General Questions

1. Question – What can Paycheck Protection Program (PPP) Loans be used for?

Answer – PPP loans may be used for payroll costs, costs for the continuation of group health care benefits, paid sick, medical, or family leave, retirement benefits, and insurance premiums. Funds may be used for employee salaries, commission. Funds can also be used for mortgage interest, rent, utilities, and interest on other debt obligations so long as agreements for these were entered into before February 15, 2020, and the refinancing on an Small Business Administration (SBA) Economic Injury Disaster Loan (EIDL) made between January 31, 2020 and April 3, 2020.

Payroll costs cannot include any compensation paid to an individual employee that receives an annual salary of more than $100,000.

2. Question – What if you use PPP Loans for costs other than listed above?

Answer – PPP loans that are used for purposes other than what is listed above will have to be repaid by the borrower. In addition, if loan funds are knowingly used for purposes other than listed above the borrower may be subject to additional liability (i.e. fraud).

3. Question – What are the terms of PPP Loans?

Answer – Loan terms are same for every borrower.

• Amount: the lesser of $10 million or the sum of 2.5x the average total monthly payroll costs for the prior year.
• Interest Rate: 1.00% fixed.
• No fees (SBA or Lender).
• 100% guaranteed by the SBA.
• Loan Maturity: 2 years, with no pre-payment penalties.
• All loan payments will be deferred for 6 months, with interest accruing over this period.
4. Question – Who is eligible to apply for PPP Loan?

Answer – Eligible recipients of a PPP loan include:

- Businesses: In operation on February 15, 2020 and with less than 500 employees.
  - Small Business Concern as defined in section 3 of the Small Business Act and subject to SBA’s affiliation rules;
- Tax Exempt Non-profits: In operation on February 15, 2020 and with less than 500 employees.
  - If designated as a 501(c)(3) or 501(c)(19) veterans organization;
- Tribal Business Concern as defined in section 31(b)(2)(C);

See Question 13 for an explanation on why a credit union cannot be a borrower under the Paycheck Protection Program.

5. Question – Who can be an eligible lender under the PPP?

Answer – The SBA and Treasury have determined that the following lenders have been determined to meet the criteria and are eligible to make loans (the lender must not be designated as in Troubled Condition by their primary regulator, or subject to an enforcement action based on unsafe or unsound lending practices):

- Any federally insured depository institution or any federally insured credit union (FICU);
- Any farm credit system institution;
- Depository and non-depository financing providers that originate, maintain, and service business loans or other commercial financial receivables and participation interests to be an SBA lender. The entity would need to have a formalized compliance program; apply the requirements of the Bank Secrecy Act (BSA); been in operation since February 15, 2019; and has originated, maintained, and serviced more than $50 million in business loans or other commercial financial receivables during a consecutive 12 month period in the past 36 months; or
- Service provider to any insured depository that has a contract to support lending activities in accordance with 12. U.S.C. 1867(c) (See Question 14 for CUSO information).

6. Question – What loans are forgiven under the CARES Act?

Answer – Loans under the PPP are eligible for loan forgiveness. The forgiveness program is not automatic; borrowers must apply and submit documentation to their lender. Lenders must make a decision within 60 days.
Borrowers are eligible for loan forgiveness in an amount equal to the sum of payroll costs, mortgage interest payments, rent payments, and utilities during a “covered period.” The covered period is defined in the CARES Act as an 8-week period beginning on the date of loan origination. There are limitations on the amount that may be forgiven, and the forgiveness will be reduced if the borrower reduces the number of employees or reduces total salary or wages by more than 25%. Borrowers have until June 30, 2020 to restore employment and salary levels for changes made during February 15, 2020 and April 26, 2020.

Any amount of funds that is used for something other than payroll costs, mortgage interest, rent, and utilities during the covered period will not be forgiven.

SBA’s interim final rule states that at least 75% of the forgiven amount shall be for payroll costs. The SBA will issue more guidance on loan forgiveness.

7. Question – If our credit union offers other emergency loans to members, does this disqualify them from receiving a loan under the CARES Act?

