



# The Paycheck Protection Program (PPP) and Larger Borrowers: Oversight Efforts and Options for Congress

May 1, 2020

The Coronavirus Aid, Relief, and Economic Security Act (CARES Act; P.L. 116-136) created [PPP loans](#) to provide short-term, economic relief to

- businesses eligible to participate in the SBA’s 7(a) loan guarantee program, and
- any business (including [self-employed individuals or independent contractors](#)), 501(c)(3) nonprofit organization, 501(c)(19) veteran’s organization, or tribal business not currently eligible that has not more than 500 employees or, if applicable, the [SBA’s size standard](#) for the industry in which it operates.

PPP loans can be used to cover payroll expenses and other enumerated operating costs (e.g., rent, utilities) and can be forgiven if the borrower meets certain payroll and employment retention criteria.

The initial authorization of \$349 billion for PPP loans was exhausted by April 16, 2020, and Congress authorized another \$310 billion (bringing the total to \$659 billion) for PPP loans in the Paycheck Protection Program and Health Care Enhancement Act (P.L. 116-139).

[Media reports and public company disclosures](#) have indicated that some “larger” businesses, nonprofits, and corporate groups have received PPP loan amounts, in excess of the average or most commonly sought loan amounts. This has raised questions as to whether a small number of borrowers are disproportionately benefiting from the PPP and preventing a broader range of smaller borrowers from obtaining PPP loans.

This Insight describes

- the distribution of PPP loans, by approval amount;
- existing tools (including the SBA’s “affiliation rules”) and executive branch actions taken to address perceived “abuses” of larger, eligible borrowers and corporate groups; and
- oversight options for Congress.

**Congressional Research Service**

<https://crsreports.congress.gov>

IN11374

## Data on PPP Loan Sizes

According to SBA data in [Table 1](#), [the average size of a PPP loan approved](#) during the first wave of PPP loans (after the CARES Act but before P.L. 116-139) was \$206,000, and 74% of the number of loans approved were for amounts of \$150,000 or less. Although approximately 1.5% of loans were issued for \$2 million or more, these loans accounted for almost 28% of the value of all approval amounts.

**Table 1. Distribution of SBA PPP Loan Approval Amounts, as of 4/16/20**

Loan Size	Approved Loans	Approved Dollars	% of Count	% of Amount
\$150K and Under	1,229,893	\$58,321,791,761	74.03%	17.04%
>\$150K-\$350K	224,061	\$50,926,354,675	13.49%	14.88%
>\$350K-\$1M	140,197	\$80,628,410,796	8.44%	23.56%
>\$1M-\$2M	41,238	\$57,187,983,464	2.48%	16.71%
>\$2M-\$5M	21,566	\$64,315,474,825	1.30%	18.79%
>\$5M	4,412	\$30,897,983,582	0.27%	9.03%
<b>Total</b>	<b>1,661,367</b>	<b>\$342,277,999,103</b>	<b>100%</b>	<b>100%</b>
<b>Average loan amount: \$206,022</b>				

Source: SBA, “[Paycheck Protection Program Report](#).”

## SBA’s Affiliation Rules

The PPP is generally subject to the SBA’s business loan program “affiliation rules” with some exceptions (discussed subsequently). These [affiliation rules](#) are designed to prevent “big” businesses from accessing SBA programs that are statutorily required to benefit only independently owned and controlled “small business concerns.” For example, if a business of 1,000 employees broke up into five businesses with 200 employees each—all owned by the same parent company—in order to fall under the PPP’s 500 employee threshold, these businesses generally would not be eligible for the PPP due to the affiliation rules.

The CARES Act waives the affiliation rules in three specific instances that may allow some larger businesses to qualify for these loans. The affiliation rules are waived for

1. businesses owned by [franchises](#) identified by the SBA,
2. businesses that receive financial assistance from licensed Small Business Investment Companies ([SBICs](#)), and
3. businesses operating in the accommodation and food services industry (North American Industry Classification System [NAICS] Code 72) that have no more than 500 employees per physical location.

By regulation, SBA has also waived the application of the affiliation rules for [faith-based nonprofits](#) in instances that “would substantially burden those organizations’ religious exercise.”

