

## DRAFT

### Staff Summary of MIR20B18

#### **Section 1. Short Title.**

**Section 2. Additional Eligible Expenses.** This section would make “covered supplier costs” and “covered worker protection expenditures” allowable and forgivable uses for PPP funds. “Covered supplier costs” are expenditures to a supplier pursuant to a contract for goods that are essential to the PPP recipient’s operations. “Covered worker protection expenditure” includes adaptive investments to help a loan recipient comply with federal health and safety guidelines related to COVID-19 during the period between March 1, 2020, and December 31, 2020. The list of expenditures is based on S. 3833 and includes related furnishings such as outdoor seating.

**Section 3. Lender Safe Harbor.** This section would provide that no enforcement action could be taken against a lender who in good faith relied on a certification or documentation submitted by a borrower of a covered loan. This language is from S. 3833.

**Section 4. Eligibility of Certain 501(c)(6)’s for PPPs.** This section would expand eligibility to receive a PPP loan to 501(c)(6) organizations that meet the following criteria: (1) the organization is primarily not a lobbying organization; (2) the organization has 50 or fewer employees; (3) the covered loan is not more than \$500,000; and (4) none of the proceeds of the covered loan are used for lobbying activities, as defined by 2 USC 1602.

**Section 5. Selection of Covered Period for Forgiveness.** This section allows the borrower to elect a covered period ending at the point of the borrower’s choosing between 8 weeks from origination and December 31, 2020.

**Section 6. Simplified Application.** This section creates a simplified application process along these lines:

- For loans under \$150,000: Borrowers are not required to submit to the lender documentation required by section 1106(e) of the CARES Act, but must attest to a good faith effort to comply with the PPP loan requirements, and retain relevant records for one year. The Administrator may audit a small portion of these loans to ensure against fraud.
- For loans between \$150,000 and \$2 million: Borrowers are not required to submit to the lender documentation required by section 1106(e) of the CARES Act, but must complete the certification required by that section, retain relevant records and worksheets for two years, and may complete and submit demographic information. After lenders review the application for completeness, they shall submit the application to the Administrator. The Administrator shall audit a small portion of these loans to ensure against fraud.

**Section 7. Group Insurance Payments as Payroll.** This section clarifies that other employer-provided group insurance benefits are included in payroll costs.

**Section 8. PPP Recovery Draw Program.** This section creates new short-term and long-term PPP Recovery Draw Loan products:

- Short-term loans. These loans resemble the standard PPP loans made available under section 7(a)(36), as created by the CARES Act and subsequent amendments. In order to be eligible, entities must (1) meet the SBA's revenue size standard, if applicable; (2) employ 300 or fewer employees; and (3) demonstrate at least a 50 percent reduction in gross revenue in a 2020 quarter relative to the same 2019 quarter.
- In general, borrowers may receive 2.5 times average total monthly payroll costs in the one year prior to the loan, up to \$2 million.
  - o Seasonal employers may calculate their maximum loan amount based on a 12-week period beginning February 15, 2019 or March 1, 2019, and ending June 30, 2019, or any consecutive 12-week period May 1, 2019 and September 15, 2019.
  - o New entities may use the period January 1, 2020 to February 29, 2020.
  - o Businesses in NAICS Code 72 with more than one location may not receive more than \$2 million in total.
- Recovery Sector Businesses. Businesses which (1) meet the SBA's revenue size standard, if applicable; (2) employ 300 or fewer employees; (3) demonstrate at least a 10 percent reduction in gross revenue in a 2020 quarter relative to the same 2019 quarter; and (A) are a seasonal employer seeking a loan not greater than \$1 million; (B) which have their principal place of business in, and at least 50 percent of their income derived from a low-income community census tract or designated Opportunity Zone, subject to additional limitations in the tract's median family income; or (C) which are in NAICS codes 31, 32, or 33 (manufacturing) or 7211 (hotels) are eligible for a maximum loan amount of 2X annual revenues, up to a limit of \$10 million.
  - o The excess portion of the loan over the 2.5X monthly average payroll costs amount would be carry a maturity of [20 years] and bear an interest rate of [2 percent]. The SBA would make interest payments on the instrument equivalent to a 1 percent interest rate, which reduces the borrower's liability by an equivalent amount.
  - o The borrower would defer principal and interest payments for the first 2 years of the loan, and the Administrator would be given the authority to grant an additional 2 years deferment. The SBA would continue to make interest payments of 1 percent without regard for deferment.
- Forgiveness. All businesses receiving a PPP Recovery Draw would be eligible for loan forgiveness equal to the sum of their payroll costs, supplier costs, and worker protection expenditures incurred before January 1, 2021. No borrower may receive loan forgiveness in excess of 2.5X monthly average payroll costs. The 60/40 cost allocation between payroll and nonpayroll costs in order to receive full forgiveness will continue to apply.
- Lender compensation. The Administrator is authorized to reimburse a lender at a rate between 1 percent and 5 percent of the principal amount of the loan.
- Set-aside for small entities. \$25 billion is set aside for entities employing 10 or fewer employees.

- Guidance to prioritize underserved communities. Directs the Administrator to issue guidance address barriers to access to capital for underserved communities.
- [SBICs authorized as lenders. Small Business Investment Companies may become eligible lenders in the Paycheck Protection Program.]
- Churches and religion organizations. Expresses the sense of Congress that the Administrator's guidance clarifying the eligibility of churches and religious organizations was proper and prohibits the application of regulations otherwise rendering ineligible businesses principally engaged in teaching, instructing, counseling or indoctrinating religion or religious beliefs.
- Compliance with oversight. Directs the Administrator to comply with GAO and IG oversight requests.

**Section 9. Definition of a Seasonal Employer.** This section defines a seasonal employer to be an eligible recipient which: (1) operates for no more than 7 months in a year, or (2) earned no more than 1/3<sup>rd</sup> of its receipts in any six months in the prior calendar year.

**Section 10. Authorization.** Subject to Appropriations, allows the Administrator to make commitments for loans made under the PPP program, as amended by this bill, through December 31, 2020.

**Section 11. Effective Date / Applicability.** Amendments made by this bill shall apply to PPP and EIDL loans as if included in the CARES Act.