Answer – If a credit union offers an emergency COVID-19 loan or other type of loan to a member, this does not disqualify the member from receiving a PPP loan. Typically, SBA 7(a) loan programs require that a small business applicant not have “credit elsewhere,” meaning the applicant could not find credit available elsewhere on reasonable terms from non-Federal sources. However, the PPP waives this requirement. A member may still apply for a PPP loan so long as they meet the other program requirements.

8. Question – Where should I go if I have additional questions?

Answer – SBA’s guidance states that questions should be directed to the Lender Relations Specialist in the local SBA Field Office. Your local SBA Field Office can be found here.

- Paycheck protection questions: 7aPaycheckLoanProgramQuestions@SBA.gov
- Interim Final Rule questions: PPP-IFR@SBA.gov
- E-Tran & CAFS Access: (833) 752-0502

9. Question – Where can I find a list of participating lenders?

Answer – SBA’s PPP webpage has a list of participating lenders. The SBA has provided an updated list of lenders participating as of April 23, 2020.
Lender Questions

10. Question – Are we required to participate in the PPP?

Answer – Participation in the PPP is not mandatory. The decision to offer the PPP is up to the credit union.

See Question 11 for who can offer PPP loans.

11. Question – Can our credit union offer PPP Loans?

Answer – All existing SBA 7(a) lenders are automatically approved to make these loans based on their delegated authority. All FICUs are eligible to become SBA lenders under the program, so long as they are not currently designated in Troubled Condition by the NCUA or subject to a formal enforcement action due to unsafe or unsound lending practices. The SBA has deemed that all FICUs have met the criteria for eligibility. FICUs that wish to apply to become a lender must submit SBA Form 3506 (CARES Act Section 1102 Lender Agreement) to DelegatedAuthority@sba.gov. The lender agreement form asks that the lender also provide a Certificate of Incumbency. Upon transmission of the form, the FICU will have automatic delegated authority to offer PPP loans. Delegated authority means the lender can process, close, service and liquidate guaranteed loans without SBA’s prior review.

Lenders may utilize two different systems to process PPP loans. Lenders may use the SBA’s existing lender platform and submit borrower applications through E-Tran. Credit unions must have an account set up with E-Tran through Capital Access Financial Systems (CAFS) and can set up a new account through CAFS. More instructions on how to use CAFS can be found here. Information on updating your profile and setting up roles can be found here. For assistance, credit unions can contact cls@sba.gov. Lenders who need assistance accessing SBA’s E-Tran system to process loan guarantee requests may call SBA’s Lender Customer Service Line at 1-833-572-0502. The SBA has warned that repeated password attempts can result in temporary account suspension, which then require a password reset.

Lenders that are continuing to experience difficulties accessing CAFS and E-Tran, or did not have past access, may use the SBA’s new online lender portal to process borrower applications. This portal may be accessed through the Paycheck Protection Lender Gateway. Lenders must first create an account on SBA Connect, and request authorization by providing your NCUA number as well as your local SBA offices authorization number. A list of SBA authorization numbers can be found in the Appendix in this FAQ. NAFCU is confirming with the SBA that “NCUA number” means charter number.
12. Question – Does the SBA have a Certificate of Incumbency form?

Answer – The SBA does not have a standard form available. The SBA has clarified that going forward all new lenders (those lenders that were not approved prior to exhaustion of fund on April 16th) may use their own form, or submit Treasury FS Form 1014, Certificate of Incumbency of Officers.

This document shows the SBA that the person signing the lender agreement has the authority to enter into contractual agreements on behalf of the credit union. The officer who executed SBA Form 3506 should be included on the Certificate of Incumbency.

13. Question – Can credit unions apply for a PPP Loan?

Answer – Credit unions cannot be a borrower under the PPP. Eligible recipients of the loans are limited to small business concerns as defined in section 3 of the Small Business Act and non-profit organizations that are designated as 501(c)(3) organizations. The SBA’s regulations for all ineligible businesses under standard 7(a) loans applies (see 13 C.F.R. 120.110), which excludes financial businesses primarily engaged in the business of lending from receiving a loan.

