

CLIENT ALERT: PPP Loan Update

FEATURED ATTORNEY



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Dear Friends and Valued Clients,

First, while Congress is still negotiating over the next round of stimulus funding, they have released a draft of the [“Bipartisan Emergency COVID Relief Act of 2020.”](#) This is the framework for the \$908 billion stimulus package currently under discussion. It includes numerous items, including an extension of all pandemic unemployment insurance programs by 16 weeks past December 31, an additional \$300 per week of Federal supplemental unemployment insurance for 16 weeks thru April 2021, and \$300 billion of funding for the SBA, which would include an additional round of Paycheck Protection Program (PPP) loans. Some of the key items in this new round of PPP loans are:

- Eligibility would be limited to small businesses with 300 or fewer employees that have sustained a 30% revenue loss in any quarter of 2020.
- Forgivable expenses are expanded to include supplier costs and investment in facility modifications and personal protective equipment to operate safely.
- Business expenses paid for with the proceeds of PPP loans are tax deductible.
- Loan forgiveness process is simplified for borrowers with PPP loans of \$150,000 or less.

This bill has not yet been passed into law but [Abrams Fensterman, LLP](#) will continue to update you on the status and the details of the bill.

Second, this past Wednesday, the SBA and Treasury released on their respective websites forms 3509 and 3510, Loan Necessity questionnaires for For-Profit borrowers and Non-Profit borrowers. Additionally, the Treasury updated their FAQ’s to add a question specifically targeting these new forms. Here is some wording from the new FAQ:

Question: Why are some PPP borrowers receiving a Loan Necessity Questionnaire ([SBA Form 3509 \(for-profit borrowers\)](#) or [3510 \(non-profit borrowers\)](#))?

Answer: As previously announced, SBA is reviewing all loans of \$2 million or more, and other loans as appropriate, for eligibility, fraud or abuse, and compliance with loan forgiveness requirements.

As part of this process, SBA is providing a Loan Necessity Questionnaire to lenders for them to provide to PPP borrowers that, together with their affiliates, received loans of \$2 million or more. Upon request from their lender, borrowers should return the completed questionnaire to their lender within 10 business days of receipt. The information that borrowers provide on the questionnaire will help SBA assess those borrowers' certification in their loan application that "[c]urrent economic uncertainty makes this loan request necessary to support the ongoing operations of the Applicant," as required by the CARES Act.

The SBA will be sending these forms to the banks, giving the banks 5 days to send these forms to the respective borrowers. The borrowers then have only 10 days to respond to their lender with the completed forms and documentation. If the borrower does not respond timely, the SBA may assume that the borrower does not want the loan forgiven or may not have been entitled to the loan in the first place. Some clients have already received these forms from their lenders.

We strongly urge all borrowers who have received loans of \$2 million or more across all of their affiliated companies to start gathering the documentation requested and fill out the forms in draft format, so that they are prepared to respond in a timely manner when and if they actually receive the request.

As always, if you have any questions please contact Melanie I. Wiener at mwiener@abramslaw.com.