



# SBA Procedural Notice

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**TO:** All SBA Employees, 7(a) Lenders and Certified Development Companies

**CONTROL NO.:** 5000-20020

**SUBJECT:** Implementation of Section 1112 of the CARES Act, Subsidy for Certain Loan Payments, for the 7(a) and 504 Loan Programs

**EFFECTIVE:** 04/16/2020

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On March 27, 2020, the Coronavirus Aid, Relief and Economic Security Act (the CARES Act) was enacted to provide emergency and immediate national economic relief and assistance across the American economy, including to small businesses, workers, families, and the health-care system, to alleviate the severe economic hardships and public health threat created by the 2019 Novel Coronavirus pandemic. Under section 1112 of the CARES Act, SBA will provide debt relief to borrowers in the 7(a), 504, and Microloan Programs. The purpose of this Notice is to address the implementation of Section 1112 for the 7(a) and 504 Loan Programs. SBA addressed the implementation of section 1112 for the Microloan Program in a separate notice. *See* SBA Procedural Notice 5000-20015, effective 04/08/2020.

In accordance with section 1112(c), SBA will pay the principal, interest, and any “associated fees” that Borrowers owe on a “covered loan” in a “regular servicing status” to 7(a) Lenders and Certified Development Companies (CDCs) for a 6-month period. SBA will make these payments in accordance with the criteria and procedures described below.

A. Definitions:

1. A “covered loan” means a loan that is guaranteed by SBA under:
  - a. Section 7(a) of the Small Business Act (15 U.S.C. 636(a)), including a loan made under the Community Advantage Pilot Program. A “covered loan” excludes a loan made under paragraph (36) of such section 7(a), as added by section 1102 of the CARES Act; or
  - b. title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.), (the 504 Loan Program).

2. A loan in “regular servicing status” includes:
  - a. any loan that has been moved from “approval” status (governed by SOP 50 10) to “regular servicing” status, which occurs when the loan has been closed and the final loan disbursement has been made (revolving lines of credit are considered fully disbursed when the loan has been closed and the initial loan disbursement has been made);
  - b. a loan in “regular servicing status” does not include any loan that has been moved from “regular servicing” into “liquidation” status, or any loan that should have been moved pursuant to SBA Loan Program Requirements from “regular servicing” into “liquidation” status prior to the first payment due date covered by section 1112;
  - c. generally, a loan in “regular servicing status” should not include any loan that is more than 120 days past due (as counted back from the first payment due date covered under section 1112).
  - d. if the Lender receives a payment under section 1112 for a loan that the Lender failed to move into liquidation status as required by SBA Loan Program Requirements, the Lender must immediately notify SBA that it has placed the loan in liquidation status and immediately return the payment; and
  - e. a Borrower that is granted a deferment before the payments under section 1112 begin will not be removed from regular servicing status for failing to make any payments required by a catch-up plan.
3. “Lender” means either a 7(a) Lender or a CDC.
4. “Associated fees” means the monthly fees paid by the Borrower including:
  - a. For 504, the SBA guarantee fee, the CSA fee, and the CDC servicing fee.
  - b. For 7(a), the extraordinary servicing fee authorized by 13 CFR 120.221.

B. Implementation of the Six-Month Period of Payments. SBA will implement the six-month period of payments as follows:

1. For a covered loan made before March 27, 2020 and not on deferment, SBA will make the loan payments for the 6-month period beginning with the next payment due on the covered loan.
  - a. For the first loan payment due on a covered loan made before March 27, 2020, SBA will make the payments as follows:

- i. For 504 loans, the first such payment was due on April 1, 2020, and SBA will make these payments by May 1, 2020 to the Central Servicing Agent (CSA) based on information maintained in the CSA E-Tran system. SBA will make all section 1112 payments to the CSA except for SBA-purchased debentures, and the CSA will make no ACH debits to the Borrower's accounts;
    - ii. For 7(a) loans, the payment due date varies with each loan, and SBA will make the first monthly payment for these loans directly to the 7(a) Lenders on or before April 30, 2020 based on the information provided by the Lenders under paragraph B.2 below for each loan through the CARES Act menu of the 1502 Dashboard on the Fiscal Transfer Agent's (FTA) website (<https://colsonservices.bnymellon.com>). Lenders will have the option to perform loan level data entry or upload portfolio information utilizing the Section 1112 Excel template available on the FTA website. For the first monthly payment, Lenders may begin to submit this information on April 16, 2020 **but must provide it no later than April 22, 2020**;
    - iii. If the 7(a) Lender receives a loan payment from a Borrower to cover this first monthly payment, the Lender must inform the Borrower that it has the option of the Lender either returning the loan payment to the Borrower or applying the loan payment to further reduce the loan balance after application of SBA's payment.
  - b. For each subsequent month, 7(a) Lenders must submit the information required under paragraph B.2 below by the 10th day of each month or the next business day, and SBA will make that month's payment by the 25th day of each month. For the 504 Loan Program, SBA will make the payments for each subsequent month by the last business day of the month based on information maintained in the CSA E-Tran system.
2. For 7(a) loans for which SBA has not purchased the guarantee, Lenders must submit the information described in (a) through (d) below through the CARES Act menu of the 1502 Dashboard on the FTA's website (<https://colsonservices.bnymellon.com>). Lenders will have the option to perform loan level data entry or upload portfolio information utilizing the mandatory Section 1112 Excel template. For 7(a) loans for which SBA has purchased the guarantee and are serviced by the Lenders, SBA will issue guidance on the information that Lenders must submit to SBA in a later notice.
    - a. The month in which SBA should begin making the section 1112 payments to Lenders. For loans in deferment, the first month for the section 1112 payment is the month after the deferment period ends;

- b. the total outstanding loan payment amount that is due and the number of monthly payments that is included in this amount. The amount must include both the guaranteed and non-guaranteed portions of the 7(a) loan;
    - c. the ACH credit instructions for making the payment directly to the Lenders (SBA will not make the payments to any Lender Service Providers). (SBA will provide Lenders with more ACH payment information on the CCD+ Addenda String format in another notice but, even though SBA will be providing this information later, Lenders MUST provide the ACH credit instructions for making the payment no later than the 22nd day of April for the first monthly payment, and no later than the 10th day of the month or the next business day for all subsequent payments); and
    - d. a certification that the loan is not in liquidation status, or should not have been moved pursuant to SBA Loan Program Requirements from “regular servicing” into “liquidation” status prior to the first payment due date covered by section 1112.
3. For a covered loan made before March 27, 2020 and on deferment, SBA will make the loan payments for the 6-month period beginning with the next payment due on the covered loan after the deferment period. This provision applies to loans that are on both full or partial deferments. For each 7(a) loan on deferment, Lenders must provide the information required under paragraph B.2 above by the 10th day of the month or the next business day. When the period of deferment ends, SBA will make the payment for the 7(a) loan by the 25th day of each month. After the deferment ends for a 504 loan, SBA will begin to make the monthly loan payments to the CSA by the last business day of the month based on the information maintained in the CSA E-Tran system. Further information on the procedures relating to deferments is provided in paragraph C below.
4. For a covered loan made beginning on March 27, 2020 and through September 27, 2020, SBA will make the loan payments for the 6-month period beginning with the first payment due on the covered loan. A Lender may grant the Borrower an immediate deferment on these new loans (in accordance with the applicable SOP provisions) in which case the 6-month period of SBA payments will begin after the deferment ends. For each 7(a) loan, the Lenders must submit the information required under paragraph B.2 above by the 10th of each month or the next business day, and SBA will make that month’s payment by the 25th of each month. For the 504 Loan Program, SBA will make the monthly loan payments to the CSA by the last business day of the month based on the information maintained in the CSA E-Tran system.
5. For a covered loan for which the Borrower makes loan payments less frequently than monthly (i.e., semi-annually or quarterly), SBA will make the loan payment beginning with the next payment due, and the maximum amount that SBA will pay on these loans will be calculated by dividing the total annual loan payment amount by 12 and

