



SBA Procedural Notice

TO: All SBA Employees and 7(a) Lenders

CONTROL NO.: 5000-20029

SUBJECT: Guidance on Establishing Maturities of New 7(a) Loans Eligible to Receive Payments under Section 1112 of the CARES Act

EFFECTIVE: June 11, 2020

Section 1112 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) authorizes SBA to make the principal, interest, and associated fee payments that are owed on a covered loan for a 6-month period if the loan is in regular servicing status (section 1112 payments). Under section 1112(c)(1)(C), SBA is authorized to make these section 1112 payments for new 7(a) loans that are made beginning on March 27, 2020 and through September 27, 2020. The payments were authorized to provide relief to small business borrowers adversely affected by COVID-19.

The purpose of this Notice is to address the standards that SBA expects 7(a) Lenders to apply in establishing the maturity of new 7(a) loans approved through September 27, 2020. All 7(a) loan delivery methods (including SBA Express, Export Express, EWCP, Community Advantage Pilot, and Express Bridge Loan (EBL) Pilot) are covered by this Notice. (This Notice does not apply to Paycheck Protection Program Loans made under section 1102 of the CARES Act because the CARES Act excludes these loans from eligibility for section 1112 payments.)

Lenders must underwrite all 7(a) loans, including the term of the loan, in accordance with SBA's Loan Program Requirements (as defined in 13 CFR § 120.10). In accordance with these requirements, Lenders are required to use prudent lending practices in underwriting each loan and are required to establish appropriate repayment schedules and loan maturities based on the Borrower's ability to repay, the use of the loan proceeds, and the useful life of the assets being financed.

For each new 7(a) loan made beginning on March 27, 2020 and through September 27, 2020, Lenders may not consider the availability of section 1112 payments in establishing the repayment schedule or the loan term of any 7(a) loan. The repayment schedule and the loan term must be established in accordance with SBA Loan Program Requirements as if no section 1112 payments would be made. Lenders may not intentionally shorten loan maturities so that Section 1112 payments pay all or a substantial portion of the loan. SBA expects Lenders to establish the repayment schedule and the loan maturity for new loans in the same manner as the Lender's similarly-sized, SBA-guaranteed loans approved prior to the COVID-19 emergency. If SBA determines upon later review of the loan that a Lender did not comply with this requirement,

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EXPIRES: 6-1-21

SBA Form 1353.3 (4-93) MS Word Edition; previous editions obsolete

Must be accompanied by SBA Form 58

SBA may deny liability on its guarantee under 13 CFR 120.524 or otherwise take action against the Lender.

In addition, Lenders are prohibited from underwriting any new 7(a) Loan through September 27, 2020 with a maturity of six months or less. SBA will be making the section 1112 payments on new loans for six months and, if the new loan has a maturity of six months or less, SBA would not be providing just short-term debt relief on a guaranteed loan to the borrower, but would effectively be providing a grant to the borrower, which is not the purpose of section 1112. Additionally, this restriction is consistent with Procedural Notice 5000-20020 where SBA stated that section 1112 payments may not be used to cover balloon payments on a revolving line of credit. Further, if a borrower has the ability to repay a loan with a term of six months or less without the 1112 payments, that raises doubts about whether the Lender can demonstrate that the Borrower could not obtain credit elsewhere without a government guarantee.

SBA reminds all Lenders that, for all new 7(a) loans made beginning on March 27, 2020 and through September 27, 2020, if the SBA guarantee is cancelled after the loan is made due to character ineligibility, financial information verification issues, or for any other reason, any payments disbursed to the Lender prior to such cancellation must be promptly repaid to SBA. See SBA Procedural Notice 5000-20023, paragraph N.3.

In addition, SBA reminds Lenders that, for any 7(a) loan for which SBA is making section 1112 payments, Lenders must continue to comply with existing procedures regarding 1502 reporting and payment remittance as required by SOP 50 10. See SBA Procedural Notice 5000-20020, paragraph B.10.

Finally, SBA alerts Lenders that when approving new EBL loans, Lenders must determine whether the Borrower has applied for or received a Paycheck Protection Program (PPP) loan. The CARES Act provides that if the Borrower has applied for or received a PPP loan, the Borrower is not eligible for an EBL loan, which would be for the same purpose and duplicative of amounts applied for or received under the PPP.

Questions concerning this Notice may be directed to the Lender Relations Specialist in the local SBA Field Office. Local SBA Field Offices can be found at <https://www.sba.gov/tools/local-assistance/districtoffices>.

Dianna L. Seaborn
Director
Office of Financial Assistance