

# Paycheck Protection Program Loan Applications are Opening Today – Eligibility for Small US Businesses Owned by Foreign Companies

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The Small Business Administration (“SBA”) in its implementation of the CARES Act just released an updated loan application form for borrowers who want to avail themselves of Title I – Paycheck Protection Program (“PPP”) loans. This form may be found [here](#).

In this updated form, the SBA removed the indication which was included in the previous form that if the borrower has any 20% or more owner that is not US, the loan will be denied.

As a result, all US businesses, whether or not they are owned by foreign companies should be able to avail of the Title I – PPP loan program so long as the size eligibility requirements (no more than 500 employees (inclusive of affiliates) or “small business issuer” per the NAICS classification) and other eligibility requirements are met.

The SBC confirmed that these loans (i) will bear fixed interest rate at a rate as low as 1%; (ii) will have a maturity of 2 years; (iii) will benefit from payments deferral for six months (although interest will accrue during this time); (iv) will be 100% guaranteed by the SBA; (v) will have no collateral requirement; (vi) will have no personal guarantee requirement; and (vii) will bear no borrower fees.

The form also requires the borrower to represent that “to the extent feasible, the borrower will purchase only American-made equipment and products”.

As a reminder, the principal amount of the loans may be forgiven if certain conditions are met; the maximum amount of the loan will be based on payroll costs of the workforce in the US only and loan proceeds may not be used to pay compensation to workers who are not legal residents in the US. For specifics regarding the determination of loan amounts and terms and conditions of loan forgiveness, [please see our prior alert](#).

The SBA contemplated that participating SBA banks and other lenders would begin taking applications today for corporate and nonprofit borrowers. However, SBA lenders are struggling with implementing the massive complexity of this unprecedented program and in fact it appears very few lenders so far are able to accept applications. We also understand that lenders are also not generally able to process loan applications for approval. It is anticipated that the acceptance and processing of

applications will begin in the coming days and will likely vary from lender to lender. The Paycheck Protection Program will be available through June 30, 2020, but borrowers are encouraged to apply early due to the total cap on loans under the program.

*Things are changing quickly and the measures and interpretations described here may change. Our analysis is necessarily limited by the time sensitivities of the current crisis as well as the absence of precedent for some of what is contained here. This analysis represents our best interpretation and recommendations based on where things currently stand.*

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