- multiplying the result by 6. For loans with semi-annual payments, SBA will make one payment to cover the full amount due for the next semi-annual payment. For loans with quarterly payments, SBA will make a total of four separate payments. The first of the four payments will cover the full amount due for the next quarterly payment. For each of the three months thereafter, SBA will make three monthly payments in equal installments to cover the full amount due for the next quarterly payment.
6. SBA payments will not exceed the outstanding balance of principal, interest and associated fees owed on a covered loan by the Borrower. The SBA payments may not be used to pay any outstanding late fees owed by the Borrower.
  7. For any loan that is scheduled to be prepaid, the last payment that SBA will make under section 1112 will be the monthly loan payment due prior to the date of prepayment.
  8. If a 7(a) Lender receives any regular loan payment due from a Borrower, in whole or in part, during the 6-month period that SBA is making the loan payments, the Lender must inform the Borrower that it has the option of the Lender either returning the loan payment to the Borrower or applying the loan payment to further reduce the loan balance after application of SBA's payment.
  9. 7(a) Lenders must continue to comply with existing procedures regarding 1502 reporting and payment remittance as required by SOP 50 10.
  10. With respect to any loan for which the Borrower is required to make payments under a catch-up plan or other settlement, Borrowers continue to be obligated to make these payments in accordance with the catch-up plan or settlement during the six-month period of SBA payments, and no payments that SBA makes under section 1112 of the CARES Act may be used to cover payments owed by the Borrower under the catch-up plan or settlement.

#### C. Loans on Deferment.

1. 7(a) Loans. For any covered 7(a) loan that has been granted a deferment, the Borrower may voluntarily decide to end the approved period of deferment early to begin the 6-month period of SBA payments, and Lenders must inform Borrowers that it is their choice to either continue the deferment and begin receiving the SBA payments for 6 months after the period of deferment ends OR end the deferment early to begin receiving the SBA payments. Once the 6-month period of payments begins, the period must be continuous and may not be interrupted by deferment.
2. 504 Loans.
  - a. Deferments Granted Prior to the Debenture Sales held on April 15, 2020.

For any covered 504 loan that was granted a deferment prior the debenture sales held on April 15, 2020, the Borrower may voluntarily decide to end the approved period of deferment early to begin the 6-month period of SBA payments, and Lenders must inform Borrowers that it is their choice to either continue the deferment and begin receiving the SBA payments for 6 months after the period of deferment ends OR end the deferment early to begin receiving the SBA payments. Once the 6-month period of payments begins, the period must be continuous and may not be interrupted by deferment.

b. Deferments Granted in Accordance with Procedural Notice 5000-20010 for 504 Loans Funded through the Debenture Sales Held on April 15, 2020.

For a 504 loan that was funded through the April debenture sales and granted a deferment pursuant to Procedural Notice 5000-20010, “504 Certifications of No Adverse Change for April, May and June, 2020 Debenture Sales during the COVID-19 Emergency”, effective 03/25/2020, the Borrower may submit a request to the CDC to terminate the “COVID-19 Substantial Adverse Change Remedy Certification and Agreement” (COVID-19 Agreement) and end the approved period of deferment early to begin the 6-month period of SBA payments. The CDC must submit this request to the appropriate SBA Commercial Loan Servicing Center (CLSC) for approval. The CDC must provide the CLSC with its evaluation of whether the Borrower will have the ability to timely make the payments owed under the Third Party Loan (TPL) during the 6-month period of SBA payments. If the CLSC concludes that it is not likely that the Borrower will have the ability to timely make the TPL payments during the 6-month period of SBA payments, the CLSC will deny the request to end the deferment early, unless the CDC submits a written commitment by the Third Party Lender to the CLSC that, if the COVID-19 Agreement is terminated, the Third Party Lender will grant the Borrower a deferment on the TPL that covers the 6-month period of SBA payments.

c. No Adverse Change Determination for 504 Loans to be Funded through May and June Debenture Sales.

