

Technical Issues Memo 24-20

To: NADCO Members (Please disseminate to all appropriate personnel)

From: Wayne Williams, EVP, Regulatory Affairs & Training

Subject: SBA Procedural Notice 5000-20023 – Additional Guidance for the Implementation of CARES Act Subsidy Payments for 504 and 7(a)

Date: April 30, 2020

SBA has issued Procedural Notice 5000-20023 to provide additional guidance on the implementation of the CARES Act Section 1112 Subsidy for Certain Loan Payments for the 7(a) and 504 Loan Programs. The Notice supplements guidance established in Procedural Notice 5000-20020.

Sections A through F, I, and N of the Notice are exclusive to the SBA 7(a) Loan Program. All remaining sections include additional guidance for 504 Loans. Below is a summary of those remaining sections:

G. Clarification Regarding Loans with Catch-Up Plans or Other Settlements

In Section G, SBA clarifies that Payment Subsidies that SBA makes under Section 1112 of the CARES Act “will cover the regular payments owed on the loan that is not related to [a] catch-up plan or settlement.” The Borrower is still responsible for all payments owed by the Borrower under any catch-up plan or settlement while SBA makes any regular payments under the Section 1112 Payment Subsidies.

H. If Borrower Makes Additional Payments During 6-Month Period of SBA Payments

In Section H, SBA provides guidance concerning any additional payments that the Borrower may make during the period of Section 1112 Payment Subsidies. For any 504 loan for which **the debenture has not been purchased**, any payment made by the Borrower must be returned to the Borrower “unless the payment is being made to cover any past due amounts.” If the Borrower makes any additional payment on any 504 loan for which **the debenture has been purchased**, the Borrower has the option of the Lender returning the payment or applying the payment to further reduce the loan balance after SBA’s Section 1112 payment subsidies. The Lender must inform the Borrower of these options.

J. Payments for SBA-Purchased Debentures of 504 Loans in Regular Servicing

In Section J, SBA clarifies that for SBA-purchased debentures in regular servicing, the six-month Section 1112 Payment Subsidies will begin with the “Next Installment Due”. NADCO has reached out to SBA for clarification of what “Next Installment Due” means. Please note that on March 30, 2020 SBA issued Procedural Notice 5000-20012 (refer to NADCO TI Memo 19-20) stating that SBA was providing automatic deferments of principal and interest payments through December 31, 2020 for existing SBA borrowers with loans serviced by SBA (SBA Purchased 504 Debentures) that were in “regular servicing” status on March 1, 2020.

K. Deferments and Catch-up Plans for 504 Loans that are Funded with the April, May and June 2020 Debenture Sales and are Covered by a COVID-19 Agreement

In Section K, SBA clarifies that 504 Loans covered by a COVID-19 Agreement will receive an initial 90-day deferment and reminds CDCs that “[a]t least one month before the end of the 90-day deferment, the CDC must consult with the Borrower on whether the Borrower wishes to extend the deferment period up to an additional 90 days and inform the CSA of the Borrower’s decision.”

Additionally, SBA instructed the CSA to default any loan under a COVID-19 Agreement to a 5-year catch-up plan. SBA reminds the CDC that at least one month prior to the end of the deferment period, the CDC must contact the CSA to coordinate the development of the catch-up plan. Also, “[t]he CDC must contact the Borrower before the deferment period ends to determine the length and the other terms of the catch-up plan” (i.e. any adjustments to the default 5-year catch-up plan initially prescribed by SBA).

L. Clarification Regarding New Loans Made After March 27, 2020

In Section L, SBA clarifies that six-month Section 1112 Payment Subsidies will extend to new loans closed and funded (moved into “regular servicing status”) no later than September 27, 2020. This includes loans that were approved prior to March 27, 2020 provided the loan is closed and funded no later than September 27, 2020.

M. Availability of Funds for Section 1112 Payments

In Section M, SBA clarifies that funding for Section 1112 Payment Subsidies ends on September 30, 2021. Consequently, for loans on deferment to receive the **full** 6-months payment subsidies, the deferment must end by March 30, 2021. Loans with deferments ending after March 30, 2021 will only receive Section 1112 Payments Subsidies through September 30, 2021.

If you would like to access this TI Memo, or the SBA Procedural Notice via the NADCO website, please click below.

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[SBA Procedural Notice 5000-20023](#)