

Latest on the Paycheck Protection Program: April 30, 2020

Of interest: As of yesterday evening, the second tranche of PPP funding had processed 960,000 loans totaling about \$90 billion. There are reportedly hundreds of thousands of loans somewhere in the queue.

A new FAQ was released yesterday on the PPP program, with a new Question 39 asking if the SBA will review “individual PPP loan files.” This is obviously a follow-up to the Treasury Secretary’s statement yesterday that the SBA would be auditing loans over \$2 million, and to the previous question/answer setting a May 7th deadline for return of loans by companies which they argue should have not received them. Q&A 39 are included below, and to access the entire document go to:

<https://home.treasury.gov/system/files/136/Paycheck-Protection-Program-Frequently-Asked-Questions.pdf>

39. Question: Will SBA review individual PPP loan files?

Answer: Yes. In FAQ #31, SBA reminded all borrowers of an important certification required to obtain a PPP loan. To further ensure PPP loans are limited to eligible borrowers in need, the SBA has decided, in consultation with the Department of the Treasury, that it will review all loans in excess of \$2 million, in addition to other loans as appropriate, following the lender’s submission of the borrower’s loan forgiveness application. Additional guidance implementing this procedure will be forthcoming.

The outcome of SBA’s review of loan files will not affect SBA’s guarantee of any loan for which the lender complied with the lender obligations set forth in paragraphs III.3.b(i)-(iii) of the Paycheck Protection Program Rule (April 2, 2020) and further explained in FAQ #1.15

Also, in response to the debate on whether the PPP loans are actually going to the businesses for which they were intended, Senate Small Business Committee Chair Marco Rubio (R-FL) said in a phone call/virtual townhall yesterday that all of the loans will eventually become public. In the call, which was reported by *Politico* and *NBC Miami*, Senator Rubio said: “The bottom line is we’re going to know one way or the other

who got this money ... Treasury, SBA is eventually going to have to release that. I always thought they were going to have to, and if they don't, we'll make them do it.”

Politico further reported: “Rubio said his committee plans to hold hearings to investigate whether banks that actually handled the lending favored certain recipients.

‘Whether lenders submitting favored some clients over others is really the question,’ he said. ‘That’s something we are always going to have to look at.’”

Links to coverage of Senator Rubio’s comments can be found here:

<https://www.naw.org/wp-content/uploads/2020/04/Rubio.pdf>

and here:

<https://www.nbcmiami.com/news/local/rubio-vows-public-will-learn-all-recipients-of-ppp-loans/2226635/>

While most of the public debate has focused on the larger and public companies receiving PPP loans, other businesses which have received or applied for loans are beginning to raise concerns about the public disclosure of even the smaller loans. In some cases, companies worry that they will be put at a competitive disadvantage if their loans are disclosed, revealing that they received the funds, the amount of their loan, and possibly the monthly payroll used to calculate the loan amount.

We expect continued debate on this as the PPP proceeds.