Under Procedural Notice 5000-20010, CDCs are required to consider the following for the May and June debenture sales for 504 loans where the Authorization was issued prior to March 1, 2020:

- “1. No Substantial Adverse Change. Based on the certifications by the Interim Lender and the Borrower (and Operating Company if Borrower is an EPC), and based on its own consideration, the CDC must determine for each loan before the debenture sale whether the COVID-19 emergency is the immediate and direct cause of a substantial adverse change in the Borrower’s (or Operating Company’s) ability to repay the 504 loan since the submission of the loan application to SBA. If the CDC concludes there

is no substantial adverse change as a result of the COVID-19 emergency, the CDC would complete SBA Form 2101 with no changes (assuming that there has been no unremedied substantial adverse change in the Borrower's ability to repay for any other reason), and must document and retain its determination in its loan file.

2. Substantial Adverse Change. If the CDC concludes that the COVID-19 emergency is the immediate and direct cause of a substantial adverse change in the Borrower's ability to repay the 504 loan, the CDC, the Interim Lender, the Third Party Lender and the Borrower (and Operating Company, if applicable) may continue with the 504 debenture sale, provided that the CDC, the Interim Lender, the Third Party Lender, and the Borrower (and Operating Company, if applicable) execute the attached COVID-19 Substantial Adverse Change Remedy Certification and Agreement (COVID-19 Agreement), in addition to SBA Forms 2101, 2287, 2288 and 2289."

Procedural Notice 5000-20010 was issued prior to the enactment of the CARES Act. With the availability of the section 1112 payments, Lenders should already be considering as part of their No Adverse Change determination for the upcoming debenture sales whether Borrowers will have the ability to make the payments owed on the Third Party Loan during the 6-month period that SBA will be making the section 1112 payments. To make this clear, SBA is hereby revising paragraphs 1) and 2) of the Procedural Notice 5000-20010 to state:

- "1. No Substantial Adverse Change. Based on the certifications by the Interim Lender and the Borrower (and Operating Company if Borrower is an EPC), and based on its own consideration, the CDC must determine for each loan before the debenture sale whether the COVID-19 emergency is the immediate and direct cause of a substantial adverse change in the Borrower's (or Operating Company's) ability to repay the Project financing since the submission of the loan application to SBA. In making this determination, the CDC must consider whether it is likely that the Borrower will have the ability, during the 6-month period that SBA will be making the monthly payments for the 504 loan under section 1112 of the CARES Act, to timely make the payments that will be owed to the Third Party Lender for the Third Party Loan financing the Borrower's 504 Project. If the CDC concludes there is no substantial adverse change as a result of the COVID-19 emergency, the CDC would complete SBA Form 2101 with no changes (assuming that there has been no unremedied substantial adverse change in the Borrower's ability to repay for any other reason), and must document and retain its determination in its loan file.
2. Substantial Adverse Change. If the CDC concludes that the COVID-19 emergency is the immediate and direct cause of a substantial adverse change in the Borrower's ability to repay the Project financing, the CDC, the Interim Lender, the Third Party Lender and the Borrower (and Operating Company, if applicable) may continue with the 504 debenture sale, provided that the CDC, the Interim Lender, the Third Party Lender, and the Borrower (and Operating Company, if applicable) execute the attached COVID-19 Substantial Adverse Change Remedy Certification and

Agreement (COVID-19 Agreement), in addition to SBA Forms 2101, 2287, 2288 and 2289.”

**D. Waiver of Statutory Limits on Maximum Loan Maturities.**

Under section 1112(d)(2) of the CARES Act, SBA authorizes 7(a) Lenders to extend the loan maturities beyond the applicable statutory limits where Lenders provide a deferral and extend the maturity of the loan.

**Questions**

Questions on this Notice may be directed to the Lender Service Specialists in the local SBA Field office. The local SBA Field office may be found at <https://www.sba.gov/tools/local-assistance/districtoffices>.

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