

Clarification on Small Business Administration's Implementation of the Paycheck Protection Program

The federal government's response to the COVID-19 crisis is still going at a break-neck pace. On the evening of Thursday, April 2, the Treasury Department and the SBA issued interim final (yes, that is a real term) [rules implementing the Paycheck Protection Program](#) to the public on their websites. On Friday, April 3, lenders began to accept applications under the program and on Monday, April 6, over \$35B had already been committed even though the actual implementing rules still hadn't even been published in the Federal Register. The "in-case-of-emergency," glass has been broken.

Unfortunately, in their rush to get this legislation passed, and rules issued, a combination of the Congress, the Treasury Department, and the SBA decided to maintain historical restrictions that governed the program that the Paycheck Protection Program resides within. Our read of these final rules, which rely entirely on a set of rules designed for normal times, is that small equipment finance companies are currently ineligible to receive funds under the Paycheck Protection Program.

Many ELFA members who are small finance companies are rightly upset about this decision. The argument that, in their rush to get money out the door quickly, Congress didn't have time to get it right, falls on deaf ears of small equipment finance companies trying to navigate mandated closures, deferral requests, creditors, and payrolls of their own, all at the same time.

The arguments that made financial services firms ineligible for SBA 7(a) loans in normal times are based on the fact that money is the stock and trade of a finance company. It is understandable that the government wouldn't want government-backed loans going to finance companies who would then be able to make speculative investments with government-backed, low-cost, funds.

This argument goes out the window when a new program is created utilizing that SBA 7(a) shell and is designed to help American small businesses to cover their payrolls and operating costs during a time of national emergency. If the government is concerned about small equipment finance companies utilizing

these loans for speculative purposes, it's really hard to determine why; usage of the funds is already limited to payroll, rent, utilities, and interest payments on debts in existence prior to February 15, 2020.

If your company was planning on utilizing this program and you believe that you should be able to, you should express your First Amendment right to petition your government for the redress of grievances. Gather your data, line up your arguments, get ready to talk about the impact that you have in your local area and our state, and call your Representatives and Senators. If you need or want assistance in doing so, please contact Chelsea Neil, at 202-238- 3421, or Andy Fishburn, at 202-238-3419. We are both working remotely and can help you coordinate those conversations

Where to Stay Up to Date

ELFA has already sent a [letter to the Treasury and the SBA](#) on the above matter, and in that same letter we also sought guidance seeking confirmation that customers can use PPP funds to cover lease payments. There is a lot going on and we know you are getting flooded with information, so we are trying to only utilize our newsletters for big events. Hence, be sure to check the [ELFA federal government response to COVID-19 webpage](#) for the latest, and we'll keep sending out periodic special newsletters as events warrant. If you ever need an update on a specific issue, please call or e-mail Andy or Chelsea at the numbers above or the e-mails below.

Congressional Links

To access House and Senate information on committee hearings or your Members of Congress, go to the [ELFA Advocacy Grassroots Network page](#).

Federal Government Relations

www.elfaonline.org/advocacy/

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