All credit unions are eligible to apply for EIDLs. In order to be apply for an EIDL loan, the SBA has to make a disaster declaration for applicant states. Currently, the SBA has declared a disaster in all U.S. states and Washington D.C. EIDL loans are available to all non-profits designated under 501(c), (d), or (e). The SBA has an updated and streamlined application process for EIDL. As part of the CARES Act, an “emergency grant” can be provided while an EIDL application is pending. An advance can be up to $10,000.

14. Question – Can our CUSO apply to be a lender under the PPP?

Answer – The SBA’s guidance lists lenders who have been determined by the SBA and Treasury to be eligible lenders. The list also includes any service provider to any insured depository institution that has a contract to support such institution’s lending activities in accordance with 12 U.S.C. 1867(c) and is in good standing with the appropriate Federal banking agency. The SBA’s guidance references the Bank Service Company Act, which does not include the NCUA as a Federal banking agency.

However, a CUSO may not be entirely excluded from the list of eligible lenders if they can meet the requirements listed in 3. a. iii. Ill. of the SBA’s interim final rule. This category allows depository and non-depository financing providers that originate, maintain, and service business loans or other commercial financial receivables and participation interests to be an SBA lender. However, the entity would need to have a formalized compliance program; apply the requirements of the
Bank Secrecy Act (BSA); been in operation since February 15, 2019; and has originated, maintained, and serviced more than $50 million in business loans or other commercial financial receivables during a consecutive 12-month period in the past 36 months. If a CUSO meets this definition, then they may apply using SBA Form 3507 (CARES Act Section 1102 Lender Agreement – Non-Bank and Non-Insured Depository Institution Lenders). Eligibility is not automatic upon transmission of SBA Form 3507. The SBA may need additional time to approve a service provider, such as a CUSO for the PPP. The SBA will evaluate the applicant’s ability to process, close, disburse, and service PPP loans.

Non-federally insured entities are asked to send SBA Form 3507 to NFRLaapplicationforPPP@sba.gov in order for the SBA to make a determination.

CUSOs that enter into loan service provider agreements with credit unions that have not yet been reviewed by the SBA should submit their LSP agreements to the SBA at Ispagreements@sba.gov.

15. Question – Can other credit unions act as Agents under the PPP?

Answer – Treasury’s guidance provides that an agent can include someone who assists a lender with originating, disbursing, servicing, liquidating, or litigating SBA loans. Credit unions that assist a lender with any of these stated activities could qualify as an agent.

Any agent that assists a borrower will be paid by the lender from the SBA’s reimbursement of processing fees. Agents cannot collect any fees from borrowers directly. The amount an agent may receive cannot exceed:

- 1% for loans of $350,000 or less;
- 0.5% for loans greater than $350,000 and less than $2 million; and
- 0.25% for loans of $2,000,000 million or greater.

16. Question – What are the underwriting requirements for PPP Loan?

Answer – The PPP is a streamlined lending product. Lenders must:

- Confirm receipt of the borrower’s certifications contained in their application;
- Confirm receipt of information demonstrating that a borrower had employees that they paid a salary and payroll taxes on or around February 15, 2020;
- Confirm the dollar amount of average monthly payroll costs for the preceding calendar year by reviewing the payroll documentation that was submitted by the borrower; and
- Follow existing Bank Secrecy Act requirements.

Lenders’ underwriting obligations are limited to the above items and reviewing SBA Form 2483 (Paycheck Protection Application Form). In addition, Lenders are permitted to rely on the borrower’s certifications to determine eligibility and use of loan funds. Lenders may use their own
lender application forms as long as it captures the same information in **SBA Form 2483** ([see SBA/Treasury FAQ Q. 13](#)).

**SBA Form 2484** asks lenders to **certify** that they have complied with paragraphs 3. b(i)-(iii) of the interim final rule, have obtained and reviewed the required borrower application (**SBA Form 2483**) and supporting documents, and will retain the documents on file.

