



U.S. Small Business
Administration

504 Update on Extension of COVID-19 Agreements

Office of Financial Assistance

May 21, 2020

Does Section 1112 Subsidy Alone Address Adverse Change?

ALP CDCs have delegated authority to determine a No Adverse Change and document their files. Non-ALP CDCs must submit No Adverse Change determinations to SLPC for review. CDCs must document their determination of No Adverse Change considering the impact of COVID-19 on the small business's ability to operate and service the 504 and TPL loan payment.

No CDCs have the delegated authority to reverse an adverse change determination once made. For the debentures sales held April through September, a determination of Adverse Change may be remedied by execution of the Covid-19 Agreement.

SBA can not make the global determination that six months of Section 1112 subsidy payments remedy a reported adverse change. SBA must review the CDC's request to rescind a deferment on a case-by-case basis through the Commercial Loan Servicing Centers.

Not all NAICS codes were impacted the same by COVID-19. Discretionary income spending recovery may lag more essential services sectors. Health concerns will impact NAICS sectors involving elder care, childcare or travel differently than other sectors. Stay at home orders, closed border, travel restrictions, shipping changes to distribution and unemployment will impact businesses differently.

504 Certifications of No Adverse Change during the COVID-19 Emergency April, May and June, 2020 Debenture Sales

- NAC guidance for April, May and June 2020 Debentures sales is provided in Procedural Notices 5000-20010, updated by Procedural Notices 5000-20020 and 5000-20023. NAC guidance for July, August and September is provided in Procedural Notice 5000-20027.
- 504 loans with No Adverse Change determination do not require a COVID-19 agreement.
- 504 loans with an Adverse Change documented required a COVID-19 agreement to remedy the adverse change.
- For the April, May and June debenture sales, the COVID-19 agreement to be used is attached to Procedural Notice 5000-20010. A copy of the fully-executed COVID-19 Agreement signed by the borrower, the CDC the Interim Lender and the Third Party Lender must be submitted to the appropriate SBA District Counsel for review with the closing package.
- The borrower receives an automatic 90-day 504 loan deferment with the option for an additional 90-day deferment before subsidy payments begin. The TPL must provide a deferment for at least as long as the period of deferment granted by the CDC on the 504 loan.

504 Certifications of No Adverse Change during the COVID-19 Emergency July, August and September 2020 Debenture Sales

- NAC guidance for July, August and September is provided in Procedural Notice 5000-20027.
- 504 loans with No Adverse Change determination do not require a COVID-19 agreement.
- 504 loans with an Adverse Change documented required a COVID-19 agreement to remedy the adverse change.
- The form of COVID-19 Agreement that must be used for the July, August, and September sales is attached to Procedural Notice 5000-20027. Previous versions may not be accepted. A copy of the fully-executed COVID-19 Agreement signed by the borrower, the CDC the Interim Lender and the Third Party Lender must be submitted to the appropriate SBA District Counsel for review with the closing package.
- The borrower receives an automatic 90-day 504 loan deferment with the TPL committing to a 90-day deferment. There is no option of an additional automatic 90-day deferment. 504 loans in regular servicing will follow regular deferment process.

504 Loan Tracking to Assist OCRM with No Adverse Change Reviews

- Number of 504 Loans by month by CDC and NAICS that were submitted with NAC by ALP to District Counsel and non-ALPC CDCs to SLPC – April to September 2020
- Number of 504 Loans by month by CDC and NAICS that were submitted with COVID-19 agreement by ALP and non-ALPC CDCs – April to September 2020
- Number of 504 Loans by CDC and NAICS where the borrower requested the 90-day automatic deferment be rescinded – ALP and non-ALP CDCs
- Number of 504 Loans by CDC and NAICS where the 90-day deferment resulting from the April, May, June 2020 debenture sales were extended for an additional 90 days. The option of up to 6 months deferment on 504 loans is not allowed for July, August, and September 504 loans with COVID-19 agreements.

