

May 14, 2020 | Business, Corporate & Securities, COVID-19, Employment & Employee Benefits, Insights

SBA announces safe harbor for PPP borrowers receiving less than $2 million

By: Rich May, David Glod

On May 13, 2020, the SBA released an updated FAQ on the Paycheck Protection Program, providing that borrowers receiving less than $2 million will be deemed to have certified in good faith that "[c]urrent economic uncertainty makes this loan request necessary to support the ongoing operations of the Applicant." The SBA states, in response to Question 46 of the FAQ:

> SBA has determined that this safe harbor is appropriate because borrowers with loans below this threshold are generally less likely to have had access to adequate sources of liquidity in the current economic environment than borrowers that obtained larger loans. This safe harbor will also promote economic certainty as PPP borrowers with more limited resources endeavor to retain and rehire employees. In addition, given the large volume of PPP loans, this approach will enable SBA to conserve its finite audit resources and focus its reviews on larger loans, where the compliance effort may yield higher returns.

This will resolve uncertainty for many borrowers caused by earlier guidance, including Question 31 in the same FAQ stating that "[b]orrowers must make this certification in good faith, taking into account their current business activity and their ability to access other sources of liquidity sufficient to support their ongoing operations in a manner that is not significantly detrimental to the business." While it is still unclear what other sources of liquidity a borrower would need to exhaust before resorting to a PPP loan, or what qualifies as "significantly detrimental to the business," this new guidance appears to eliminate that concern at least for borrowers receiving less than $2 million.

Previously, in Question 39 of the FAQ, the SBA indicated that it would review all loans in excess of $2 million for the accuracy of the above certification. The SBA gave borrowers the option of returning their PPP funds to avoid scrutiny into the certification, and this update also extends the repayment date for this safe harbor to May 18, 2020 (see Question 47).

If you need assistance with any such matters please reach out to a Rich May attorney for



Related Services

Business, Corporate & Securities

Employment & Employee Benefits

Related Attorneys

David Glod

©2026 Rich May, P.C. All Rights Reserved

assistance.

Disclaimer: This summary is provided for educational and informational purposes only and is not legal advice. Any specific questions about these topics should be directed to attorney David Glod.

©2026 Rich May, P.C. All Rights Reserved