The SBA’s interim guidance paragraphs 3. b(i)-(iii) requires the lender to confirm receipt of the borrower certifications in the application, confirm receipt of information demonstrating that a borrower had employees (that were paid and the employer paid payroll taxes) on or around February 15, 2020, and confirm the dollar amount of the average monthly payroll costs by reviewing the payroll document that the borrower submitted. The guidance indicates that lenders may rely on the documents provided by the borrower and do not need verification if the documents support the borrower’s request.

The guidance indicates that lenders are held harmless if they rely on the borrower’s documents and attestation.

**17. Question – What promissory note should lenders use?**

**Answer** – The SBA has clarified in a [supplemental interim final rule](#) that lenders may use their own promissory notes to close PPP loans. Alternatively, lenders may use **SBA Form 147 (Standard Loan Note)** which is the SBA 7(a) standard promissory note and include the term language from the Interim Final Rule. The supplemental interim final rule states that the SBA is not requiring a separate SBA Authorization at this time in order to guarantee the loan.

**18. Question – What documents do lenders send to the SBA for applicants?**

**Answer** – Approved lenders have delegated authority, so loans may be processed without prior SBA approval. However, lenders are required to submit **SBA Form 2484 (Paycheck Protection Program Lender’s Application for 7(a) Loan Guaranty)** electronically and maintain the forms and supporting borrower documentation on file. No paper applications are required. The SBA’s interim final rule does not provide any further details on how to electronically submit applications but notes that an SBA Program Guide or further guidance may be provided.

**19. Question – How do I determine if a member is an eligible small business?**

**Answer** – The SBA’s guidance states that lenders may rely on the borrower’s certification for eligibility. Eligible businesses are deemed “small businesses” according to the **SBA’s published size standards**. Size standards are established by North American Industry Classification System...
(NAICS) codes. This includes all “affiliates” of the small business. The CARES Act waived the affiliate rules for small businesses with a NAICS code 72 and franchises. An affiliate is one who controls or has the power to control the other regardless if the power is exercised. When looking at eligibility, a borrower plus any affiliates, must meet the size standards. The SBA published guidance on affiliation rules for the PPP. According to this guidance, there are four tests for determining affiliation. The SBA’s FAQs state that lenders are not required to make an independent determination regarding the applicability of affiliation rules; it is the responsibility of the borrower to determine its affiliates and the lender may rely on the borrower’s certifications (see SBA/Treasury FAQ Q4).

Lenders must also be aware of the SBA’s list of ineligible businesses (see 13 CFR 120.110).

20. Question – What documentation do lenders need for loan forgiveness requests?

Answer – Lenders can rely on the documentation the borrower submits for forgiveness. Lenders do not need to conduct any verification if the borrower submits documents that support the request for loan forgiveness and the borrower attests that they have accurately verified the payments for eligible costs. SBA Form 2484 asks lenders to certify that they have complied with paragraphs 3. b(i)-(iii) of the interim final rule, have obtained and reviewed the required borrower application (SBA Form 2483) and supporting documents, and will retain the documents on file.

The SBA’s guidance indicates that lenders are held harmless for relying on borrower documents and attestation. The SBA’s guidance also states that the agency will not take enforcement action or impose penalties against a lender if the lender receives the borrower’s attestation.

*The SBA will be issuing further guidance on loan forgiveness.

21. Question – Do I owe any lender fees to the SBA?

Answer – There are no up-front guarantee fees, annual service fees, subsidy recoupment fees, or fees for any guarantee sold into the secondary market. The SBA has waived all lender fees that are typically payable to the SBA.

22. Question – Are PPP Loans removed from the MBL cap?

Answer – The guaranteed portion of SBA loans is removed from the MBL cap. Because PPP loans are 100 percent guaranteed, the PPP loan is effectively removed the MBL cap. In the event a PPP loan has a remaining balance after receiving SBA’s loan forgiveness, the loan remains guaranteed
until maturity. The CARES Act provides that the SBA’s guarantee continues on remaining balances.

