

Delaware Coronavirus Tracker: FHFA Payment Deferral; PPP Update Loan Increases; Guide to Legislative and Regulatory Changes; NCUA Board Agenda – 5.14.20

New FHFA Payment Deferral Option on Coronavirus Forbearance

The Federal Housing Finance Agenda ("FHFA") has announced that Fannie Mae and Freddie Mac are making available a new payment deferral option to assist homeowners who are in COVID-19 related forbearance. The payment deferral option allows borrowers, who are able to return to making their normal monthly mortgage payment, the ability to repay their missed payments at the time the home is sold, refinanced, or at maturity.

This new option provides an additional tool for mortgage servicers. FHFA, Fannie Mae, and Freddie Mac do not require lump sum repayment at the end of the forbearance. Servicers are required to evaluate borrowers for one of several repayment options, generally referred to as a "hierarchy" of repayment and loan modification options. Payment deferral is one of the repayment options, and takes the missed mortgage payments and puts them into a payment due at the sale, or refinancing of the home, or the end of the loan. The borrower's monthly mortgage payment will not change. Mortgages that exercise the payment deferral option will remain in Enterprise Mortgage-Backed Securities, subject to the terms of the trust agreements.

In addition to the new payment deferral option, borrowers with COVID-19 related hardships can still utilize other options that include reinstatement, repayment plan, or loan modifications based on their individual situations.

Servicers will begin offering the payment deferral repayment option starting July 1, 2020.

Additional information from Fannie Mae on how to Understand Your COVID-19 Mortgage Options is available [HERE](#). Freddie Mac information on how a Lump Sum Repayment is Not Required in Forbearance is available [HERE](#). The FHFA press release is available [HERE](#).

SBA PPP Loan Update-Repayment/Safe Harbor Date Extended to May 18

Question 47: An SBA interim final rule posted on May 8, 2020 provided that any borrower who applied for a PPP loan and repays the loan in full by May 14, 2020 will be deemed by SBA to have made the required certification concerning the necessity of the loan request in good faith. Is it possible for a borrower to obtain an extension of the May 14, 2020 repayment date?

Answer: Yes, SBA is extending the repayment date for this safe harbor to May 18, 2020, to give borrowers an opportunity to review and consider FAQ #46. Borrowers do not need to apply for this extension. This extension will be promptly implemented through a revision to the SBA's interim final rule providing the safe harbor.

SBA PPP Loan Update-Loan Increases

<https://home.treasury.gov/system/files/136/Interim-Final-Rule-on-Loan-Increases.pdf>

1. Loan Increases

Question A: If a partnership received a PPP loan that did not include any compensation for its partners, can the loan amount be increased to include partner compensation?

Answer: Yes. If a partnership received a PPP loan that only included amounts necessary for payroll costs of the partnership's employees and other eligible operating expenses, but did not include any amount for partner compensation, 2 the lender may electronically submit a

request through SBA's E-Tran Servicing site to increase the PPP loan amount to include appropriate partner compensation, even if the loan has been fully disbursed, provided that the lender's first SBA Form 1502 report to SBA on the PPP loan has not been submitted. After the initial SBA Form 1502 report on the PPP loan has been submitted to SBA, or after the date the first SBA Form 1502 was required to be submitted to SBA, the loan cannot be increased. In no event can the increased loan amount exceed the maximum loan amount allowed under the PPP Program, which is \$10 million for an individual borrower or \$20 million for a corporate group. Additionally, the borrower must provide the lender with required documentation to support the calculation of the increase. The interim final rule posted on April 14, 2020, describes how partnerships, rather than individual partners are eligible for a PPP loan. The interim final rule further explained that the self-employment income of general active partners could be reported as a payroll cost, up to \$100,000 annualized, on a PPP loan application filed by or on behalf of the partnership. Guidance describing how to calculate partnership PPP loan amounts and defining the self-employment income of partners was posted on April 24, 2020 (see How to Calculate Maximum Loan Amounts, Question 4 at <https://www.sba.gov/sites/default/files/2020-04/How-toCalculate-Loan-Amounts.pdf>).

