup>8</sup>

#### 2. Limitation of One First Draw PPP Loan:

A borrower may reapply for a new First Draw PPP Loan in accordance with this Notice notwithstanding the prohibition on more than one First Draw PPP Loan.

### **Lender Instructions for SBA Form 1502 Reporting and Making Changes to Loan Statuses and Loan Amounts:**

SBA’s Fiscal Transfer Agent (FTA) provides step-by-step instructions for 1502 reporting and for making changes to loan statuses and loan amounts. Instructions are posted in the “Section 1102 of the CARES Act – Paycheck Protection Program (PPP)” section of the FTA’s [Downloads and Resources](#) page.

### **Lender Instructions for First Draw PPP Loan Reapplications:**

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<sup>8</sup> See subsection D.5. of the Consolidated IFR.



Instructions for submitting a reapplication for a new First Draw PPP Loan can be found in the welcome email sent to all lenders from SBA as well as on the [SBA Paycheck Protection Platform](#) (previously known as the Loan Forgiveness Platform).

### **Lender Responsibilities and Additional Information:**

1. Lenders approve reapplications for new First Draw PPP Loans and increases to First Draw PPP Loans under lenders' delegated authority. Lenders may not approve reapplications for new First Draw PPP Loans or increases to First Draw PPP Loans for borrowers where SBA has remitted a forgiveness payment in any amount to the Lender on that loan; however, such borrowers remain eligible for Second Draw PPP Loans if they meet the eligibility criteria for Second Draw PPP Loans.
2. If the Lender has submitted a forgiveness decision to SBA and SBA has not yet remitted the forgiveness payment to the Lender, the Lender must withdraw the forgiveness decision from the SBA Paycheck Protection Platform prior to taking any actions contemplated in this Notice.
3. Lenders submit reapplications for new First Draw PPP Loans using the SBA Paycheck Protection Platform to request an SBA loan number for First Draw PPP Loans. Lenders request increases to First Draw PPP Loans through E-Tran.
4. Only the Lender of Record may increase a loan.
5. For reapplications and increases, Lenders must comply with the loan amount underwriting requirements in paragraph C.3. of the Consolidated IFR.
6. Lenders must disburse loan increases or reapplications in a single disbursement within 10 calendar days of successful processing of the increase in E-Tran or issuance of the SBA loan number for reapplications. Except for those 1502 reports identified in this Notice that must be submitted on or before March 31, 2021, Lenders must submit the 1502 report within 20 calendar days after a First Draw PPP Loan increase is successfully processed in E-Tran or after the issuance of the SBA loan number for reapplications. Lenders may report PPP Loan increases and reapplications in the same batch 1502 report with PPP First Draw Loans and PPP Second Draw Loans. Lenders must not commingle PPP Loans with regular 7(a) Loans in a batch 1502 report.

### **Processing Fees:**

Lender processing fees due and payable by SBA, if any, including fee differentials due to loan increases and processing fees on reapplications, will be remitted to the Originating Lender in accordance with SBA Procedural Notice 5000-20036 (July 13, 2020). For loan increases, processing fees will be calculated in accordance with the PPP rules in effect at the time the borrower submitted its original First Draw PPP Loan application. For reapplications, processing fees will be calculated in accordance with subsection C.5. of the Consolidated IFR. In order to obtain a processing fee on a reapplication or a loan increase, the Lender must follow the procedures set forth in SBA Procedural Notice 5000-20036 and this Notice.

## Revised Lender Confirmation:

By submitting a 1502 report on a First Draw PPP Loan or a Second Draw PPP Loan on or after the effective date of this Notice, any PPP Lender that submitted a 1502 report for a PPP Loan before such date agrees to the following revision to the one-time certification previously made by such Lender:<sup>9</sup>

By checking the “I confirm” box below, Lender is agreeing that for each SBA Form 1502 report submitted by Lender to request payment of First Draw Loan or Second Draw Loan Paycheck Protection Program (PPP) processing fees, Lender confirms that:

(1) except for any First Draw Loan included in the report that has been or may be increased, (a) all First Draw Loans and Second Draw Loans included in the report were fully disbursed to the borrowers on the disbursement dates entered and in the loan amounts entered in the report, and (b) Lender will make no further disbursements on the First Draw Loans and Second Draw Loans included in the report;

(2) for any First Draw Loan included in the report that has been increased, (a) Lender approved the increase in accordance with PPP requirements, (b) Lender has fully disbursed the increased amount to the borrower on the disbursement date entered and in the amount entered in the report, and (c) Lender will make no further disbursements on the First Draw Loan;

(3) all information in the report is true and correct; and

(4) the report has been submitted by an authorized employee or agent of Lender acting within the scope of Lender’s authority and Lender acknowledges responsibility for all entries and certifications made on its behalf.

PPP Lenders submitting a 1502 report for a PPP loan for the first time will be required to make this revised one-time confirmation in the Lender’s FTA portal upon submission of their first 1502 report requesting payment of PPP processing fees.

## Unresolved Borrowers:

If a First Draw PPP Loan is under review pursuant to PPP rules and/or information in SBA’s possession indicates that the borrower may have been ineligible for the First Draw PPP Loan it received or for the loan amount received by the borrower, the Lender of Record will receive notification from SBA when the Lender submits a request for increase of the First Draw PPP Loan or submits a reapplication for a First Draw PPP Loan (“unresolved borrower”).<sup>10</sup> If the Lender receives notification of an unresolved borrower, the Lender will not be able to process an

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<sup>9</sup> The revised confirmation will also be posted on the home page to the 1502 Dashboard (before the Lender logs in). By logging in to the 1502 Dashboard, the Lender will be agreeing to the revised Lender confirmation.

<sup>10</sup> This process also applies to Second Draw PPP Loans.

increase on the First Draw PPP Loan, nor will the Lender be able to obtain an SBA loan number on a First Draw PPP Loan reapplication. SBA will resolve expeditiously the issue related to the unresolved borrower and will notify the Lender of the process to obtain an increase on the First Draw PPP Loan or obtain a loan number on a First Draw PPP Loan reapplication, if appropriate.

**Loan Increase Availability:**

Lenders may approve increases on First Draw PPP Loans starting on January 25, 2021.

**Questions:**

Lenders may call the Lender Hotline at (833) 572-0502 for live assistance regarding platform access and support, policy questions and procedures, and Capital Access Financial system (CAFS) and SBA's Electronic Transmission (E-Tran) systems support. Lenders may also direct general PPP forgiveness questions to [PPPForgivenessRequests@sba.gov](mailto:PPPForgivenessRequests@sba.gov); requests for advanced technical support, API support and UAT error support to [developer@ussbaforgiveness.com](mailto:developer@ussbaforgiveness.com); and requests for assistance on SBA Paycheck Protection Platform navigation and platform user experience issues to [help@ussbaforgiveness.com](mailto:help@ussbaforgiveness.com).

Questions concerning this Notice may be directed to the Lender Relations Specialist in the local SBA Field Office, which can be found at:

<https://www.sba.gov/tools/local-assistance/districtoffices>.

Dianna L. Seaborn  
Director  
Office of Financial Assistance



# SBA Procedural Notice

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**TO:** All SBA Employees and Paycheck Protection Program Lenders

**CONTROL NO.:** 5000-20078

**SUBJECT:** Paycheck Protection Program Excess Loan Amount Errors

**EFFECTIVE:** January 15, 2021

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This Notice informs Paycheck Protection Program (PPP) lenders of the effects of “excess loan amount errors” made by the borrower or the lender in completing the PPP Borrower Application Form (SBA Form 2483, SBA Form 2483-SD, or lender’s equivalent form) or the PPP Lender Application Form (SBA Form 2484 or SBA Form 2484-SD) for First Draw PPP Loans and Second Draw PPP Loans (collectively, “PPP loans”).

An excess loan amount error is a borrower or lender error made in good faith that caused a borrower to receive a PPP loan amount that exceeds the borrower’s correct maximum loan amount under the CARES Act and the Economic Aid Act.<sup>1</sup> An excess loan amount error does not include a knowing misstatement. Knowing misstatements may result in additional action, such as charges for fraud.

