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**Huddle: COVID-19 Banking Edition C/A Top 10 FAQs April 22, 2020**

1. **Is CIP/Beneficial Ownership required for related accounts opened with a PPP loan?**

Unfortunately, there's not an explicit exception for pandemic or other national emergencies when it comes to the banks’ CIP or beneficial ownership requirements. The beneficial ownership concession for PPP are only in relation to the PPP loan applications and the PPP loan itself, and there is no indication that it extends beyond that to separate accounts not applicable to approving and funding a PPP loan.

1. Question: Are PPP loans for existing customers considered new accounts for FinCEN Rule CDD purposes? Are lenders required to collect, certify, or verify beneficial ownership information in accordance with the rule requirements for existing customers?

Answer: If the PPP loan is being made to an existing customer and the necessary information was previously verified, you do not need to re-verify the information. Furthermore, if federally insured depository institutions and federally insured credit unions eligible to participate in the PPP program have not yet collected beneficial ownership information on existing customers, such institutions do not need to collect and verify beneficial ownership information for those customers applying for new PPP loans, unless otherwise indicated by the lender’s risk-based approach to BSA compliance.

This FAQ is the same as FAQ 18 of the SBA FAQs (https://home.treasury.gov/policy-issues/cares/assistance-for-small-businesses). [April 6, 2020]

1. Question: Does the information lenders are required to collect from PPP applicants regarding every owner who has a 20% or greater ownership stake in the applicant business (i.e., owner name, title, ownership %, TIN, and address) satisfy a lender’s obligation to collect beneficial ownership information (which has a 25% ownership threshold) under the Bank Secrecy Act?

Answer: For lenders with existing customers: With respect to collecting beneficial ownership information for owners holding a 20% or greater ownership interest, if the PPP loan is being made to an existing customer and the lender previously verified the necessary information, the lender does not need to re-verify the information. Furthermore, if federally insured depository institutions and federally insured credit unions eligible to participate in the PPP program have not yet collected such beneficial ownership information on existing customers, such institutions do not need to collect and verify beneficial ownership information for those customers applying for new PPP loans, unless otherwise indicated by the lender’s risk-based approach to Bank Secrecy Act (BSA) compliance. For lenders with new customers: For new customers, the lender’s collection of the following information from all natural persons with a 20% or greater ownership stake in the applicant business will be deemed to satisfy applicable BSA requirements and FinCEN regulations governing the collection of beneficial ownership information: owner name, title, ownership %, TIN, address, and date of birth. If any ownership interest of 20% or greater in the applicant business belongs to a business or other legal entity, lenders will need to collect appropriate beneficial ownership information for that entity. If you have questions about requirements related to beneficial ownership, go to https://www.fincen.gov/resources/statutes-and-regulations/cdd-final-rule. Decisions regarding further verification of beneficial ownership information collected from new customers should be made pursuant to the lender’s risk-based approach to BSA compliance.4 4.

This FAQ is the same as FAQ 25 of the SBA FAQs (https://home.treasury.gov/policy-issues/cares/assistance-for-small-businesses). [April 13, 2020]

Resource: <https://www.fincen.gov/sites/default/files/2020-04/Paycheck_Protection_Program_FAQs.pdf>

What C/A reads this new FAQ to say is that the SBA requirements (which are separate from beneficial ownership requirements) require listing "all owners of 20% or more of the equity of the Applicant": <https://home.treasury.gov/system/files/136/PPP-Borrower-Application-Form-Fillable.pdf>. In other words, that collection would still be required specifically on PPP applications as set out in the link. Here is the concession for beneficial ownership: since banks have to collect already this *20%* requirement on PPP loans, banks are now allowed to use this information for beneficial ownership as well.

However, it is important to note that they are not saying this across the board. You cannot apply a 20% threshold for all beneficial ownership outside of PPP loan application purposes.