Rescinding Deferments Granted Under COVID-19 Agreements

- Applies only to 504 loans funded only in the April, May, June, July, August and September 2020 debenture sales.
- Deferment period April, May, June 2020 debenture sale 504 loans: 90-day automatic 504 loan deferment with additional 90 days optional (6 months total). The TPL commits to 90-day deferment with additional 90 days optional (6 months total).
- Deferment period for July, August September 2020 debenture sale 504 loans: 90-day automatic 504 loan deferment but no option of up to 6 months. TPL commits to 90-day deferment.
- After 6 months of subsidy payments, 504 deferments will be considered on case-by-case basis.
- To determinate the COVID-19 Agreement to end the deferment early, the CDC submits a request to the applicable Commercial Loan Servicing Center at Fresno or Little Rock:
 - request from the Borrower
 - document business is open and operational
 - CDC documents the Borrower can pay 504 and TPL

Procedural Notices 5000-20020, 5000-20023 and 5000-20027

Implementation of Section 1112 of the CARES Act Subsidy for Certain Loan Payments, for the 504 Loan Programs

- Effective date of April 16, 2020. Same guidance for 7(a) and 504.
- Under section 1112 (c) of the CARES Act, SBA will pay the principal, interest, and any “associated fees” that Borrowers owe on a “covered loan” in a “regular servicing status” to Certified Development Companies (CDCs) for a 6-month period.
- 6-month period of subsidy for covered loans made (funded) before March 27, 2020 and not on deferment.
- The first debenture sale pool to include Section 1112 subsidized loans will be the April 2020 sale for loans submitted for closing in March 2020. The last debenture sale pool to be eligible will be the September 2020 sale for loans submitted for closing in August 2020.
- Loans submitted with a COVID-19 agreement to remedy Adverse Change will begin to receive the subsidy payments after the deferment period. Additional information is provided on Procedural Notices 5000-20010 and 5000-20027.
- 504s Loan with ALP CDCs documenting No Adverse Change to the loan file or non-ALP submitting NAC to SLPC must document that the 504 loan and TPL payments can be paid by the business, and document how the business has adjusted its operations due to the COVID-19 national emergency. 504 Loans submitted after March 1, 2020 should address in credit memorandum.

Procedural Notice 5000-20020, 5000-20023 and 5000-20027

Implementation of Section 1112 of the CARES Act

Subsidy for Certain Loan Payments, for the 504 Loan Programs

- SBA payments will not exceed the outstanding balance of principal, interest and associated fees owed on a covered loan by the Borrower.
- Subsidy payments will not pay for late fees or catch-up payment amounts above principal payment due.
- 504 Loans qualify as “covered loans” as they are loans guaranteed under Title V of the Small Business Act of 1958.
- Loans in “regular servicing status” include 504 loans that have been approved, closed and fully disbursed.
- Loans in “liquidation status” or that should have been moved into “liquidation status” are not included as loans in “regular servicing” and are not eligible for subsidy.
- Purchased loans that are current on payments and have been returned to regular servicing are eligible for subsidy.
- “Associated fees” means the fees paid by the Borrower on a monthly basis including the annual SBA guarantee fee paid on a monthly basis by the Borrower, the CSA fee, and the CDC servicing fee.

Procedural Notices 5000-20020, 5000-20023 and 5000-20027

Implementation of Section 1112 of the CARES Act Subsidy for Certain Loan Payments for the 504 Loan Programs

- For loans with first payment due on April 1, 2020, SBA made these payments by May 1, 2020 to the CSA E-tran system. Thereafter for subsequent months, SBA will make the payment by the last business day of the month.
- CSA will make no ACH debits to the Borrower's accounts for covered loans during the subsidy payment period.
- For covered loans made before March 27, 2020 and on deferment, SBA will make the loan payments for the 6-month period beginning with the next payment due after the deferment period.
- For covered loans beginning March 27, 2020 and through September 27, 2020, SBA will make the loans payments for the 6-month period beginning with the first payment due.
- For Covered loans that pay less frequently than monthly, such as loans with semi-annual or quarterly payments, the maximum amount that SBA will pay on these loans will be calculated by dividing the total annual loan payment amount by 12 and multiplying the result by 6.

Some Questions to Ask in Uncertain Times

The following questions may assist the CDC's in assessing the impact of the current economic environment on the Small Business:

- (1) Is the business open and operational? At full capacity or reduced capacity or using a contingency plan delivery model?
- (2) Which sector and industry does the entity operate in, and what are its specific lines of business?
- (3) Is the business in a state with a “stay-at-home” order? If yes, when is it scheduled to be lifted?
- (4) Is the business in a NAICS sector that was impacted by COVID-19, what is the businesses contingency plan for operations? How has that impacted business revenue?
- (5) How have travel restrictions, traffic flow, and trade restrictions impacted the businesses cost projections, clientele or access to equipment and inventory?
- (6) How has the change in unemployment conditions impacted the businesses employees, clientele and service area?

REMINDER!

- **Title:** 504 Connect Call
- **Date:** Tuesday, June 09, 2020
- **Time:** 3:00 PM - 4:30 PM Eastern Time

You may register for the conference at <https://ems8.intellor.com?do=register&t=1&p=822809> after which you will receive an email containing a personalized access link