***Example 1: Borrower Error:*** Borrower mistakenly failed to subtract amounts paid to employees in excess of \$100,000 (annualized and prorated) from reported payroll costs, as required by the CARES Act and Economic Aid Act. Lender performed a good faith review, in a reasonable time, of the borrower’s calculations and supporting documents concerning average monthly payroll costs, and did not identify an error in the borrower’s calculation of its payroll costs. As a result, the loan amount approved for the borrower exceeded the borrower’s maximum loan amount.

***Example 2: Borrower Error:*** Borrower mistakenly included payments to an independent contractor in its calculation of payroll costs on its PPP Borrower Application Form. Lender performed a good-faith review, in a reasonable time, of the borrower’s calculations and supporting documents concerning average monthly payroll costs and did

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<sup>1</sup> 15 U.S.C. 636(a)(36)(E) and (37)(C).

not identify the error. As a result, the loan amount approved for the borrower exceeded the borrower's correct maximum loan amount.

**Example 3: Lender Error:** Borrower applied for and was eligible for a \$25,000 PPP loan. Lender inadvertently approved borrower for a \$35,000 loan due to a lender employee data input error. As a result, the borrower's approved loan amount exceeded the borrower's correct maximum loan amount.

### **What is the effect of an excess loan amount error on loan forgiveness?**

A borrower may not receive loan forgiveness for any amount that exceeds the correct maximum loan amount permitted by statute for that borrower.<sup>2</sup> This is true whether the excess loan amount was caused by borrower error or lender error.

When preparing or reviewing a loan forgiveness application, if a borrower or lender identifies an error that resulted in a borrower receiving a larger PPP loan than the borrower was eligible to receive, the lender must issue a decision to SBA denying forgiveness for the amount that exceeded the borrower's correct maximum loan amount.<sup>3</sup> If an excess loan amount error is discovered after the lender has already submitted a forgiveness decision to SBA, the lender should promptly request the withdrawal of the lender loan forgiveness decision by notifying SBA through the [SBA Paycheck Protection Platform](#). The lender may then submit a new lender loan forgiveness decision for the correct amount through the SBA Paycheck Protection Platform. A borrower must repay any unforgiven portion of a PPP loan.<sup>4</sup> If a lender discovers an excess loan amount error after SBA has issued a final loan forgiveness decision and remitted payment, lender must promptly notify the borrower and SBA through the SBA Paycheck Protection Platform.

### **What is the effect of an excess loan amount error on the SBA's loan guarantee?**

*Borrower Error.* If an excess loan amount error is due solely to the borrower's error in completing the loan application form, the borrower error does not invalidate SBA's guarantee of the PPP loan.

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<sup>2</sup> See, e.g., 85 Fed. Reg. 33012 (“[I]f SBA determines that the borrower is ineligible for the loan amount or loan forgiveness amount claimed by the borrower, SBA will direct the lender to deny the loan forgiveness application in whole or part, as appropriate.”); 85 Fed. Reg. 38306 (“If SBA determines in the course of its review that the borrower was ineligible for the PPP loan based on the provisions of the CARES Act, SBA rules or guidance available at the time of the borrower's loan application, or the terms of the borrower's PPP loan application ... the loan will not be eligible for loan forgiveness.”).

<sup>3</sup> See 85 Fed. Reg. 33012; 85 Fed. Reg. 38306. The lender's loan forgiveness decision should also deny forgiveness for any other portion of the loan if required under the PPP rules that have been issued by the Small Business Administration (SBA) and the Department of the Treasury implementing the Paycheck Protection Program, including Second Draw Paycheck Protection Program Loans, under Division A, Title I of the Coronavirus Aid, Relief, and Economic Security Act and Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act.

<sup>4</sup> 15 U.S.C. 636(a)(36)(K).

