



SBA Procedural Notice

TO: All SBA Employees, 7(a) Lenders and Certified Development Companies

CONTROL NO.: 5000-20049

SUBJECT: Further Guidance on the Implementation of Section 1112 of the CARES Act, Subsidy for Certain Loan Payments, for the 7(a) and 504 Loan Programs

EFFECTIVE: September 24, 2020

The purpose of this Notice is to provide further guidance on the implementation of Section 1112 of the CARES Act, Subsidy for Certain Loan Payments, for the 7(a) and 504 Loan Programs. This guidance is in addition to the Section 1112 guidance that SBA has provided with respect to the 7(a) and 504 Loan Programs in:

- SBA Procedural Notice 5000-20020, “Implementation of Section 1112 of the CARES Act, Subsidy for Certain Loan Payments, for the 7(a) and 504 Loan Programs”, effective April 16, 2020;
- SBA Procedural Notice 5000-20023, “Additional Guidance on the Implementation of Section 1112 of the CARES Act, Subsidy for Certain Loan Payments, for the 7(a) and 504 Loan Programs”, effective April 29, 2020; and
- SBA Procedural Notice 5000-20041, “Further Guidance on the Implementation of Section 1112 of the CARES Act, Subsidy for Certain Loan Payments, for the 7(a) Loan Program”, effective July 28, 2020.

As the September 27, 2020 deadline approaches for new loans to be eligible for Section 1112 payments, SBA wishes to provide the following additional guidance and reminders to Lenders and CDCs:

A. Reminder of Deadlines for New Loans to be Eligible for Section 1112 Payments

1) 7(a) Loans

SBA reminds Lenders that a 7(a) loan must be fully disbursed to the Borrower no later than September 27, 2020 in order to be eligible for 6-months of loan payments under Section 1112 (see below for deadlines for Community Advantage Recovery Loans). SBA notes that September 27th falls on a Sunday and Lenders are advised

that, if they are unable to fully disburse a loan during the weekend, the loan must be fully disbursed by Friday, September 25, 2020, in order to be eligible for Section 1112 payments. A Community Advantage Recovery Loan that is made under the Community Advantage Pilot must be approved by September 27, 2020 and fully disbursed no later than October 1, 2020 in order to be eligible for 6-months of loan payments under Section 1112.

Lenders may update the loan status on E-Tran after the above deadlines to reflect full disbursement. SBA reminds Lenders that they must comply with the applicable lender reporting requirements set forth in the current version of SOP 50 10, including submitting its monthly report (SBA Form 1502) to Colson Services, SBA's FTA, by the third calendar day of each month (or the next business day thereafter if the third calendar day of the month is not a business day, plus a two business day grace period).

In addition, in accordance with SOP 50 10 5(K), Subpart B, Chapter 7, Section IV.A.2, SBA advises Lenders that they cannot disburse the loan proceeds into an escrow account in order to satisfy the "fully disbursed" requirement for Section 1112 payments. This SOP provision states: "Lenders may use an escrow account for not more than 5 business days to facilitate a loan closing. A Lender must not report the loan on SBA Form 1502 as "disbursed" or charge the Borrower the guaranty fee until all funds are disbursed from the escrow account. The Lender may only charge the Borrower interest on funds that have been disbursed out of escrow to the Borrower." (Emphasis added.)

2) 504 Loans

For the 504 Loan Program, SBA reminds CDCs that the 504 loans funded by the debenture sale held on September 16, 2020, are the final 504 loans which are eligible for Section 1112 payments.

B. Reminder on Availability of Funds under Section 1112

Under section 1107 of the CARES Act, the funds appropriated for carrying out section 1112 of the CARES Act remain available until September 30, 2021. Accordingly, for a Borrower to be eligible for all six months of payments under section 1112, any period of deferment that was granted prior to the payments beginning must end by March 30, 2021 for the section 1112 funds to be available for 6 months of payments, with the last of the six months of payments made on or before September 30, 2021. Loans with a deferment period that ends after March 30, 2021 would be eligible for section 1112 payments only through September 30, 2021 (if the loan is otherwise eligible for section 1112 payments).

