



Paycheck Protection Program FAQ

Some of the details of this program are still being clarified as of this writing (4/2). This information is provided as a general guide, please consult legal counsel and your SBA lending bank for eligibility criteria for your company.

How does the Affiliate rule impact venture-backed companies

The SBA's general rule of affiliation is that **two businesses will be considered affiliates if one owns or has the ability to control the other**. Affiliates must include the total headcount of all affiliates, which, for the most part, would disqualify them from the SBA's definition of a small business.

As a basic rule, ownership of 50% or more of the voting securities of a business will constitute control based on ownership alone, and thus trigger affiliation between the business and its majority owner.

However, most venture-backed businesses have a group of minority owners who, together, have common control through the negative covenants contained in their investor agreements. See page 3 of this helpful summary for a list of the [Negative Covenants that are Likely to Create Affiliation between a Company and a Minority Investor](#).

It may be possible to break affiliation with your venture firms by using a temporary waiver of investor rights.

Venture-backed companies may wish to explore the benefits of a temporary waiver with their legal counsel and investors in order to qualify for the PPP.

Another issue that may be relevant to some VC-backed firms with remaining runway is the certification of need. Businesses will be asked to certify (most likely a box to be ticked) that they have a need for the funds due to the economic downturn resulting from the coronavirus outbreak.

The test for "need" is not fully defined but it may not necessarily be business insolvency. It could possibly extend to loss of cash flow to meet payroll obligations; inability to meet payroll; need to reduce headcount or reduce salaries; and possibly a shortening of runway.

There will be enforcement attention on distribution of the loans, and false statements, fraud, or knowing or reckless misrepresentations could have civil and criminal consequences. Goodwin law released an article warning that audits and lookbacks will be conducted and possible false or misleading statements will be scrutinized by both state and federal authorities well after the crisis is over. You can find their [Enforcement Risks for Recipients of U.S. CARES Act article here](#).

Summary

The Paycheck Protection Program (PPP) is a federal loan program aimed at helping small businesses who have been impacted by coronavirus to retain their workforce. The loan is an SBA 7(a) loan with the following terms:

- 4.00% fixed interest rate
- No payments for first 6-12 months
- Repaid over a 10-year term
- Up to 100% of the principal amount may be forgiven (see details below)



Approved uses of proceeds include:

- Employee salaries (including commissions and tips)
- Group health premiums
- Rent and utilities
- Interest payments on mortgages or debt incurred before 2/15/20 (not principal payments)
- Retirement benefits
- State or local tax assessed on compensation
- Vacation, paid leave (family, medical, etc.)



How much can I apply for?

The maximum amount is \$10 million, but each company can apply for an amount equal to 2.5 times monthly payroll expense. (See below for details.)



Am I eligible for a loan?

Small businesses that were in operation prior to Feb 15, 2020, with 500 or less contract or salaried employees, are eligible to apply for this loan. Venture-backed companies may be subject to the SBA's "affiliates rule." (See above for details)

Businesses must have paid salaries and payroll taxes, and/or independent contractors, as reported on Form 1099-MISC.



How do I apply for a loan?

This loan will be packaged as an SBA 7(a) loan, and businesses can apply through qualified lenders. ([See a list of the top SBA lenders.](#))

SBA application fees will be waived for both borrowers and lenders.

Due to the minimal program requirements, the approval and funding process will be streamlined, with a goal of getting capital in the hands of businesses who need it most.



How is the loan amount determined?

Your loan amount is determined by taking your business's average monthly payroll and multiplying it by 2.5.

Your monthly payroll includes wages, tips, group health, retirement benefits and taxes but excludes the amount of compensation to individuals in excess of \$100,000.

The maximum loan amount is \$10 million.



Included in the calculation:

- Salary, wage, commission, or similar compensation
- Payment of cash tip or equivalent
- Payment for vacation, as well as parental, family, medical, or sick leave
- Allowance for dismissal or separation
- Payment required for the provisions of group health care benefits, including insurance premiums
- Payment of any retirement benefit
- Payment of state or local tax assessed on the compensation of the employee



Excluded from the calculation:

- Compensation of an individual employee in excess of an annual salary of \$100,000, as prorated for the period February 15, to June 30, 2020
- Payroll taxes, railroad retirement taxes, and income taxes
- Any compensation for an employee whose principal place of residence is outside of the United States
- Qualified sick leave wages for which a credit is allowed under section 7001 of the Families First Coronavirus Response Act (Public Law 116–5127), or qualified family leave wages for which a credit is allowed under section 7003 of the Families First Coronavirus Response Act



How does forgiveness work?

Up to 100% of the principal amount of the loan may be forgiven if you use the proceeds on qualifying expenses. The forgiveness program is designed to support employment. If you don't maintain certain levels of employees, or compensation, then part of the loan will not be forgiven.

The finer details of the forgiveness program are still being determined.



If my loan is not forgiven, how much is my monthly payment?

Any amount not forgiven will have an interest rate of 4% fixed for a period of 10 years. No payments are due until after the 6–12 month deferment period.



Will I need to pledge collateral or a personal guarantee to qualify?

No.



How long will it take to get my loan proceeds?

Once the SBA releases details and guidance on the Paycheck Protection Program, your SBA lending bank can approve your loan and disburse funds as fast as possible by ACH payment.



If I take this loan now, can I get additional SBA funds in the future?

It is our understanding at this point that it will not affect your future SBA loan runway, or total dollars allowed from the SBA, but we are awaiting further guidance.



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