For example, if a borrower received a PPP loan amount that exceeds its correct maximum loan amount because the borrower incorrectly calculated its payroll costs and a good-faith review, in a reasonable time, of the borrower's calculations and supporting documents concerning average monthly payroll cost by the lender did not identify the error, the SBA guarantee would remain in effect. However, excessive occurrences or patterns of undetected borrower errors may indicate a lender did not perform a good-faith review of borrowers' calculations or supporting documents concerning average monthly payroll costs and could be grounds for further review of the lender by SBA, which could affect the guarantee.

*Lender Error.* If an excess loan amount error is due in whole or in part to the lender's failure to satisfy its obligations under PPP rules<sup>5</sup> (as further explained in FAQ 1) and the document collection and retention requirements described in the lender application form (SBA Form 2484 and SBA Form 2484-SD), the SBA guarantee will not apply to the excess loan amount. For example, if the lender approved a borrower for a loan amount for which the borrower did not submit payroll documentation, it indicates that the lender did not satisfy its PPP lender obligations (as further explained in FAQ 1) and the document collection and retention requirements described in the lender application form (SBA Form 2484 and SBA Form 2484-SD) with respect to the loan. Accordingly, the SBA guarantee would not apply to the portion of the loan amount that exceeds the borrower's correct maximum loan amount.

### **What is the effect of an excess loan amount error on a borrower's obligations?**

If the lender or SBA, as applicable, determines a borrower was ineligible for any portion of its loan amount, forgiveness will be denied for the ineligible portion and the borrower must begin making payments on the remaining loan amount.<sup>6</sup> Any unforgiven loan amounts remain obligations of the borrower, even if the borrower was ineligible to receive some or all of the loan.

### **Questions:**

Lenders may call the Lender Hotline at (833) 572-0502 for live assistance regarding platform access and support, policy questions and procedures, and Capital Access Financial system (CAFS) and SBA's Electronic Transmission (E-Tran) systems support. Lenders may direct loan-specific inquiries to the SBA Paycheck Protection Platform inbox; general PPP forgiveness questions to [PPPForgivenessRequests@sba.gov](mailto:PPPForgivenessRequests@sba.gov); requests for advanced technical support, API support and UAT error support to [developer@ussbaforgiveness.com](mailto:developer@ussbaforgiveness.com); and requests for assistance on SBA Paycheck Protection Platform navigation and platform user experience issues to [help@ussbaforgiveness.com](mailto:help@ussbaforgiveness.com).

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<sup>5</sup> These obligations are described in the initial PPP Interim Final Rule (85 Fed. Reg. 20811), subsection C.3. of the consolidated PPP Interim Final Rule (posted on SBA's website Jan. 6, 2021) and subsection (h)(2) of the second draw PPP Interim Final Rule (posted on SBA's website Jan. 6 2021) (collectively, PPP lender obligations).

<sup>6</sup> See 85 Fed. Reg. 38310-11; see also subsection B.9. of the consolidated PPP Interim Final Rule (posted on SBA's website Jan. 6, 2021).

Questions concerning this Notice may be directed to the Lender Relations Specialist in the local SBA Field Office, which can be found at <https://www.sba.gov/tools/local-assistance/districtoffices>.

Jihoon Kim  
Director  
Office of Financial Program Operations



# SBA Procedural Notice

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**TO:** All SBA Employees and Paycheck Protection Program Lenders

**CONTROL NO.:** 5000-20077

**SUBJECT:** Paycheck Protection Program Borrower Resubmissions of Loan Forgiveness Applications Using Form 3508S, Lender Notice Responsibilities to PPP Borrowers, and Offset of Remittances to Lenders for Lender Debts

**EFFECTIVE:** January 15, 2021

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The purpose of this Notice is to inform Paycheck Protection Program (PPP) lenders of (1) the process for borrower resubmission of loan forgiveness applications using PPP Loan Forgiveness Application Form 3508S (SBA Form 3508S); (2) lender responsibilities to notify borrowers of (a) lender decisions to deny forgiveness in full, (b) SBA loan review decisions and borrower appeal rights to SBA's Office of Hearings and Appeals (OHA), and (c) SBA remittance of loan forgiveness payments; and (3) lender responsibilities in the event of offset of PPP remittances to lenders by the Treasury Offset Program (TOP).