C. Reminder of How to Reconcile Section 1112 Payments for 7(a) Loans In 7th Month

If the Lender received an underpayment for the 6th and final section 1112 payment, then the Lender may submit a 7th request the following month through the CARES Act menu of the

1502 Dashboard for the additional funds owed the Lender only after providing a written request to the FTA, Colson Services.

If the Lender received an overpayment for the 6th and final section 1112 payment, or if the Lender received payments on a loan that was not eligible for section 1112 payments, then the additional funds owed the SBA must be immediately returned to SBA via wire to Colson's 7(a) Collection Account with a reference to Section 1112 and the affected SBA Loan Number.

D. Deferments After Section 1112 Payments End

1) SBA-Serviced 504 Debentures (Both Purchased and Not Purchased)

With respect to any 504 loan associated with an SBA-serviced debenture (both purchased and not purchased) for which SBA makes the last of the 6 months of Section 1112 payments in September, October or November 2020, SBA will immediately grant an automatic deferment of principal and interest through December 31, 2020.

With respect to these deferments, Borrowers are advised:

- a. Interest will continue to accrue on the loans involved;
- b. The automatic deferment will be reflected on future monthly payment notices (SBA Form 1201);
- c. Borrowers will need to ensure that any established Preauthorized Debit (PAD) or recurring payment on the loan does not resume after the last Section 1112 payment is made. If necessary, Borrowers with an SBA established PAD will have to contact their SBA servicing center to stop recurring payments during the deferment period. Borrowers that have established a PAD through Pay.Gov or any other bill pay service are responsible for ensuring that recurring payments are not made during the deferment period;
- d. Borrowers preferring to resume making regular payments during the deferment period may do so and SBA will apply those payments normally as if there was no deferment;
- e. After this automatic deferment period, Borrowers will be required to resume making regular principal and interest payments. Upon request, SBA will evaluate borrower circumstances on a case-by-case basis to determine the nature and extent of further relief that may be appropriate for each situation; and
- f. Borrowers with loans that are not in "regular servicing" status, or that should have been moved into liquidation status, will not be granted an automatic deferment; and

- g. The deferment granted under this paragraph C.1 will not be counted toward the maximum period of deferment authorized under SOP 50 55, Chapter 12, paragraph D, which provides that “[g]enerally, the amount deferred should not exceed six cumulative monthly payments or 20% of the original loan amount, whichever is less”.

2) 7(a) and 504 Loans that are Serviced by 7(a) Lenders and CDCs

With respect to any 7(a) or 504 loan that is serviced by 7(a) Lenders or CDCs, SBA strongly encourages Lenders and CDCs (and 504 Third Party Lenders) to consider providing the Borrower with deferment relief immediately after SBA makes the last of the 6 months of Section 1112 payments. The Lender and the CDC must document that the Borrower continues to be adversely affected by the COVID-19 Emergency when the 6-month period of Section 1112 payments ends, and the loan must be in “regular servicing” status or should not have been moved into liquidations status.

Any deferment granted under this paragraph C.2 will not be counted toward the maximum deferment period set forth in the applicable SOP for 504 loans or for 7(a) loans not sold in the secondary market. See SOP 50 55, Chapter 12, paragraph D for 504 loans; and SOP 50 57, Chapter 12, paragraph D.1 for 7(a) loans, both of which provide that “[g]enerally, the amount deferred should not exceed six cumulative monthly payments or 20% of the original loan amount, whichever is less”.

a. 7(a) Loans

In accordance with SOP 50 57 2 and 13 C.F.R § 120.530, Lenders may assist Borrowers experiencing temporary cash flow issues by deferring payments for a stated period of time.

