

“SBA Issues New Guidelines Regarding the Recent COVID-19 Relief Measures”

On December 21, 2020, Congress passed the Consolidated Appropriations Act, 2021 (the “Act”) in response to the economic fallout from the **COVID-19** pandemic. The \$2.3 trillion omnibus appropriations bill includes \$900 billion in a second round of COVID-related stimulus relief and other COVID-related benefits. The Act was signed into law on December 27, 2020.

The Act extends many benefits provided under the CARES Act enacted back in March 2020, revising, adding and expanding the terms for relief. Some of these changes include: Paycheck Protection Program (“PPP Loans”)¹; SBA grants for shuttered venue operators of performing arts venues, museums, and other cultural institutions²; Economic Injury Disaster Loans (“EIDL”) Emergency Grants³, among others.

On December 27, 2020, the Small Business Administration (“SBA”) and the U.S. Department of the Treasury (“U.S. Treasury”) enacted two new Interim Final Rules (“IFR1 & IFR2”) in connection with the passage of the Act. IFR1 consolidates all of the interim final rules and related guidance issued and IFR2 outlines new rules related to Second Draw PPP Loans, available to eligible existing PPP borrowers.

The Act reauthorizes lending under the PPP Program, extends the application window for first-time PPP borrowers through March 31, 2021, authorizes an option for a second PPP loan (“Second Draw PPP Loan”), and modifies certain provisions related to forgiveness of existing and future PPP loans. It also updated eligibility requirements and added additional categories to include previously excluded borrowers such as: first-time PPP loan applicants that were in operation on February 15, 2020; housing cooperatives, Section 501(c)(6) organizations, and destination marketing organizations, each with 300 or fewer employees; and seasonal businesses that were in operation for any 12-week period between February 15, 2019 and February 15, 2020.

Lastly, the Act also adds additional forgivable expenses such as: operating or capital expenditures made to adapt business activities to comply with federal health and safety requirements; costs related to property damage and/or looting due to public disturbances in 2020 that were not covered by insurance; expenditures made by a borrower to a supplier for the supply of goods that are essential to the borrower's operations (within a certain time frame); payments for any business software or cloud computing service that facilitates business operations, product or service delivery, among others; costs related to refinancing an EIDL that was made between January 31, 2020 and April 3, 2020. These new categories of forgivable expenses retroactively apply to existing PPP borrowers so long as the SBA has not remitted a loan forgiveness.

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¹ Small Business Act, Section 7(a)(36), 15 U.S.C. § 636(a)(36))

² Consolidated Appropriations Act (2021), Div. N, Title III, § 324

³ Small Business Act, Section 7(b)(2), 15 U.S.C. § 636(b)(2)

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