Under the general guidance, the agencies emphasize having a reasonable, documented strategy to continue operations to the extent possible, and Compliance Alliance has consistently heard from regulators/insiders that keeping open the lines of communication with the bank's regulator is the best approach in these times.

Compliance Alliance has put together a help sheet that includes links to the various guidance publications related to pandemics, but there's not a specific CIP exception. <https://compliancealliance.com/find-a-tool/tool/covid-19-help-sheet>

And in general, the CIP rules do allow for verifying the identity of the customer within a reasonable period of time after the account is opened. See generally: <https://bsaaml.ffiec.gov/manual/RegulatoryRequirements/01>. So that might be incorporated into the bank's pandemic plan in this area.

1. **How are banks handling adverse action notices for PPP loans at this time?**

The CARES Act and the PPP itself have not specific exceptions or leniencies from Regulation B adverse action timing and notice requirements. With the current situation being as it is, that the PPP is currently without funds, for those applications currently sitting with the bank, most banks that C/A has spoken to about this over the past couple of days are planning to hold off on sending adverse action notices until toward the end of the application’s respective 30-day time period, in case Congress reauthorizes more funding soon. Yesterday, April 21, 2020, the Senate approved an additional $310 billion for the Paycheck Protection Program. The deal also provides $75 billion for hospitals and health care providers stretched thin by the pandemic to address corona expenses and lost revenue. The bill still needs to pass Congress (who are expected to vote sometime this week) and the President has stated he intends to sign.

However, that is not to say that the bank is not free to send out adverse actions now denying the applications currently in the pipeline. If you decide to send the adverse notices now, C/A is generally suggesting to include extra information with the bank's notices, like on a cover letter, explaining the unique circumstances and informing applicants to watch for increased funding, additional messaging from the bank, and/or alternative loans the bank may be offering.

It is also important to note that Senators are petitioning to SBA to allow E-Tran submissions for PPP loans during this lapsed funding for loan applications that had been completed as of April 16, 2020 (the date the initial funding ran out). Once program funds were exhausted, the SBA had announced that they would no longer accept PPP loan applications. By providing access to E-Tran, lenders would be allowed to submit the backlog of applications they had previously received. It would also protect businesses that previously applied from being leap-frogged by new applicants should the program reopen. This is something currently in development so bank’s need to be aware of any changes and to had diligently for their customers currently in queue.

1. **Are banks required to send billing statements during the 90-180-day period of deferred payments?**

The guidance has focused on helping current customers, within the bank's safety and soundness parameters. However, there has not been any explicit suspension of regulatory requirements.  With that being said, it ultimately depends on what type of loan transaction this is referring to. However, it also hinges on the fact that the regulation itself lacks a definition on what is a defined billing period and whether or not deferment is outside that scope. Conservatively, banks should not be interpreting deferment periods outside the scope of a billing period and should be sending, as required and applicable, periodic statements.

Here are the periodic statement requirements:

* Open-end unsecured / credit cards - periodic statements **required** by Reg Z if there is a debit or credit balance of at least $1 or on which a finance charge has been imposed.  Periodic statements are not required if the bank considers the debt uncollectable (meaning the bank has ceased collection efforts, either directly or through a third party).  If, after the draw period, the line converts to closed-end as per written agreement, then periodic statements are no longer required after the line converts to closed-end. If the line of credit is above the $58,300 Reg Z threshold, then periodic statements are also not required.
* Open-end secured - periodic statements **required** by Reg Z if there is a debit or credit balance of at least $1 or on which a finance charge has been imposed.  If, after the draw period, the line converts to closed-end as per written agreement, then periodic statements are no longer required after the line converts to closed-end.  Periodic statements are not required if the bank considers the debt uncollectable.
* Open-end home secured - periodic statements **required** by Reg Z if there is a debit or credit balance of at least $1 or on which a finance charge has been imposed.  If, after the draw period, the line converts to closed-end as per written agreement, then periodic statements are no longer required after the line converts to closed-end. Periodic statements are not required if the bank considers the debt uncollectable. Not subject to the Reg Z threshold.
* Closed-end unsecured / Private student loans - periodic statements not required by Reg Z.
* Closed-end secured - periodic statements not required by Reg Z.
* Closed-end home secured - periodic statements **required** by Reg Z unless it is a reverse mortgage, timeshare plan, the customer was provided with a coupon book, you're a small servicer (5,000 or fewer mortgage loans for which you are a servicer or assignee), consumers in bankruptcy or charged off loans, in which case an exception is provided by the regulation, and in those instances periodic statements are not required.