**I. Borrower Resubmission of a Loan Forgiveness Application using SBA Form 3508S**

A borrower that is eligible to use SBA Form 3508S, but applied for loan forgiveness using PPP Loan Forgiveness Application Form 3508EZ or 3508, may resubmit its loan forgiveness application to its lender using SBA Form 3508S at any time until SBA notifies the lender of a final SBA loan review decision or remits to the lender the PPP loan forgiveness payment. If a lender receives a timely borrower resubmission of a loan forgiveness application using SBA Form 3508S, the lender should promptly request the withdrawal of any lender loan forgiveness decision by notifying SBA through the [SBA Paycheck Protection Platform](#).<sup>1</sup> Resubmissions after SBA notifies the lender of a final SBA loan review decision or remits to the lender the PPP loan forgiveness payment are not permitted.

After a borrower's resubmission of a complete loan forgiveness application, the lender must issue a decision to SBA on the new loan forgiveness application not later than 60 days after receipt of the complete loan forgiveness application. When the lender issues its forgiveness decision to SBA on the new loan forgiveness application, SBA will, subject to any SBA review

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<sup>1</sup> <https://forgiveness.sba.gov/accounts/login/?next=/>.



of the loan or loan application, remit the appropriate forgiveness amount to the lender, plus any interest accrued through the date of payment, not later than 90 days after the lender issues its forgiveness decision to SBA.

## **II. Notification Responsibilities**

Lenders must keep borrowers informed of certain actions during the PPP loan forgiveness process. Specifically, lenders must notify borrowers in writing within 5 business days of any of the following:

- A decision by the lender to deny forgiveness in full.
- A decision by SBA declining a request for review by a borrower of a lender's decision to deny forgiveness in full.
- A final SBA loan review decision, including an SBA loan review decision on forgiveness (whether approving or denying forgiveness in full or part).
- Remittance by SBA to the lender of the loan forgiveness amount, whether partial or full.

The information that lenders must include with their notifications to borrowers is described below. After sending the notification to the borrower, the lender must upload a copy of the notification correspondence to the [SBA Paycheck Protection Platform](#).

Lenders must take care to avoid providing erroneous information to borrowers regarding requests for SBA review of lender loan forgiveness decisions<sup>2</sup> or regarding borrower appeal rights, which are limited to certain specific circumstances, as described below.

### **A. Lender Decision to Deny Forgiveness in Full**

If the lender issues to SBA a decision denying the borrower's loan forgiveness application in full, the lender must notify the borrower in writing of that decision. Such notice to the borrower must be provided within 5 business days and include the reasons that the lender concluded that the borrower is not entitled to loan forgiveness in any amount and inform the borrower that the borrower has 30 calendar days from receipt of the notification to seek, through the lender, SBA review of the lender's decision. Lenders are to upload a copy of the notification correspondence to the SBA Paycheck Protection Platform at the time the lender submits its full denial decision to SBA as directed in Paragraph II above.

Lenders that receive from borrowers requests for SBA review of full denial of forgiveness decisions must submit those requests to SBA through the SBA Paycheck Protection Platform within five business days of receipt. SBA will accept or decline in its sole discretion borrower requests for review of lender forgiveness full denial decisions. SBA will notify the lender if SBA decides to review the lender's decision or if SBA declines a borrower's request for review. If the borrower does not timely request SBA review or if SBA declines the request for review, the lender is responsible for notifying the borrower of the date on which the borrower's first PPP

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<sup>2</sup> In accordance with PPP rules and guidance, a borrower may request SBA review only of a lender decision denying loan forgiveness in full.

loan payment is due and the amount of the payment.<sup>3</sup> If SBA decides to review the lender's decision, SBA will issue an SBA final loan review decision to the lender upon completion of SBA's review. The lender must send a copy of that decision to the borrower as described in Paragraph II.B below.

