NATIONAL ASSOCIATION OF PROFESSIONAL INSURANCE AGENTS
Local Agents Serving Main Street America℠

February 16, 2021

Submitted via www.regulations.gov

Hon. Tami L. Perriello
Acting Administrator
Small Business Administration
Docket Number SBA-2021-0001
409 3rd Street, SW
Washington, D.C. 20416

Hon. Janet Yellen, Secretary of the Treasury
Comments: RIN: 1505-AC74
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

RE: SBA and Treasury Department Notice entitled, "Business Loan Program Temporary Changes; Paycheck Protection Program as Amended by Economic Aid Act," Treasury RIN 1505-AC74; SBA Docket SBA-2021-0001, 86 *Fed. Reg.* 3692

Dear Administrator Perriello and Secretary Yellen:

On behalf of the National Association of Professional Insurance Agents (PIA National)[1], I hereby submit the following comments in response to the January 14, 2021 Interim Final Rule (IFR)[2] published by the U.S. Small Business Administration (SBA) and the Treasury Department. This IFR governs new Paycheck Protection Program (PPP) loans made in accordance with the Economic Aid to Hard-Hit Small Businesses, Nonprofits and Venues Act (herein referred to as the "Economic Aid Act") (Pub. L. 116-260) and applications for loan forgiveness of existing PPP loans in which forgiveness payments have not yet been made.

The rule also consolidates numerous existing PPP regulations in a single regulation regarding borrower and lender eligibility and loan origination requirements for new "first-draw" PPP loans (which may be given to borrowers seeking a PPP loan for the first time) and provides some general rules governing first-draw PPP loans and loan forgiveness.

The Economic Aid Act extends the SBA's authority to issue PPP loans until March 31, 2021, allocates more than $800 billion in additional federal funds to provide PPP loans, and revises some PPP requirements.

[1] By way of background, PIA is a national trade association founded in 1931. It represents member insurance agents in all 50 states, Puerto Rico, Guam, and the District of Columbia. PIA members are small business owners and insurance professionals who can be found across America.
[2] https://www.govinfo.gov/content/pkg/FR-2021-01-14/pdf/2021-00451.pdf.

Overview

The PPP is a federal loan program created by H.R. 748, the Coronavirus Aid, Relief, and Economic Security (CARES) Act (Pub. L. 116-136), which was signed into law in late March 2020. The full principal amount of a PPP loan may qualify for loan forgiveness, depending on how the borrower spent the loan proceeds.

Beginning in early April 2020, the SBA began to issue interim final rules implementing and clarifying various aspects of the PPP. Since that time, during which the 116th Congress also passed new laws governing the PPP, the SBA has issued twenty-three interim final rules providing additional guidance on the PPP loan borrowing and forgiveness processes. This IFR does not substantively change those PPP rules that were unaffected by the passage of the Economic Aid Act. Indeed, additional rules related to second-draw PPP loans are set forth in a corresponding IFR (SBA-2021-0002)[3], to which we will respond separately.

The IFR to which we now respond governs new PPP loans made pursuant to the Economic Aid Act and applications for loan forgiveness of existing PPP loans in which loan forgiveness payments have not yet been issued. This IFR also permits borrowers of "first-draw" PPP loans to use either 2019 or 2020 data to calculate their maximum loan amount.

PIA Supports Letting New Borrowers Use 2019 or 2020 to Calculate Maximum Loan Amounts

PIA supports the Treasury Department's decision to address the needs of new PPP borrowers by allowing them to use either 2019 or 2020 to calculate their maximum loan amounts. This flexibility ensures that new borrowers will be able to secure loans commensurate with the terms that were available to existing PPP borrowers at the time they obtained their loans. It will also ensure fairness among borrowers, old and new, and allow new borrowers to avoid the experience of having their potential loan amounts reduced because they, like so many small businesses, experienced financial hardship during 2020.

The maximum loan amount for a first-draw loan is the lesser of $10 million or 2.5 times the "average monthly payroll" for payroll costs incurred or paid by the borrower during 2019, 2020, or, if the borrower is not self-employed, the borrower may identify a precise one-year period before the date on which the loan is made. As between 2019 and 2020, the date may be chosen by the borrower. Because new borrowers may only apply once for a first-draw PPP loan,[4] borrowers who believe they may need the full amount are encouraged to apply for the maximum allowable loan amount as set forth in the IFR.