References:  
"The creditor shall furnish the consumer with a periodic statement that discloses the following items, to the extent applicable:"  
12 CFR 1026.7 <https://www.consumerfinance.gov/policy-compliance/rulemaking/regulations/1026/7/>

"A servicer of a transaction subject to this section shall provide the consumer, for each billing cycle, a periodic statement meeting the requirements of paragraphs (b), (c), and (d) of this section. If a mortgage loan has a billing cycle shorter than a period of 31 days (for example, a bi-weekly billing cycle), a periodic statement covering an entire month may be used."  
12 CFR 1026.41(a)(2) <https://www.consumerfinance.gov/policy-compliance/rulemaking/regulations/1026/41/#a-2>

"Based on the annual percentage increase in the CPI-W as of June 1, 2019, the exemption threshold will increase from $57,200 to $58,300 effective January 1, 2020."  
<https://www.federalregister.gov/d/2019-21557/p-3>

"Statement required. The creditor shall mail or deliver a periodic statement as required by § [1026.7](https://www.consumerfinance.gov/policy-compliance/rulemaking/regulations/1026/7/) for each billing cycle at the end of which an account has a debit or credit balance of more than $1 or on which a finance charge has been imposed. A periodic statement need not be sent for an account if the creditor deems it uncollectible, if delinquency collection proceedings have been instituted, if the creditor has charged off the account in accordance with loan-loss provisions and will not charge any additional fees or interest on the account, or if furnishing the statement would violate Federal law." 12 CFR 1026.5(b)(2)(i) <https://www.consumerfinance.gov/policy-compliance/rulemaking/regulations/1026/5/#b-2-i>

"(e) Exemptions —

(1) Reverse mortgages.

(2) Timeshare plans.

(3) Coupon books.

(4) Small servicers —

(A) Services, together with any affiliates, 5,000 or fewer mortgage loans, for all of which the servicer (or an affiliate) is the creditor or assignee;

(5) Certain consumers in bankruptcy —

(6) Charged-off loans."

12 CFR 1026.41(e)[In Summary]

<https://www.consumerfinance.gov/policy-compliance/rulemaking/regulations/1026/41/#e>

"(iii) Small servicer determination. In determining whether a servicer satisfies paragraph (e)(4)(ii)(A) of this section, the servicer is evaluated based on the mortgage loans serviced by the servicer and any affiliates as of January 1 and for the remainder of the calendar year...A servicer that ceases to qualify as a small servicer will have six months from the time it ceases to qualify or until the next January 1, whichever is later, to comply with any requirements from which the servicer is no longer exempt as a small servicer.

12 CFR 1026.41(e)(4)(iii)

<https://www.consumerfinance.gov/policy-compliance/rulemaking/regulations/1026/41/#e-4-iii>

It is important to remember that banks also have the option to send the statements electronically if, as applicable, e-sign consent in place.  Circumstantially there may potentially be instances where not sending periodic statements would be acceptable and not criticized by the regulators, but the bank would have to evaluate its own situation and make the determination based on that.  Documenting any lack of regulatory compliance and the reasons may mitigate in showing reasonable and prudent steps to comply with the regulations.