## **B. SBA Loan Review Decision**

When SBA selects a PPP loan for an SBA loan review, SBA will provide the lender with a Notification of Paycheck Protection Program Loan Review (Loan Review Notification) through the SBA Paycheck Protection Platform. The Loan Review Notification will require the lender to upload certain additional documents to the SBA Paycheck Protection Platform, in accordance with PPP rules and guidance. After completion of the loan review, SBA will issue a final SBA loan review decision (which is an official written decision by SBA) to the lender through the SBA Paycheck Protection Platform.

When SBA issues a final SBA loan review decision to a lender, the lender must provide a copy of SBA's decision to the borrower within 5 business days of the date of the decision. The SBA loan review decision will generally include the reasons for SBA's decision, and, if applicable, the amount approved in the lender's forgiveness decision and the forgiveness amount determined by SBA.

Any final SBA loan review decision that is appealable to OHA by the borrower will include a notice of the borrower's right to appeal the decision in accordance with SBA's interim final rule "Appeals of SBA Loan Review Decisions Under the Paycheck Protection Program."<sup>4</sup> Pursuant to 13 CFR § 134.1201(b), a PPP borrower has the right to appeal to OHA only a final SBA loan review decision that finds a borrower:

1. was ineligible for a PPP loan;
2. was ineligible for the PPP loan amount received or used the PPP loan proceeds for unauthorized uses;
3. is ineligible for PPP loan forgiveness in the amount determined by the lender in its full approval or partial approval decision issued to SBA; and/or
4. is ineligible for PPP loan forgiveness in any amount when the lender has issued a full denial decision to SBA.

If no final SBA loan review decision was issued or if the final SBA loan review decision that was issued does not fall into one of the four categories above, the borrower does not have a right to appeal to OHA, and the lender must not provide the borrower with any erroneous information to the contrary. Additionally, a borrower cannot file an OHA appeal of any decision made by a lender concerning a PPP loan. 13 CFR § 134.1201(c).

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<sup>3</sup> If the lender issues a loan forgiveness decision other than denying forgiveness in full (i.e., if the lender's decision approves forgiveness in full or in part), the lender must notify the borrower after the lender receives SBA's final loan review decision or SBA's remittance of a loan forgiveness payment, as described below.

<sup>4</sup> 85 FR 52883 (Aug. 27, 2020).

Any appeal to OHA must be made in accordance with the SBA Rules of Practice for Appeals of Certain SBA Loan Review Decisions Under the Paycheck Protection Program, located at 13 CFR §§ 134.1201-134.1217, including but not limited to the following:

- An appeal petition must be filed with OHA within 30 calendar days after the borrower's receipt of the final SBA loan review decision, or notification by the lender of the final SBA loan review decision, whichever is earlier. 13 CFR § 134.1204.
- The borrower's appeal petition must include the basis for OHA's jurisdiction, including evidence that the appeal is timely filed. 13 CFR § 134.1202(a)(1).
- The appeal must include a copy of the final SBA loan review decision that is being appealed. 13 CFR § 134.1202(a)(2).

An appeal to OHA (and a subsequent request for review by the Administrator of a disputed initial decision or reconsidered initial decision) are administrative remedies that must be exhausted before judicial review of a final SBA loan review decision may be sought in a federal district court. 13 CFR § 134.1216.

In accordance with SBA's PPP rules and guidance, borrowers may not appeal to OHA if, among other circumstances, the lender has issued a forgiveness decision to SBA in an amount that is less than the forgiveness amount requested by the borrower and SBA has remitted to the lender a forgiveness payment equal to the amount in the lender's forgiveness decision.

Note: OHA is currently reviewing 13 CFR § 134 Subpart L for potential redrafting. However, until there is a final rule update, these specific citations remain accurate and in effect.

### **C. Remittance of Any Portion of the Loan Forgiveness Amount by SBA to the Lender**

If SBA has not provided a Loan Review Notification to the lender (i.e., the PPP loan has not been selected for an SBA loan review), SBA will issue a Notice of Paycheck Protection Program Forgiveness Payment (Payment Notice) to the lender when it remits a loan forgiveness payment. The Payment Notice will provide information about the forgiveness remittance and will be available to the lender through the SBA Paycheck Protection Platform.