- i. For a Loan Not Sold on Secondary Market: Lenders may grant a deferment of up to six (6) consecutive months or 20% of the original loan amount, whichever is less.
- ii. For a Loan Sold on Secondary Market: As outlined in the Secondary Participation Guaranty Agreement (SBA Form 1086), Lenders may grant a one-time unilateral deferment of up to 90 days without requiring prior investor consent. The Lender notifies the investor through the Fiscal Transfer Agent (FTA) (Info@colsonservices.com) of the unilateral deferment and reports the affected loan on SBA Form 1502. Lenders may make additional loan deferments only with prior investor consent. All notifications of unilateral deferments or requests for additional loan deferments less than or equal to 12 consecutive months in aggregate must be processed through Customer Service Online Request (CSOR) on the FTA’s website. Customer Service Online is available on the Sign In drop down menu at <https://colsonservices.bnymellon.com>. Requests for

loan deferments greater than 12 consecutive months in aggregate should be sent to Info@colsonservices.com.

For additional guidance regarding deferments of 7(a) loans, please refer to SOP 50 57 2.

b. 504 Loans

In accordance with SOP 50 55 and 13 C.F.R. § 120.530, CDCs may assist Borrowers experiencing temporary cash flow issues by deferring payments for a stated period of time.

- i. The amount deferred should not exceed six (6) cumulative monthly payments or 20% of the original loan amount, whichever is less.
- ii. Unless SBA has purchased the Debenture, the CDC must notify the Central Servicing Agent (CSA) of any deferment in order to avoid acceleration of the Note and the need to purchase the Debenture.
- iii. The Central Servicing Agent (CSA) is authorized to process the deferment without obtaining the Servicing Center Acknowledgment. CDCs must provide notice of any deferment to the appropriate Commercial Loan Servicing Center and to the CSA within 24 hours after CDC approval of the deferment. The CDC has 10 business days from its approval of the deferment to obtain the Servicing Center Acknowledgement and provide it to the CSA.
- iv. The current financial information that a CDC is required to obtain before granting a deferment under SOP 50 55, Chapter 12, Paragraphs C. 1. and C.2., including the borrower's financial statements, business and personal Federal income tax returns, and the statement documenting the temporary nature of the cash flow problem, must instead be obtained, reviewed and analyzed by the CDC within six (6) months after the deferment is granted.
- v. Payments are not required during the deferment period. However, voluntary payments are permitted.
- vi. Interest will continue to accrue during the deferment period.
- vii. The CDC must negotiate a Catch-up Plan within six (6) months after the date the deferment was granted.
- viii. The CDC must monitor the loan during the deferment period and notify the servicing center of any adverse changes on the loan.

For additional guidance regarding deferments of 504 loans, please refer to SOP 50 55.

3) 504 Loans that were Granted Deferments Under the COVID-19 Agreements

As noted above, SOP 50 55, Chapter 12, paragraph D, provides that “[g]enerally, the amount deferred should not exceed six cumulative monthly payments or 20% of the original loan amount, whichever is less.” In addition, SOP 50 55, Chapter 3, paragraph D3.b.(5), provides that all CDCs, except PCLP CDCs, must obtain prior SBA approval before taking any action that involves a “Deferment that exceed[s] six cumulative monthly payments or 20% of the original loan amount, whichever is less”.

Due to the extraordinary circumstances of the COVID-19 Emergency, SBA has determined that, for the purposes of the two SOP provisions referenced above, any period of deferment that was granted on a 504 loan as a result of the COVID-19 Substantial Adverse Change Remedy Certification and Agreement entered into pursuant to SBA Procedural Notices 5000-20010, 5000-20027 and 5000-20044 will not be counted toward the maximum deferment period of six cumulative months or 20% of the original loan amount, whichever is less.

Questions

Questions on this Notice may be directed to the Lender Relations Specialists in the local SBA Field office. The local SBA Field office may be found at <https://www.sba.gov/tools/local-assistance/districtoffices>.

William M. Manger
Associate Administrator
Office of Capital Access