Reference:

FDIC Guidance: <https://www.fdic.gov/news/news/financial/2020/fil20017a.pdf?utm_campaign=NEWSBYTES-20200316&utm_medium=email&utm_source=Eloqua%C2%A0>  
  
Interagency Guidance: <https://www.fdic.gov/news/news/press/2020/pr20038a.pdf>  
Pandemic Resources: <https://compliancealliance.com/pandemic-resources>

1. **How are banks handling flood requirements on deferrals?**

It ultimately depends on how the bank is structuring each particular deferral. If a MIRE event is occurring (making, increasing, renewing or extending of a loan), it would trigger flood requirements: <https://www.ecfr.gov/cgi-bin/text-idx?SID=063c80511ea1ede41accf79ee3bf3cef&mc=true&node=se12.5.339_13&rgn=div8>. So, for example, extending the maturity date with regard to the payment deferral would constitute a MIRE event triggering flood.

However, if there is no MIRE event as a result of the deferral, flood may not be required. It is important to remember that there has not been any official guidance on MIRE events in relation to COVID-19 specific deferrals as of yet.

As for determinations, in general, a new determination is required for any MIRE event, but there is an allowance to "reuse" an existing determination if the following conditions are met:

* The previous determination is not more than seven years old.
* The determination was recorded on the SFHDF.
* There have been no map revisions or updates since then.
* Done by the same lender.

Reference:

***(e) Reliance on previous determination***

*Any person increasing, extending, renewing, or purchasing a loan secured by improved real estate or a mobile home may rely on a previous determination of whether the building or mobile home is located in an area having special flood hazards (and shall not be liable for any error in such previous determination),****if the previous determination was made not more than 7 years before the date of the transaction****and the basis for the previous determination has been set forth on a form under this section, unless-*  
*(1) map revisions or updates pursuant to section 4101(f) of this title after such previous determination have resulted in the building or mobile home being located in an area having special flood hazards; or*  
*(2) the person contacts the Administrator to determine when the most recent map revisions or updates affecting such property occurred and such revisions and updates have occurred after such previous determination.*   
<https://uscode.house.gov/view.xhtml?req=(title:42%20section:4104b%20edition:prelim)%20OR%20(granuleid:USC-prelim-title42-secion4104b&f=treesort&edition=prelin&num=0&jumpTo=true>

It is also important to note that FEMA has extended the grace period to renew flood insurance policies from 30 to 120 days. This extension applies to NFIP flood insurance policies with an expiration date between February 13-June 15, 2020. To avoid a lapse in coverage, there is typically a 30-day grace period to renew policies. However, due to the widespread economic disruption arising from the pandemic, FEMA recognizes that flood insurance policyholders may not meet the standard policy renewal deadline. However, there has been no additional guidance that the extension of the grace period has altered the timing requirements for forced placed flood insurance or any other parts of the regulation, so banks should be following their normal force placement procedures.

C/A also wants to point out the following from the most recent final rule:

"The Agencies understand that flood insurance policies under the NFIP will often provide policyholders with a “grace period” of typically 30 days following the expiration date to pay the renewal premiums and fees to restore the policy and ensure continuous coverage. However, the Agencies also understand that any flood insurance coverage provided by the NFIP policy during the grace period would cover only the lender's interest. The borrower's interest would be covered during the grace period only if the borrower pays the renewal premium within the grace period.[62] Because there may be a lack of continuous flood coverage protecting the borrower's interest during this “grace period,” the Agencies consider the policy to have lapsed as of the expiration date provided by the policy."

<https://www.federalregister.gov/d/2015-15956/p-193>

So, this essentially indicates that grace period should not be taken into account for this purpose, which seems to conflict with the recent guidance. C/A are also hoping that FEMA clarifies this point very soon since it's hard to see how this change would benefit borrowers if the grace period should not be considered for force placement purposes.