If SBA issues a Loan Review Notification advising the lender that the loan has been selected for an SBA loan review, SBA will issue a final loan review decision upon completion of the review. The final loan review decision may be accompanied by a loan forgiveness payment to the lender, if appropriate. When SBA remits a loan forgiveness payment to the lender, the lender must notify the borrower in writing of the remittance. The lender must notify the borrower within 5 business days of receipt and provide the borrower with a copy of the Payment Notice generated by the [SBA Paycheck Protection Platform](#) or SBA's final loan review decision, as applicable.

The additional information that the lender is expected to include with its notification to the borrower depends on the circumstances:

- If the lender issued a partial approval decision to SBA (i.e., the amount of the lender's forgiveness decision was less than the forgiveness amount requested by the borrower) and SBA remits the full amount approved by the lender, then the lender's notification to the borrower must include the lender's decision, including the reasons the lender approved forgiveness in part but not in full. The lender's notification to the borrower

must not indicate that the borrower may appeal the lender's decision to OHA, because the borrower has no such appeal right to OHA in this circumstance.

- If SBA remits an amount different from the amount approved by the lender, the lender's notification to the borrower must include a copy of the final SBA loan review decision, as described in Paragraph II.B above, which will notify the borrower of its right to appeal the decision to OHA.
- If SBA remits a forgiveness payment for the full amount of the PPP loan, the lender must notify the borrower within five business days of the remittance by SBA. The lender also must mark the borrower's note for the PPP loan as "Paid in Full" and include the note in the notification to the borrower. Although the note is marked "Paid in Full," the forgiven amount is considered canceled indebtedness under Section 1106(c)(1) of the CARES Act.

In addition, in any case in which SBA remits a partial forgiveness payment for a portion of the PPP loan amount, the lender must notify the borrower within 5 business days of the remittance by SBA. The notification to the borrower should state that the remaining balance on the loan must be repaid by the borrower on or before the maturity date of the loan and specify the date on which the borrower's first payment will be due and the amount of that payment. The lender must report the loan's remaining balance on the next SBA Form 1502 Report the lender submits for the PPP loan.

### **III. TOP Offsets of Remittances to Lenders for Lender Debts**

Forgiveness payment remittances made by SBA to lenders are subject to offset for delinquent debts registered with TOP that the lender owes to the United States, a State, the District of Columbia, Guam, the Virgin Islands, or Puerto Rico. If a lender has a debt that is active for collection in TOP, any forgiveness payments remitted by SBA to the lender will be offset until the lender's debt has been paid in full or otherwise resolved. If an SBA forgiveness payment is offset, in whole or in part, the lender must credit the borrower's PPP loan for the full amount of the funds that SBA approved for remittance to the lender (before offset) as set forth in the Payment Notice generated by the [SBA Paycheck Protection Platform](#) or SBA's final loan review decision. After the loan has been credited, the lender must report the remaining amount of the loan, if any, on the next SBA Form 1502 Report submitted by the lender for the PPP loan. Lenders that fail to timely and properly credit a borrower's PPP loan for the full amount of the funds that SBA approved for remittance to the lender (before offset) will be subject to SBA action, as appropriate. Lenders can obtain further information about their debts in the TOP through the Treasury Department's website at <https://fiscal.treasury.gov/top/contact.html>.

Questions concerning this Notice may be directed to the Lender Relations Specialist in the local SBA Field Office. Local SBA Field Offices can be found at <https://www.sba.gov/tools/local-assistance/districtoffices>.

Jihoon Kim  
Director  
Office of Financial Program Operations



# SBA Information Notice

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**TO:** All SBA Employees, 7(a) Lenders, Microloan Intermediaries, and Certified Development Companies

**CONTROL NO.:** 5000-20087

**EFFECTIVE:** January 28, 2021

**SUBJECT:** Updated Information on IRS Information Reporting Relating to the Payments Made on Behalf of Borrowers under Section 1112 of the CARES Act Based on Section 278 of the COVID-related Tax Relief Act of 2020

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The purpose of this Notice is to update the information provided in Information Notice 5000-20067 (December Notice), effective December 8, 2020, on IRS information reporting relating to the payments made on behalf of borrowers by SBA under Section 1112 of the Coronavirus Aid, Recovery, and Economic Security Act (CARES Act).