23. **Question – Can I charge the borrower any additional fees?**

**Answer** – The Treasury’s guidance makes it clear that lenders may not collect ANY fees from the applicant. The lender agreement form states that other than the fixed 1 percent interest rate, lenders are not permitted to “charge or receive any bonus, fee, prepayment penalty, commission or other payment or benefit from a borrower in connection with the making or servicing of any covered loan under the PPP.”

24. **Question – Can a lender provide PPP Loans to nonmembers?**

**Answer** – There is no legal authority for a Federal Credit Union (FCU) to make a PPP loan (or any other loan) to a nonmember. An FCUs ability to lend is limited by section 107(5) of the FCU Act which only permits lending to members, other credit unions, and CUSOs.

25. **Question – Can a lender structure the loan disbursements, or do the loans have to be in a lump-sum?**

**Answer** – The SBA released an interim final rule providing additional guidance on disbursements. According to the rule, lenders must make a on-time, full disbursement of the PPP loan within ten calendar days of the loan approval. A loan is considered approved once a loan number is assigned by the SBA.

For loans that have been approved but were not fully disbursed before April 28th, the ten calendar-day period begins on April 28, 2020, and the eight-week covered period begins on the date of the first disbursement.

In order to receive fees from the SBA, the PPP loan must be fully funded (see SBA/Treasury FAQ Q. 20).

26. **Question – What are the Bank Secrecy Act (BSA) requirements?**

**Answer** – The SBA’s interim final rule does require lenders to comply with their existing BSA requirements. The SBA did clarify in the FAQs that if a PPP loan is made for an existing member and the lender has collected and verified the necessary information, then they do not need to re-verify the information, unless your credit unions’ risk-based BSA compliance program requires otherwise (see SBA/Treasury FAQ Q. 18 & 25).
For an existing member, where beneficial ownership information has not yet been collected, the lender does not need to collect and verify the information, unless otherwise indicated in the lender’s BSA compliance program.

For a new member, the collection of beneficial ownership information is deemed to satisfy applicable BSA requirements include owner name, title, ownership percentage, tax ID number, address, and date of birth. Verification of this information is made according to the lender’s BSA compliance program.

FinCEN released a FAQ document clarifying BSA requirements, which reiterates the SBA/Treasury guidance provided.

27. **Question – Does Regulation B apply?**

**Answer** – Lenders must still comply with Regulation B and adverse actions notices must be sent if there is a denial or counteroffer. A member inquiry into the PPP would likely not trigger the adverse action notice requirements.

28. **Question – Can we offer PPP Loans if we do not currently offer business loans at our credit union?**

**Answer** – Lenders that do not currently offer business loans must still adhere to the NCUA’s regulations. The NCUA published an interim final rule amending section 723.2 which defines “commercial loans.” The interim final rule excludes PPP loans from the definition of a commercial loan; therefore, these loans do not trigger the requirements of section 723.4. Lenders should have policies and procedures in place to manage risks associated with the PPP.

29. **Question – Do we have to submit a separate Authorization form to issue a PPP Loan?**

**Answer** – Lenders do not need to submit a separate SBA Authorization form in order to issue a loan. Lenders must have executed SBA Form 2484 to issue PPP loans and receive a loan number for each originated PPP loan.

The SBA issued a supplemental interim final that clarifies that the SBA is not requiring a separate Authorization Form at this time (see [1.b. of the supplemental interim final rule](#)).

30. **Question – Can we obtain the borrower’s electronic signature?**

**Answer** – The SBA’s interim final rule and FAQs do not include a requirement that a lender provide the physical or “wet” signature of the borrower. The interim final rule provides in 2.L, that
e-signatures or e-consents may be used regardless of the number of owners of the borrower. The FAQs state that lenders are permitted to use their own online portals and electronic forms (see SBA/Treasury FAQ Q. 13). The FAQs further clarified that lenders may use scanned copies of documents. E-signatures or e-consents must comply with the E-Sign Act (see SBA/Treasury FAQ Q. 29).