The OCC is the *only* Agency to have issued guidance (although this is not an official guidance but merely an email sent out. At this time, C/A has not been able to find a site stating the content in the email). For OCC regulated banks, the OCC will not take supervisory or enforcement action against a bank for reasonable delays in complying with the forced place requirements of 12 CFR 22.7 in connection with the 120-day grace period provided that the bank makes good faith efforts to support borrowers and comply with the flood insurance force placement requirements, as well as respond to any corrective action identified in supervisory feedback.

“For example, a bank may provide the notice required by § 22.7 to the borrower after determining the policy has expired informing the borrower they should obtain sufficient flood insurance, which also includes an indication that the NFIP grace period has been extended for 120 days, or a bank may delay providing the required notice until 45 days before the end of the 120-day grace period. At the end of the 120-day grace period, the bank must force place flood insurance on the borrower’s behalf if the borrower has not obtained flood insurance. Banks should be aware that if they force place flood insurance for NFIP policies that expire during the FEMA emergency period prior to the expiration of the 120-day grace period and the borrower pays the premium by the end of the 120-day grace period, then consistent with the OCC’s flood insurance regulatory requirements in 22.7(b), the bank would be required to refund the borrower for any overlapping flood insurance coverage.”

Apart from the OCC’s guidance, other agencies have not responded to these concerns. Banks must always be consulting their primary federal regulator for additional guidance.

1. **What are the PPP forgiveness procedures?**

At this time, the guidance is as follows:

After the disbursement of the loan, the borrower will be eligible for loan forgiveness on up to eight-weeks of covered expenses. Borrower *must* apply to a lender to receive forgiveness by submitting all relevant paperwork. At that time, the lender will then have up to sixty days to approve or deny the application. Lenders are free to rely on the borrower’s documentation for loan forgiveness. But this does raise safety and soundness issues, as well as potential risks, to banks need to be determining to what degree they will be relying and not reverifying information. If the loan forgiveness application is approved, that eligible portion of the borrower’s PPP loan is forgiven, and the SBA will pay the lender that part of the principal amount plus interest.

Borrowers will not be responsible for any loan payment if the borrower used all of the loan proceeds for forgivable purposes and the employee and compensation levels were maintained.

The actual amount of loan forgiveness depends, in part, on payments over the 8-week period following the disbursement of the loan, which includes:

* Total amount for payroll costs
* Payments of interest on mortgage obligations incurred before February 15, 2020
* Rent payments on leases dated before February 15, 2020 and
* Utility payments under service agreements dated before February 15, 2020.

At least 75% of the loan forgiveness amount must be attributed to payroll costs. Not more than 25% of the loan forgiveness amount can be attributable to non-payroll costs. The forgiveness amount cannot exceed the total amount of principal on the PPP loan.

Independent contractors will not count towards PPP loan forgiveness as they can apply for their own PPP loans.

Borrowers are to submit to the lender the following information in their forgiveness application:

1. Borrower certification required by Section 1106(e)(3) of the CARES Act, (See ABA FAQ 77)
2. Payroll: If the borrower has employees:
   1. Form 941, and
   2. State quarterly wage unemployment insurance tax reporting forms, or
   3. Equivalent payroll processor records that best correspond to the covered period,
   4. Provide evidence of any retirement and health insurance contributions.
3. Rent, Mortgage, Utilities: All borrowers seeking forgiveness must submit evidence of:
   1. Business rent,
   2. Business mortgage interest payments on real or personal property, or
   3. Business utility payments during the covered period if you used loan proceeds for those purposes.
4. Owner Compensation:
   1. 2019 Form 1040 Schedule C to determine net profits.
      1. As provided at the time of the PPP loan application.
      2. Must be used to determine the amount of net profit allocated to the owner for the eight-week covered period.
   2. SBA and US Treasury determined that for purposes of loan forgiveness it is appropriate to require self-employed individuals to rely on the 2019 Form 1040 Schedule C to determine the amount of net profit allocated to the owner during the covered period.

