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Updated FAQs concerning PPP loans, SBA discontinues “loan necessity questionnaire”

The U.S. Treasury Department posted an updated version of a set of “frequently asked questions” (FAQs) concerning the Paycheck Protection Program (PPP) as administered by the Small Business Administration (SBA).

The new FAQ addresses why the SBA discontinued use of the “loan necessity questionnaire.”

Background

The PPP is a program providing financial support lending for small and large businesses pursuant to measures originally included in the *Coronavirus Aid, Relief, and Economic Security Act* (CARES Act) (Pub. L. No. 116-136). Additional measures concerning the program were enacted under the *Consolidated Appropriations Act, 2021* (Pub. L. No. 116-260) (the *Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act* is one of the titles of the legislation enacted December 27, 2020). That legislation effectively opened up the availability for a “second draw” for PPP loans.

Subsequently, President Biden on March 11, 2021, signed into law the “American Rescue Plan Act of 2021” (Pub. L. No. 117-2).

The PPP was scheduled to expire March 31, 2021. President Biden on March 30, 2021, signed legislation (Pub. L. No. 117-6) that extends the PPP through June 30, 2021.

New FAQ 69

The [FAQs](#) [PDF 507 KB] were most recently updated July 29, 2021, with the addition of FAQ 69 (text of which is provided below, footnote omitted). A header added to these FAQs states:

These FAQs are in the process of being revised and do not yet reflect changes made by the American Rescue Plan Act of 2021 enacted on March 11, 2021.

69. Question: Why is SBA discontinuing use of the Loan Necessity Questionnaire (SBA Form 3509 or 3510)?

Answer: In October 2020, SBA issued two Loan Necessity Questionnaires (SBA Forms 3509 and 3510) to facilitate the collection of supplemental information that would be used by SBA loan reviewers to evaluate the good faith certification made by PPP borrowers on their loan application that economic uncertainty made the loan request necessary to support ongoing operations. Each borrower, that together with its affiliates, received PPP loans with an original principal amount of \$2 million or greater was required to complete the form.

On October 26, 2020, SBA published a 30-day notice soliciting comments on the information collection that included the Loan Necessity Questionnaires (85 FR 67809). Additionally, on January 4, 2021, SBA published a 60-day notice soliciting comments on the information collection that included the Loan Necessity Questionnaires (86 FR 172). SBA received 61 comments from members of the public regarding the Loan Necessity Questionnaires, and the majority of the comments raised objections to the questionnaires.

Based on the results of loan reviews that it has completed thus far SBA believes audit resources will be more efficiently deployed across all loans if the loan necessity questionnaire is discontinued. The loan necessity reviews, including the review of the borrower's completed Loan Necessity Questionnaire, are lengthy and have caused delays beyond the 90-day statutory timeline for forgiveness, thus negatively impacting those borrowers that made their loan necessity certification in good faith. For these reasons, SBA is discontinuing any reliance on the Loan Necessity Questionnaires.

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