31. **Question – Can we lend to a Board Member?**

**Answer** – The SBA released an additional interim final rule regarding additional eligibility criteria. This interim final rule states that board members may obtain a loan from the credit union in which they serve on the board, if they are not also a key employee or official of the credit union. The credit union must follow the same loan approval process for the board member as they would any other member. A PPP loan for a board member cannot receive priority or favoritism by the credit union. Credit unions must also comply with their own internal policies and procedures regarding lending to board members. The NCUA released an interim final rule providing that credit unions must comply with section 701.21 of the NCUA’s regulations, which places certain restrictions on loans to officials. Specifically, the regulations states that a board of directors must approve loans to officials that exceed $20,000.

32. **Question – When will lenders receive fees owed to them by the SBA, and how do we get those fees?**

**Answer** – Lenders will be paid fees owed when the PPP loan is fully disbursed. Lenders will have to go through the SBA’s traditional “1502 reporting” procedures. The SBA released an additional interim final rule that provides some additional information. Lenders must electronically upload SBA Form 1502 information within 20 calendar days after a PPP loan is approved, or for those loans approved before the updated SBA Form 1502 reporting process, then by May 18, 2020. Lenders must provide ACH information for direct payment from the SBA and must confirm that all PPP loans for which the lender is requesting a fee has been fully disbursed and in the loan amounts reported. and is currently working on that for PPP lenders. The SBA intends to provide information on access and instructions on this soon.

33. **Question – Can lenders sell PPP loans to the secondary market?**

**Answer** – Lenders can sell PPP loans into the secondary market once the PPP loan has been fully disbursed to the borrower. The SBA does not need to approve sales of PPP loans to the secondary market and the SBA guarantee will remain once sold. There are no fees payable to the SBA for any guaranteed loan sold into the secondary market. The interim final rule states that loans sold into the secondary market may be sold at a premium or discount to par value.
In addition, lenders may request that the SBA purchase the expected forgiveness amount of a PPP loan or pool of PPP loans at the end of week seven of the covered period. Lenders must provide specific documentation to the SBA (see 4.E of the interim final rule). Once a complete report is submitted, the SBA will purchase the expected forgiveness amount of the PPP loan within 15 days.

* The SBA will issue further guidance on advance purchase for loans sold into the secondary market.

34. **Question – What is the Payment Protection Program Liquidity Facility (PPPLF) and how do I access it?**

**Answer** – The [PPPLF](#) was established by the Federal Reserve to extend credit to eligible financial institutions (including credit unions) on a non-recourse basis by accepting PPP loans pledged as collateral. The PPPLF does not purchase PPP loans. Extensions of credit under the facility will be made at a rate of 35 basis points and there are no fees associated with accessing the facility.

A credit union does not need to have a master account at a Federal Reserve Bank in order to borrow from the PPPLF; however, it must execute the necessary legal agreements included on the PPPLF website (the PPPLF Letter of Agreement and Borrower Certification). The website also has a series of Q&As to help borrowers understand how to access the facility through a correspondent arrangement.

A Reserve Bank will make a single extension of credit to a PPPLF borrower secured by all PPP loans submitted that mature on a single date. As a result, PPP loans pledged as collateral must be grouped by maturity date. A collateral transmittal form and loan listing must be submitted in a separate email for each request for a PPPLF extension of credit and pool of PPPLF collateral. Only one maturity pool may be submitted per collateral transmittal form. Once a maturity pool has been submitted, no additions to the pool will be accepted.

The amount of the PPPLF advance is equal to the amount of PPP loans pledged as collateral. The maturity date of an extension of credit under the PPPLF will equal the maturity date of the PPP loan pledged to secure the extension of credit. The Federal Reserve’s goal is to make the proceeds of the advance available on the business day following the day of the submission of the request.

The supplemental interim final rule clarifies that lenders do not need SBA’s prior written consent or notice to the SBA for PPP loans pledged for borrowings from the Federal Reserve.
The NCUA Board approved an interim final rule that amends the agency’s capital adequacy and member business loans and commercial lending regulations to reduce risk weights for PPP loans under the risk-based net worth requirement.

