

SBA Issues Additional Guidance on PPP Loan Certification Requirements

Description

On May 13, 2020, the SBA revised its frequently asked questions and added question #46 – “How will SBA review borrowers’ required good-faith certification concerning the necessity of their loan request?” In order to receive a PPP loan a borrower had to certify in good faith that “current economic uncertainty makes this loan request necessary to support the ongoing operations of the Applicant.” The SBA has created a safe harbor whereby any borrower who, together with its affiliates, received a PPP loan of less than \$2 million will be deemed to have made that certification in good faith. The SBA has determined that borrowers requesting less than \$2 million “are generally less likely to have had access to adequate sources of liquidity” and are therefore eligible for the PPP loans. This should provide some comfort to those businesses that borrowed less than \$2 million that the SBA won’t take the position that the certification was not made in good faith and the business was therefore not eligible for the loan.

Additionally, for those borrowers who received loans greater than \$2 million, if in the course of a review the SBA determines that a borrower did not have an adequate basis for making that certification the SBA indicated that it will seek repayment of the outstanding loan balance. In such instance, as long as “the borrower repays the loan after receiving notification from SBA, SBA will not pursue administrative enforcement or referrals to other agencies based on its determination with respect to the certification concerning necessity of the loan request.” Accordingly, if a large loan has to be repaid the SBA is giving companies a window to repay the loans without subjecting such company to additional enforcement procedures.

The additional guidance has not changed the requirement that at least 75% of the loan has to be used for eligible payroll expenses in order to obtain full forgiveness of the loan.

A full version of the *Paycheck Protection Plan Loans Frequently Asked Questions (FAQs)* can be [viewed here](#).

Partridge Snow & Hahn’s [Business Law Group](#) is ready to answer further questions and to advise your business regarding PPP loans.

Date Created

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