

## Commercial Lending Update

APRIL 2021

### PPP LOAN PROGRAM EXTENDED TO TAKE ADVANTAGE OF AMERICAN RESCUE PLAN PROVISIONS

The president signed the PPP Extension Act of 2021 (H.R. 1799; Pub. L. 117-6) (PPP Extension) a day before the American Rescue Plan Act of 2021 (H.R. 1319; Pub. L. 117-6) (Rescue Plan) provisions updating the Paycheck Protection Program (PPP) were set to expire on March 31, 2021. As a result of enacting the PPP Extension, PPP loan borrowers will have until May 31, 2021 to apply for and receive a PPP loan, and take advantage of the Rescue Plan PPP amendments.

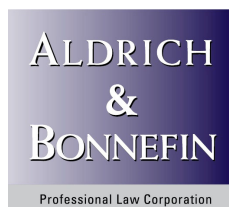
#### ***Rescue Plan Funding.***

- An additional \$7.25 billion for the PPP, to include expanding eligibility to additional nonprofits and digital news services.
- Additional funds allocated for the Shuttered Venue Operators Grant (SVOG) program, and now allows businesses to apply for both a PPP loan after Dec. 27, 2020 and the SVOG.
  - An additional \$15 billion for Targeted Economic Injury Disaster Loan (EIDL) Advance payments, including “NEW Funding” of \$5 billion for Supplemental Targeted EIDL Advance payments targeted to those who have been hit the hardest.

- NEW Funding of \$28.6 billion for the “Restaurant Revitalization Fund” for industry-focused grants.
- NEW Funding of \$100 million to establish a “Community Navigator” pilot program. Program grants are to be given to eligible organizations supporting efforts to improve access to COVID-19 pandemic assistance programs and resources.

***Rescue Plan Provisions Updating the PPP.*** SBA published an interim final rule (SBA IFR) in the Federal Register implementing changes the Rescue Plan made to the PPP, effective on March 18, 2021. 86 FR 15083. Refer to the SBA IFR for the specifics. The SBA IFR’s highlights are described below.

- **Eligibility, size, affiliation waivers, and certifications.** The Rescue Plan expanded eligibility to additional businesses and organizations and revised size standards and added affiliation waivers for certain eligible businesses and organizations. The plan also amended the PPP to provide that businesses that receive a PPP loan after December 27, 2020 are no longer ineligible for a Shuttered Venue Operator Grant (SVOG) under certain conditions.
- **Tax-exempt organizations.** The Rescue Plan expanded eligibility for PPP loans to tax-exempt



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organizations described in any paragraph of the Internal Revenue Code of 1986 (IRC) Section 501(c), except for Section 501(c)(4). As a result, any organization described in any paragraph of IRC Section 501(c), other than paragraph (3), (4), (6), or (19) and exempt from tax under IRC Section 501(a), is eligible for a PPP loan if: (i) the organization does not receive more than 15 percent of its receipts from lobbying activities; (ii) the lobbying activities of the organization do not comprise more than 15 percent of the total activities of the organization; (iii) the cost of the lobbying activities of the organization did not exceed \$1,000,000 during the most recent tax year of the organization that ended prior to February 15, 2020; and (iv) the organization employs not more than 300 employees. However, this does not include any organization that, if the organization were a business concern, would be described in 13 CFR 120.110 (or any successor regulation or other related guidance or rule that may be issued by SBA) other than a business concern described in paragraph (a) or (k) of that section. Tax-exempt organizations described in IRC Sections 501(c)(3), 501(c)(6) and 501(c)(19) have separate eligibility requirements. Tax-exempt organizations described in IRC Section 501(c)(4) are ineligible for a PPP loan.

**SBA Updates PPP Forms.** On March 18, 2021, the agency revised the forms listed below: (i) to conform to the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act and the SBA interim final rule, published in the Federal Register on March 4, 2021 at 86 FR 13149, that allows IRS Form 1040 Schedule C filers to calculate their maximum loan amount using gross income; and (ii) to conform to the Rescue Plan and the SBA IFR.

- An updated PPP loan guaranty application for lenders.
- An updated second-draw lender application form.
- An updated first-draw PPP loan application form.
- An updated second-draw PPP loan application form.
- An updated first-draw PPP borrower application for Schedule C filers using gross income.
- An updated second-draw PPP borrower application for Schedule C filers using gross income.

The PPP loan program continues to be a significant funding resource for borrowers and lenders coping with the effects of the COVID-19 pandemic. Search the BCG website for handouts and articles explaining lender and borrower obligations under the PPP. Contact Mark Aldrich or Joel Cook at **MALdrich@ABLAWyers.com** or **JCOOK@ABLAWyers.com** with PPP questions.