Question B: If a seasonal employer received a PPP loan before the alternative criterion for determining the maximum loan amount for seasonal employers became available, can the loan amount be increased based on a revised calculation using the alternative criterion?

Answer: Yes. If a seasonal employer received a PPP loan before the alternative criterion for such employers was posted on April 28, 2020, and would be eligible for a higher maximum loan amount under the alternative criterion, the lender may electronically submit a request through SBA's E-Tran Servicing site to increase the PPP loan amount, even if the loan has been fully disbursed, provided that the lender's first SBA Form 1502 report to SBA on the PPP loan has not been submitted.

After the initial SBA Form 1502 report has been submitted to SBA, or after the date the initial SBA Form 1502 report was required to be submitted to SBA, the loan cannot be increased. In no event can the increased loan amount exceed the maximum loan amount allowed under the PPP Program, which is \$10 million for an individual borrower or \$20 million for a corporate group. Additionally, the borrower must provide the lender with required documentation to support the calculation of the increase.

2. Disbursements and 1502 Reporting on Increased PPP Loans

Question A: If a borrower's PPP loan has already been fully disbursed, can the lender make an additional disbursement for the increased loan proceeds?

Answer: Yes. Notwithstanding the requirement set forth in paragraph 1.a. of the interim final rule on disbursements posted on April 28, 2020, i.e., that lenders make a one-time, full disbursement of the PPP loan within ten calendar days of loan approval, if a PPP loan is increased under paragraphs 1.a. or b. above, then the lender may make a single additional disbursement of the increased loan proceeds prior to submission of the initial SBA Form 1502 report for that loan. 9

Question B: How do lenders report disbursements on PPP loans that are increased and does the increase in the loan delay the timeframe to report the loan on the SBA Form 1502?

Answer: SBA set forth in the interim final rule on disbursements and 1502 reporting posted on April 28, 2020, the process lenders must follow to electronically upload SBA Form 1502 information on PPP loans. The interim final rule provided that lenders must submit the SBA Form 1502 information within 20 calendar days after a PPP loan is approved or, for loans approved before availability of the updated SBA Form 1502 reporting process, by May 18, 2020.

In its interim final rule posted on May 8, 2020, SBA revised that date from May 18, 2020 to May 22, 2020. Lenders must comply with the initial 1502 reporting deadline. SBA may review at any time an increase submitted by the lender to confirm that the increase was submitted within the required timeframe; increases submitted outside the required timeframe will not be forgiven and no processing fee will be earned on such amounts. Additionally, lenders are not entitled to processing fees on increases submitted outside of the required timeframe.

3. Additional Information

SBA may provide further guidance, if needed, through SBA notices that will be posted on SBA's website at www.sba.gov. Questions on the Paycheck Protection Program may be directed to the Lender Relations Specialist in the local SBA Field Office. The local SBA Field Office may be found at <https://www.sba.gov/tools/localassistance/districtoffices>.

PPP Eligibility of Certain Electric Cooperatives

<https://home.treasury.gov/system/files/136/Interim-Final-Rule-on-Eligibility-of-Certain-Electric-Cooperatives.pdf>

PPP Loan Forgiveness

Guidance remains pending.

COVID-19 Temporary Federal Regulatory Provisions

https://www.ccu.org/images/uploads/CUNA_COVID-19_Temporary_Provisions.pdf

Guide to federal legislative and regulatory changes as of May 14, 2020.

NCUA Board Meeting

10:00 a.m., Thursday, May 21, 2020

The meeting is open to the public. Due to the COVID-19 Pandemic, however, the meeting will be open via live audio webcast only. Visit the agency's homepage (www.ncua.gov) and access the provided webcast link. Agenda includes:

1. Board Briefing, Share Insurance Fund Quarterly Report.
2. Proposed Rule, Part 745, Joint Ownership Share Accounts.
3. Interim Final Rule, Part 701, Overdraft Policy.
4. Interim Final Rule, Part 702, Prompt Corrective Action.

11:45 a.m., Thursday, May 21, 2020

Closed meeting will be held via teleconference. Agenda includes: Board Appeal.