Based on the recent enactment of Section 278(c) of the COVID-related Tax Relief Act of 2020, SBA is hereby informing Microloan Intermediaries (Intermediaries) and 7(a) Lenders that they are no longer required to file Form 1099-MISC, Miscellaneous Income, with the IRS or furnish this form to the small businesses on whose behalf the SBA made Section 1112 payments.

## **Section 1112 Payments Excluded from Gross Income for Purposes of Internal Revenue Code**

In April 2020, SBA began making payments under Section 1112 of the CARES Act to cover, for a 6-month period, the principal, interest, and any associated fees that small businesses owe on certain 7(a) loans, 504 loans, and Microloans (“Section 1112 payments”). The December Notice stated that, in accordance with section 6041 of the Internal Revenue Code and the regulations thereunder, 7(a) Lenders and Microloan Intermediaries would be responsible for filing Form 1099-MISC, Miscellaneous Income, with the IRS and furnishing this form to the small businesses on whose behalf the SBA made Section 1112 payments.

However, Section 278(c) of the COVID-related Tax Relief Act of 2020, enacted on December 27, 2020, provides that, for purposes of the Internal Revenue Code of 1986, “any payment described in section 1112(c) of the CARES Act shall not be included in the gross income of the person on whose behalf such payment is made.” Accordingly, because the Section 1112 payments are excluded, for purposes of the Internal Revenue Code of 1986, from the gross income of the person on whose behalf the payment was made, Intermediaries and 7(a) Lenders

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**EXPIRES: 1-1-22**

SBA Form 1353.3 (4-93) MS Word Edition; previous editions obsolete

Must be accompanied by SBA Form 58

should not file or furnish Form 1099-MISC with respect to Section 1112 payments that were made during calendar year 2020. Certified Development Companies (CDCs) are advised that SBA will also not be filing or furnishing Forms 1099-MISC on Section 1112 payments to 504 borrowers.

SBA is also informing Intermediaries, 7(a) Lenders, and CDCs that this exclusion of Section 1112 payments from gross income for purposes of the Internal Revenue Code of 1986 applies to any Section 1112 payments that SBA will make in the future under the extension of the debt relief program authorized by Section 325 of the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act, enacted December 27, 2020.

### **Reporting Interest Paid by Section 1112 Payments on Form 1098**

Section 278(c)(2) of the COVID-related Tax Relief Act of 2020 provides that “no deduction shall be denied by reason of the exclusion [of the Section 1112 payments] from gross income.” Including the amount of interest paid on the loan by the Section 1112 payments on the Form 1098, Mortgage Interest Statement, furnished to small businesses will inform those businesses of the amount of Section 1112 mortgage interest they may deduct. In addition, including the amount of interest paid on the loan by the Section 1112 payments on the Form 1098 filed with the IRS will avoid discrepancies between interest reported to the IRS and interest claimed for deduction by small businesses.

SBA will follow the guidance described in this Notice with respect to 504 loans, the Microloans serviced by SBA, and the 7(a) loans that have been purchased, and are serviced, by SBA.

### **IRS Notice**

For further information regarding the waiver of information reporting requirements related to the Section 1112 payments, please refer to the notice issued by the IRS, Notice 2021-06, Waiver of Information Reporting Requirements with Respect to Certain Amounts Excluded from Gross Income, which is available at <https://www.irs.gov/pub/irs-drop/n-21-06.pdf>.

### **Questions**

Questions on this Notice may be directed to the Lender Relations Specialists in the local SBA Field office. The local SBA Field office may be found at <https://www.sba.gov/tools/local-assistance/districtoffices>. For tax information or advice related to this Notice, contact your tax advisor or accountant or IRS’s Stakeholder Liaison Local Contacts at <https://www.irs.gov/businesses/small-businesses-self-employed/stakeholder-liaison-local-contacts>.

John A. Miller  
Acting Associate Administrator  
Office of Capital Access