35. **Question – Can a credit union pledge collateral in advance without drawing PPPLF credit?**

**Answer** – No. The PPPLF does not work like the discount window. Credit unions will receive the whole advance shortly after pledging the PPP loans to the facility. There are no partial advances.

36. **Question – Under what conditions will the maturity date of a PPPLF advance be accelerated?**

**Answer** – The maturity date of a PPPLF extension of credit will be accelerated (1) if the underlying PPP Loan goes into default and the eligible PPPLF borrower sells the PPP Loan to the SBA to realize the SBA guarantee; (2) if the PPP lender receives reimbursement from the SBA for any loan forgiveness amounts (to the extent of the amount of the PPP loan forgiven); or if (3) the PPP lender has misrepresented the underlying PPP loan or otherwise commits an Event of Default under the PPPLF documentation.

**Borrower Questions**

37. **Question – Can members who are non-profits apply for PPP Loans?**

**Answer** – The CARES Act defines eligible recipients under the PPP to include non-profit organizations that are designated as 501(c)(3) organizations. If a credit union member is a 501(c)(3) organization, then that member is eligible for a loan under the PPP if they have less than 500 employees. All other non-profits are excluded from receiving a PPP loan.

38. **Question – Can a CUSO apply for a PPP Loan?**

**Answer** – CUSOs may or may not be eligible as borrowers depending on their structure and size. Eligibility for the PPP is limited to small businesses and certain non-profits. CUSOs that are structured for-profit would need to be a “small business” according to the SBA’s size standards, not be an ineligible entity, and have less than 500 employees (including any affiliates). CUSOs that are structured as non-profits would not be eligible unless they are designated 501(c)(3) or
(c)(19) entities. CUSOs must determine eligibility just as any other small business borrower would by looking at the eligibility requirements in the interim final rule.

First, a CUSO would need to determine if they are considered a “small business” according to the SBA’s size standards. If the CUSO meets the standard, then they should continue determining eligibility by ensuring that they are not an ineligible entity as listed in 13 C.F.R. 120.110. The list of ineligible businesses includes financial businesses primarily engaged in the business of lending. There are limited circumstances when a business engaged in lending may be eligible. The SBA references SOP 50 10 5(k) (see page 104) for more information on ineligible businesses that can apply for a loan.

Once eligibility is determined, a CUSO would then need to determine if they have any affiliates by referring to the SBA’s guidance on PPP affiliate rules. Affiliation occurs when there is ownership or management of the CUSO by another. There are other affiliation tests; however, these are the most likely in the context of a CUSO. If affiliation is determined, then the CUSO needs to determine whether the affiliate is considered a “small business” and whether the affiliate and the CUSO have less than 500 employees.

39. Question – Can a borrower apply for a PPP Loan and an EIDL Loan?

Answer – If a borrower received an EIDL loan before January 31, 2020, then the borrower may also receive a PPP loan for purposes other than those purposes of the EIDL loan. For example, you cannot apply for both loans to cover payroll costs.

40. Question – When can members start applying for the PPP?

Answer – SBA began accepting applications for the PPP on April 3, 2020, for small businesses. On April 10, 2020, the application period opens for independent contractors, self-employed individuals, and sole proprietorships. Members must apply through SBA-approved enders.

The last day to apply for PPP loan is June 30, 2020.

41. Question – What do borrowers need to provide to a lender in order to obtain a PPP Loan?

Answer – Borrowers must submit the required borrower application form, SBA Form 2483 (Paycheck Protection Program Borrower Application Form) and sufficient documentation to show expenses and payroll costs. Documentation required may vary by lender. Documentation to show payroll costs could include payroll processor records, payroll tax filings, IRS Form 1099-MISC, income and expenses from sole proprietors, and bank records of payroll amounts.
Documents to show other costs could include rental agreements, utility statements, mortgage interest statements *(IRS Form 1098).*

42. **Question – Can a self-employed member apply for PPP Loan?**

**Answer** – Borrowers who are self-employed may apply so long as they were in operation on February 15, 2020; they had self-employment income; their principal place of residence is in the U.S.; and they filed or will file an IRS form 1040, Schedule C for 2019.

