

# SMALL BUSINESS ADMINISTRATION (SBA) BUSINESS INTERRUPTION LOANS

## Section 1102 of the CARES ACT

### OVERVIEW

The Paycheck Protection Program will provide \$350 billion in small business interruption loans and loan guarantees directly through community banks and credit unions. Loans must be \$10 million or less and can be used to cover the costs of payroll, group healthcare benefits, and other operating expenses from February 15, 2020 through June 30, 2020.

### WHO QUALIFIES?

#### GENERAL ELIGIBILITY

- **Self-employed individuals** that have documented evidence of their income, expenses, and payroll tax filings (as reported on IRS Form 1099-MISC).
- **Small Businesses:** Any businesses that have 500 or less employees, including tribe-owned businesses,<sup>1</sup> but also small businesses that exceed 500 employees if the applicable [SBA Size Standard](#) says they can have more than 500 employees.
- **501(c)(3) Nonprofits:** Nonprofit organizations that are tax exempt under [Section 501\(c\)\(3\)](#) of the tax code and have 500 or less total employees. Also includes 501(c)(3) nonprofits with more than 500 employees, but no more than the [SBA Size Standard Employee Limit](#) for their industry if higher than 500 employees.
- **501(c)(19) Nonprofits:** Nonprofit organizations that are tax exempt under Section [501\(c\)\(19\)](#) of the tax code and have 500 or less total employees. Also includes 501(c)(19) nonprofits with more than 500 employees, but no more than the [SBA Size Standard Employee Limit](#) for their industry if higher than 500 employees.
- **Franchises and Certain Small Business Interests with Multiple Locations:** Food and accommodation businesses (according to [NAICS Code 72](#)) with multiple locations, that have 500 or less total employees, but less than 500 employees at each physical location. Franchise affiliation rules are also waived, allowing individual franchise locations owned by a single business interests to each qualify for assistance.<sup>2</sup>

#### ADDITIONAL ELIGIBILITY REQUIREMENTS (NOT EXHAUSTIVE)

- Borrowers must have been in operation on February 15, 2020.
- Borrowers must have had employees for whom the borrower paid Federal payroll taxes for or have evidence that they paid independent contractors (as reported on IRS Form 1099-MISC).
- The borrower must certify that:
  - The current economic conditions necessitate the loan;
  - The funds will be used to retain workers and maintain wages, or make mortgage, lease, and utility payments; and

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- The borrower did not get an SBA 7(a) loan or another interruption loan for the same purpose or has one pending.

## WHAT ARE THE TERMS, CONDITIONS AND AMOUNTS OF THE LOANS?

### GENERAL OVERVIEW

- **Loans will be offered through local banks and credit unions:** The subsidized loans will be provided through an authorized lender, which includes both SBA approved lenders and any other bank that receives a designation by the SBA or Treasury.
- **Loans can be partially forgiven:** A portion of the loan can be forgiven tax free (more below).
- **Loan payments can be deferred for six months:** Loan repayment is deferred for at least six months, but no more than one year. The exact amount of deferment may depend on the lender or SBA regulations.
- **Interest rate is capped at 4%.**
- **Loan fees, certain credit requirements, and collateral are waived:** Borrowers do not have to pay any loan fees, prove they can't find credit elsewhere, provide collateral or a [personal guarantee](#), or pay a penalty for prepayment.
- **Refinancing available:** The loan can also be used to refinance an SBA Coronavirus Disaster Loan.

### ALLOWABLE USES OF LOAN PROCEEDS

- **Loan proceeds may be used for payroll, benefits and operating costs:** The primary purpose of the loan is to cover payroll costs, group healthcare benefits, paid leave, insurance premiums, debt interest, mortgage interest (but not prepayments), rent, and utilities. There's a safe harbor for the partners and shareholders of a company that fails to pay back a loan, ensuring they cannot be held liable for default if the company uses the loan for those primary purposes. However, the loan can also be used for anything a regular 7(a) loan can be used for.

### MAXIMUM LOAN AMOUNT

- **Loan amount can be 250% of "average monthly costs", but capped at \$10 million:** The loan is based on 2.5 times the "average total monthly cost" of employee compensation (including paid family and sick leave), employee severance, group health care benefits (including premiums), retirement benefits, state and local payroll taxes, and compensation to any independent contractor paid less than \$100,000 per year; plus any outstanding balance on an SBA Coronavirus Disaster Loan (for the purpose of refinancing the Disaster Loan). The loan amount is capped at \$10 million per borrower.
  - **"Average total monthly cost"** is based on the average costs over the previous 12 months from the date the loan is made. However:
    - For seasonal businesses, the "average total monthly cost" can be based on the average costs per month occurring between February 15, 2019 and May 10, 2019 or between March 1, 2019 and June 30, 2019, at the choice of the borrower.

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- For new businesses and organizations that did not exist before February 15, 2019, the “average total monthly cost” is based on the average costs per month occurring between January 1, 2020 and February 29, 2020.

### LOAN FORGIVENESS

- **Loan forgiveness available for up to eight-weeks of payroll and certain operating costs:** Tax-free loan forgiveness is available for any portion of the loan used to cover payroll (including additional wages paid to tipped employees), mortgage debt interest, rent, and utilities during the first eight weeks of the loan—at the discretion of the lender.
- **Process for loan forgiveness:** In order to get loan forgiveness, borrowers must submit an application to the lender, with documentation verifying:
  - The number of full-time employees on payroll and their pay rates;
  - Federal payroll tax filings;
  - State income tax, payroll tax, and unemployment insurance filings; and
  - Mortgage, rent, and utility payments.
- **Loan forgiveness requests must be approved or denied by lender within 60 days.**
- **Amount of loan forgiveness may be reduced.** The loan forgiveness amount is reduced by the percentage of employment and amount of wages that is reduced over the first eight weeks of the loan for any employee making \$100,000 or less, compared to the applicable period last year.<sup>3</sup> Loan forgiveness is also reduced by the amount of any grant provided through the SBA Coronavirus Disaster Loan program. After a borrower receives loan forgiveness, the remaining balance must be paid back over 10 years.

### APPLICATION PROCEDURES

- **To be determined:** Once regulations are issued providing for the new loans, borrowers can apply for a loan from an existing authorized SBA lender, or a lender specially authorized by the Treasury Department to provide interruption loans.
- To find an authorized lender near you, please contact your nearest [SBA District Office](#).

### OUTSTANDING ITEMS TO BE RESOLVED BY FEDERAL AGENCIES

- The loan application process.
- When lenders will begin offering the new loans.
- The loan forgiveness application process.

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- Which lenders will be specially authorized by the Treasury Department and SBA to provide interruption loans.
- When borrowers can begin applying for loan forgiveness.
- The exact interest rate on each loan, which will likely depend on borrower risk.
- The exact loan repayment deferral period, which will likely depend on the financial situation of the borrower and SBA regulations.
- **The de minimis** exemptions for loan forgiveness requirements, which the Treasury Secretary has discretion to determine.
- **Timelines are unknown, but U.S. Travel is working directly with SBA and Congress to ensure these items are resolved as quickly as possible.**

1. Employee is defined as anyone employed on a full-time, part-time, or other basis.

2. Affiliates of a business are considered a separate business entity if they have less than 500 employees per physical location and are either classified under [NAICS Code 72](#), part of a [registered franchise](#), or receive financial assistance from a licensed [Small Business Investment Company](#).

3. For most borrowers, the applicable period is either between February 15, 2019 and June 30, 2019 or between January 1, 2020 and February 29, 2020, at the election of the borrower. For seasonal businesses, the applicable period is February 15, 2019 and June 30, 2019.