## Executive Branch Actions

On April 23, 2020, SBA and Treasury updated PPP [FAQ guidance](#) to include Questions 31 and 37. In Question 31, SBA and Treasury say that “a public company with substantial market value and access to capital markets” is *unlikely* to be able to make the certification on its PPP application in good faith that

“[c]urrent economic uncertainty makes this loan request necessary to support the ongoing operations of the Applicant.” The guidance then says that such borrowers must repay their loans in full by May 7, or else face agency scrutiny that their certifications were made in good faith. In Question 37, SBA and Treasury cross-reference the answer to Question 31 for “businesses owned by private companies with adequate sources of liquidity” (e.g., private-equity-owned businesses). With this said, though, the guidance does not say that such businesses are incapable of making the certifications in good faith.

On April 28, 2020, Treasury Secretary Mnuchin [appeared on national television](#) and stated, “[T]hat for any loan over \$2 million, the [SBA] will be doing a full review of that loan before there is loan forgiveness.” Secretary Mnuchin [warned that companies could face criminal penalties](#) for misrepresentations.

On April 29, SBA and Treasury created [a dedicated window of time](#) for accepting PPP applications from “the smallest lenders and their small business customers.” During that window, the SBA only accepted loans from lending institutions with asset sizes less than \$1 billion from 4:00 p.m. EDT until 11:59 p.m. EDT on April 29, 2020.

On April 30, 2020, SBA and Treasury issued an [Interim Final Rule](#) (IFR) stating that “businesses that are part of a single corporate group shall in no event receive more than \$20 [million] of PPP loans in the aggregate.” Businesses are part of a single corporate group if they are majority owned, directly or indirectly, by a common parent. The limitation goes into effect for any loan that has not been fully disbursed as of April 30, 2020. It is the PPP loan applicant’s responsibility to notify the lender if the applicant has applied for or received PPP loans in excess of the amount permitted and withdraw or request cancellation of any pending PPP loan application or approved PPP loan not in compliance with the limitation.

## Options for Congress

If it decided that further action was needed, Congress could adopt legislation to limit PPP loans to specific types of borrowers, such as the following options:

- Enacting set-asides for certain lenders that typically serve smaller businesses. For example, Congress [included set-asides](#) of no less than \$60 billion for the \$310 billion in PPP authorization enacted in P.L. 116-139. The set-asides were for smaller banks, credit unions, and “community financial institutions.”
- Enacting set-asides for smaller borrowers by lending amounts, either by targeting borrowers with smaller employment sizes or restricting maximum loan amounts (e.g., \$150,000 or less).
- Prospectively repealing some, or all, of the instances in which the CARES Act waives affiliation rules for PPP.
- Prospectively altering the borrower certification under the CARES Act (“Current economic uncertainty makes this loan request necessary to support the ongoing operations of the Applicant”) to include language that the borrower could not obtain credit from elsewhere. This “no credit elsewhere” requirement is a standard feature of SBA’s [7\(a\) loans](#).

Congress could also use its oversight powers to submit questions to the SBA or Treasury Department or hold hearings on PPP oversight. For example, SBA or Treasury officials could be asked how they intend to conduct audits, what standards they would apply, and what penalties they would be willing to pursue for noncompliance. Congress could also invite the [SBA Office of Inspector General](#) to explain how it

---

intends to use the additional [\\$25 million enacted](#) in the CARES Act (available through September 30, 2024) to improve PPP oversight.

## Author Information

Sean Lowry  
Analyst in Public Finance

---

## Disclaimer

This document was prepared by the Congressional Research Service (CRS). CRS serves as nonpartisan shared staff to congressional committees and Members of Congress. It operates solely at the behest of and under the direction of Congress. Information in a CRS Report should not be relied upon for purposes other than public understanding of information that has been provided by CRS to Members of Congress in connection with CRS's institutional role. CRS Reports, as a work of the United States Government, are not subject to copyright protection in the United States. Any CRS Report may be reproduced and distributed in its entirety without permission from CRS. However, as a CRS Report may include copyrighted images or material from a third party, you may need to obtain the permission of the copyright holder if you wish to copy or otherwise use copyrighted material.