*The SBA will be providing further guidance for self-employed members who were not in operation in 2019, but were in operation on February 15, 2020 and will file a Schedule C for 2020.

43. **Question – Can a member who is part of a partnership apply for a PPP Loan?**

**Answer** – Borrowers who are in a partnership are treated as borrowers who are self-employed. Therefore, they may apply so long as they were in operation on February 15, 2020; they had self-employment income; their principal place of residence is the U.S; and they filed or will file an IRS form 1040, Schedule C for 2019. However, the partnership may only file one application listing the income of each active general partner, up to $100,000 annualized. Each partner cannot submit their own application listing their individual self-employment income.

44. **Question – What documentation do self-employed borrowers need to provide to lenders for a PPP Loan?**

**Answer** – Self-employed borrowers must submit:

- 2019 IRS Form 1040 Schedule C;
- *SBA Form 2483* borrower application form;
- A 2019 IRS Form 1099-MISC detailing non-employee compensation received (box 7), invoice, bank statement, or book of record that establishes you are self-employed; and
- A 2020 invoice, bank statement, or book of record to establish that you were in operation on or around February 15, 2020.

If the self-employed borrower also has employees (such as a general partnership), then the borrower must provide:

- 2019 IRS Form 1040 Schedule C;
- 2019 IRS Form 941 (or other tax forms or equivalent payroll processor records containing similar information);
- state quarterly wage unemployment insurance tax reporting forms from each quarter in 2019 or equivalent payroll processor records;
- Evidence of any retirement and health insurance contributions, if applicable; and
• A payroll statement of similar document from the pay period that covered February 15, 2020 must be provided to establish you were in operation on February 15, 2020.

45. **Question – What amounts are forgiven for self-employed borrowers?**

**Answer** – Self-employed borrowers are eligible to receive loan forgiveness up to the full principal amount. The amount of loan forgiveness will depend on the total amount spent over the covered period on payroll costs, owner compensation replacement, payments of interest on mortgage obligations on real or personal property (to the extent they are deductible on the Schedule C), rent payments (to the extent they are deductible on the Schedule C), and utility payments (to the extent they are deductible on the Schedule C).

The additional interim final rule states that forgiveness will be limited for owner compensation replacement for individuals who file a Schedule C to eight weeks’ worth of 2019 net profit.

46. **Question – What documents do self-employed borrowers need to provide for PPP Loan forgiveness?**

**Answer** – In addition to the borrower certification required by section 1106(e)(3) of the CARES Act that all borrowers must provide, self-employed borrowers need to submit:

- IRS Form 941 if they have employees and state quarterly unemployment insurance tax reporting forms or equivalent payroll processor records that correspond to the covered period;
- Evidence of any retirement and health insurance contributions (if applicable);
- Evidence of business rent, business mortgage interest payments on real or personal property;
- Business utility payments during the covered period (if used during the covered period);
- 2019 Form 1040 Schedule C to determine the amount of net profit for the covered eight week period;

*The SBA may provide additional guidance or an interim final rule to cover the borrower certifications required for loan forgiveness.*

47. **Question – What do borrowers need to certify?**

**Answer** – The borrower application includes several certifications, including that the they were in business on February 15, 2020, the funds will be used to retain workers and maintain payroll or make covered payments, and that the information provided in the supporting documents and forms is true and accurate.
Borrowers must also certify that “current economic uncertainty makes this loan request necessary to support the ongoing operations of the Applicant.” Borrowers must make this certification in good faith, taking into account their current business activity and their ability to access other sources of liquidity sufficient to support their ongoing operations in a manner that it not significantly detrimental to the business. The SBA/Treasury FAQs provide the example that a public company with substantial market value and access to capital markets will not likely to able to make this certification in good faith, and that such a company should be prepared to demonstrate to the SBA, upon their request, the basis for their certification (see SBA/Treasury FAQ Q 31).
### Appendix:

Existing SBA Office Codes are as follows:

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