Note: For self-employed borrowers, forgiveness is based on 2019 net profits.

The actual amount of loan forgiveness is determined by examining the following:

1. Payroll costs, including:
   1. Salary, wages, and tips,
      1. Up to $100,000 of annualized pay per employee
      2. For eight weeks = a maximum of $15,385 per individual,
   2. Covered benefits for employees--but not owners--including:
      1. Health care expenses,
      2. Retirement contributions, and
      3. State taxes imposed on employee payroll paid by the employer, such as unemployment insurance premiums;
2. Owner compensation replacement, calculated based on:
   1. 2019 net profit,
   2. With forgiveness of such amounts limited to eight weeks’ worth (8/52) of 2019 net profit, but
   3. Excluding any qualified sick leave equivalent amount for which a credit is claimed under:
      1. Section 7002 of the Families First Coronavirus Response Act (FFCRA) (Public Law 116-127), or
      2. Qualified family leave equivalent amount for which a credit is claimed under section 7004 of FFCRA;
3. Payments of interest on mortgage obligations
   1. Real or personal property
   2. Incurred before February 15, 2020
   3. To the extent they are deductible on Form 1040 Schedule C (business mortgage payments);
4. Rent payments on lease agreements:
   1. In force before February 15, 2020,
   2. To the extent they are deductible on Form 1040 Schedule C (business rent payments); and
5. Utility payments under service agreements
   1. Dated before February 15, 2020
   2. To the extent they are deductible on Form 1040 Schedule C (business utility payments).

Additionally, SBA also has the option for pre-purchase that allows lenders to submit the expected amount of funds spent after seven weeks from the date of the loan’s disbursement. SBA will purchase the expected forgiveness amount within fifteen days.

Lenders can submit a loan or a pool of loans for advance purchase in a report with the expected forgiveness amount to the SBA. This report must include the following:

1. PPP Application Form: (SBA Form 2483)
2. Any supporting documentation submitted with the PPP Application Form,
3. PPP Lender’s Application for 7(a) Loan Guaranty (SBA Form 2484)
4. Any supporting documentation submitted with the PPP Lenders Application.
5. A detailed narrative explaining:
   1. The assumptions used in determining the expected forgiveness amount
   2. Basis for those assumptions
   3. Alternative assumptions considered, and
   4. Why alternative assumptions were not used.
6. Any information obtained from the borrower since the loan was disbursed that the lender used to determine the expected forgiveness amount, which should include the same documentation required to apply for loan forgiveness, such as:
   1. Payroll tax filings,
   2. Cancelled checks, and
   3. Other payment documentation.
7. Any additional information the SBA may require determining whether the expected forgiveness amount is reasonable.
8. **How are banks supposed to report PPP loans to the credit bureaus?**

There is a general requirement to report SBA loans.

"2. Reports to Credit Reporting Agencies In accordance with the Debt Collection Improvement Act of 1996, Lenders are required to report information to the appropriate credit reporting agencies whenever they extend credit via an SBA loan. Thereafter, they should continue to routinely report information concerning servicing, liquidation, and charge-off activities throughout the lifecycle of the loan. (See Chapter 26 for more information regarding credit reporting requirements for loans in charge-off status.) “...”

Resource: <https://www.sba.gov/sites/default/files/files/SOP_50_57_2_1.pdf> at pg. 28

This requirement was not specifically cross referenced in the PPP rules, so while it appears that this requirement applies to PPP loans it is not entirely clear.

However, that does not change a bank’s responsibilities to report SBA Form 1502 monthly by participating in the PPP—this information is collecting payment and loan information, and the forms must be submitted to SBA’s 7(a) Fiscal and Transfer Agent, Colson Services Corp.

