

SBA Releases Fourth Interim Final Rule

Today, SBA released its Fourth Interim Final Rule providing guidance for the implementation of the Paycheck Protection Program ("PPP").

Key takeaways include the following:

- Hedge Funds and Private Equity firms, or other businesses primarily engaged in speculation, are deemed to be not eligible for PPP loans.
- A hospital that is otherwise eligible to receive a PPP loan as a business concern or nonprofit organization (described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code) shall not be rendered ineligible for a PPP loan due to ownership by a state or local government if the hospital receives less than 50% of its funding from state or local government sources, exclusive of Medicaid.
- The SBA has reversed course with respect to businesses with receipts from legal gambling. SBA had previously indicated that only in limited circumstances could businesses with receipts from legal gambling be eligible for PPP loans. SBA has now clarified that a business that is otherwise eligible for a PPP Loan is not rendered ineligible due to its receipt of legal gaming revenues.
- SBA has clarified that a businesses participation in an employee stock ownership plan ("ESOP") does not result in an affiliation between the business and the ESOP.
- SBA has clarified that a business that was a debtor in bankruptcy proceedings: (i) it submits the application; or (ii) at any time before the loan is disbursed is ineligible for a PPP loan.
- SBA formally codifies the guidance it issued yesterday ([covered here](#)) that it will scrutinize the required certification for a PPP loan application (i.e that "[c]urrent economic uncertainty makes this loan request necessary to support the ongoing operations of the Applicant."). It further codifies the safe harbor whereby any borrower that applied for a PPP loan prior to the issuance of this regulation and repays the loan in full by May 7, 2020 will be deemed by SBA to have made the required certification in good faith.

[The text of the Fourth Interim Final Rule may be found here.](#)

Contact Us

Reach out to Fraser Stryker's business attorneys for more information. We are here to help:



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