PIA Appreciates SBA's Presentation of Comprehensive Maximum Loan Calculation Methodology

The IFR lays out a clear methodology for calculating the maximum allowable loan amount for a potential first-draw borrower and provides multiple examples to demonstrate the methodology's application. This additional information will assist first-draw borrowers to appropriately calculate and request the financial aid they need.

[3] See https://www.govinfo.gov/content/pkg/FR-2021-01-14/pdf/2021-00452.pdf.
[4] Potential borrowers who obtained a PPP loan in 2020 have already received a first-draw loan and are thus not eligible for a first-draw loan now. They may, however, be eligible for a second-draw PPP loan.

PIA Supports the Expansion of Businesses Eligible for First-Draw PPP Loans

PIA supports the expansion of businesses eligible for first-draw PPP loans in the new IFR, which expands the universe of businesses eligible for first-draw PPP loans beyond those eligible for PPP loans prior to the passage of the Economic Aid Act. Specifically, according to the IFR, other eligible businesses include but are not limited to those that receive legal gaming revenues, housing cooperatives, and some Internal Revenue Code (IRC) 501(c)(6) organizations. PIA also supports the continued ineligibility of specific types of businesses, including those engaged in illegal activity, businesses that have permanently closed, and businesses that are debtors in bankruptcy proceedings, among others.

PIA Supports Inclusion of EIDL Advances in Loan Forgiveness Amounts

The Economic Aid Act repealed the CARES Act provision requiring the SBA to deduct EIDL advances received by borrowers from the forgiveness payment amounts provided by SBA to lenders. The current IFR states that EIDL advances received by borrowers will not reduce forgiveness amounts to which borrowers are entitled and will not be deducted from forgiveness payment amounts remitted by SBA to lenders.

In previous comments, PIA expressed its concern about the CARES Act provision requiring the SBA to deduct EIDL advances, and we were gratified to see this issue remedied by the Economic Aid Act. As we have noted previously, many small businessowners obtained emergency EIDL advances while their PPP loan applications were pending. Indeed, EIDL advances were essential for many businesses because EIDL advances were readily available at a time when the PPP application process was complex and its outcome uncertain.[5] Many borrowers who obtained EIDL advances did not know that their advances would be deducted from the forgiveness of any loans they would ultimately receive from the PPP.

Borrowers who sought both EIDL advances and PPP loans might have borrowed less PPP money or opted not to borrow it at all, if they would have had realized their EIDL advances would be deducted from their PPP loan forgiveness amounts. In fact, the borrowers most affected by this decision are those that acted most aggressively to protect their businesses. In that sense, the deduction of EIDL advances would have punished those who responded proactively to the looming economic crisis.

PIA Continues to Urge Greater Flexibility in Expenditure Requirement

The new PPP loan requirements continue to mandate that borrowers spend 60 percent of their loan proceeds on payroll to remain eligible for full forgiveness. While PIA acknowledges that the 60 percent threshold is an improvement over the original CARES Act’s 75 percent requirement, we have requested in the past and will continue to advocate for maximum flexibility for borrowers. Maximum borrower flexibility would omit payroll spending requirements and ensure borrowers’ ability to allocate the funds in their areas of greatest need, based on their familiarity with and understanding of their business.

[5] Lending institutions were not prepared for the influx of PPP loan applications they would receive, and the SBA’s website was similarly unprepared for the volume of PPP applications.

Conclusion

PIA National recognizes and appreciates the SBA and Treasury's actions to reanimate the PPP lending process in accordance with the Economic Aid Act.

PIA National looks forward to continuing to work with policymakers, the Treasury Department, and the SBA going forward to continue to improve the PPP borrowing process so that it provides the type and level of support needed for the nation's small businesses to survive in this challenging environment.

As always, PIA National is grateful for the opportunity to provide the independent agent perspective. Please contact me at laurenpa@pianet.org or (202) 202-1414 with any questions or concerns. Thank you for your time and consideration.

Sincerely,

Lauren G. Pachman

Lauren G. Pachman
Counsel and Director of Regulatory Affairs
National Association of Professional Insurance Agents