See general resources here:

SBA Form 1502 and Instructions: <https://www.sba.gov/document/sba-form-1502-sba-form-1502-instructions>

Colson: <https://colsonservices.bnymellon.com/index.jsp>

1. **Stimulus checks garnishment, overdrafts, Oh My!**

Compliance Alliance has posted a COVID-19 CARES Act Stimulus Check FAQ here that answers our most frequent questions regarding the stimulus check program: <https://compliancealliance.com/find-a-tool/tool/covid-19-cares-act-stimulus-check-faqs>

1. **What is the eligibility of hospital districts within the PPP?**

Currently, this would depend on the legal entity hospital and how it is structured. The current Interim Final Rule lists only certain non-profits and tax-exempt organizations as being eligible for PPP loans. Compliance Alliance has been receiving a lot of questions regarding county hospitals and whether or not they would be eligible, as the rule stands now. Officially they’re owned by a local government making them ineligible under the current rules. The Senate is in passed bill for refunding is trying to change that, especially since rural hospitals are being hit hardest. But that is a waiting game to see if it passes the House.

Under the CARES Act, government owned entities are excluded (even though in reality the money these hospitals are receiving is usually minuscule).

10. Government-Owned Entities, Excluding Native American Tribes (13 CFR § 120.110(j))

   - a. Businesses owned by municipalities and other political subdivisions are not eligible.

Resource: <https://www.sba.gov/sites/default/files/2019-02/SOP%2050%2010%205%28K%29%20FINAL%202.15.19%20SECURED%20copy%20paste.pdf>

1. **How are banks to fill out the PPP application box on number of employees when a self-employed sole proprietor does not have any employees?**

Unfortunately, this remains unclear and requires consistency by the bank until clarifications are provided. Borrowers are required to certify and report for an independent contractor or sole proprietor their wages, commissions, income, or net earnings from self-employment or similar compensation.

CERTIFICATIONS

The authorized representative of the Applicant must certify in good faith to all of the below by initialing next to each one:

\_\_\_\_\_ The Applicant was in operation on February 15, 2020 and had employees for whom it paid salaries and payroll taxes or paid independent contractors, as reported on Form(s) 1099-MISC.

Resource: <https://home.treasury.gov/system/files/136/PPP-Borrower-Application-Form-Fillable.pdf>

This would appear to be saying to report “1.”

However, Interim Final Rule #3 distinguishes between applicants with self-employment income who have “no employees” versus those who “have employees:” <https://home.treasury.gov/system/files/136/Interim-Final-Rule-Additional-Eligibility-Criteria-and-Requirements-for-Certain-Pledges-of-Loans.pdf>, which would also argue perhaps to report “0.” It is unclear whether this answer would strip a loan of it’s SBA backed forgiveness and remains an open question needing to be addressed.

1. **Are PPP loans eligible for CRA credit and if so, when should banks be reporting: funding or repayment timeframe?**

The FDIC released the following FAQ on CRA applicability for PPP loans:

Q: Will loans originated under the PPP receive CRA Credit?

A: In most cases, yes. According to existing examination guidance as well as the March 19, 2020 Joint Statement on CRA Consideration for Activities in Response to the COVID-19, when consistent with safe and sound banking practices and applicable law, loans that benefit small businesses and small farms impacted by COVID-19 serve the long-term interest of those communities and the financial system. Generally, loans to for-profit businesses in amounts of $1 million or less are considered small business loans in CRA evaluations and will be considered as such under the lending test. Additionally, PPP loans to small businesses could receive consideration as innovative or flexible lending practices. Generally, loans to businesses greater than $1 million to small businesses that create or retain jobs would qualify as community development loans under economic development if the loans create or retain jobs or under revitalization/stabilization if they benefit primarily low- and moderate-income areas or distressed middle-income areas.

Resource: <https://www.fdic.gov/coronavirus/smallbusiness/faq-sb.pdf>

The parameters of the PPP do not change a bank’s normal CRA filing and reporting requirements. At origination would be date banks would use in reporting eligible PPP loans for CRA purposes.