

Key Lender Risks with PPP Loan Exits

Financial Services

With ongoing issuance of legislation and guidance surrounding the Small Business Administration (SBA) Paycheck Protection Program (PPP), lenders have increased risks administering these public funds. Particularly, evaluating applications for loan forgiveness has become increasingly complex with the recent passage of the Paycheck Protection Program Flexibility Act. Repayment of loans and eligibility for loan forgiveness now has increased borrower-optionality, extended deadlines and allowance for partial forgiveness, complicating payment processing and loan exits.

PPP LOAN EXIT COMPLEXITIES: RECENT CHANGES TO LOAN REPAYMENTS AND FORGIVENESS CRITERIA (SIGNED INTO LAW ON JUNE 5, 2020)

Borrowers now have at least 5 years to repay the loan for originations after the program changes were enacted ¹	Reduction of loan funds that must be spent on payroll costs to qualify for loan forgiveness from 75% to 60%.
Delayed payment of payroll taxes allowed	Partial forgiveness is still possible, even if the 60% threshold is not met.
Extensions of time, at the borrower's discretion, for borrowers to use funds and qualify for forgiveness	Additional exceptions related to re-employment included that make it easier to qualify for full forgiveness.

CHALLENGES WITH LOAN EXITS

Inaccurate/Untimely Evaluation of Customer Application Requests	Lenders may experience issues with evaluating and responding within the required timeframes or performing accurate evaluations.
Continued Program Changes	Even within three days of the Paycheck Protection Program Flexibility Act being signed, the SBA issued additional guidance. Ongoing guidance and changes to program criteria should be expected, requiring segmented loan populations and process agility.
Heightened Regulatory and Public Scrutiny	As the SBA PPP is a public fund program meant to provide financial relief to those impacted by the pandemic, institutions are administering this program under intense regulatory and public scrutiny. Several class actions have already been filed and institutions have been told to expect program reviews. Successful execution of the program is critical for the reputation of the institutions.
Insufficient Staffing and Training	Lenders participating in the SBA PPP are already experiencing resource constraints and reduced productivity due to stay-at-home orders. A program that may require additional staffing and training is at increased risk in this environment.
Document Management	Document management and retention must follow not only the firm's own retention policies, but also those of the SBA and should be complete and sufficient to satisfy regulatory inquiries and for anticipated litigation.

¹For loans disbursed prior to the enactment of changes, borrowers and lenders can both agree to modify the term from two to five years.

FTI offers solutions for effective strategies and efficient processes to mitigate risks and result in a successful program conclusion and a positive reputation for participating firms. FTI has extensive experience with loan program processing and reviews and has specific loan exit experience. Our team can leverage the following capabilities to create a comprehensive and tailored plan that we believe will be instrumental in successful execution of the SBA Paycheck Protection Program.

Process development and improvement

- Develop or evaluate end-to-end processes across the SBA PPP from application to exit
- Review and remediation of policies and procedures against regulatory expectations
- Build in safeguards in the review process to reduce fraud risks

Loan program execution

- Augment processing teams with experienced professionals who can work at the direction of combined client/FTI teams
- Partner with institutions to review and decision loan forgiveness applications using existing business processes and applicable regulations
- Provide agility in scaling project teams up or down and responding quickly to guidance changes

Data analysis and technological enablers

- Develop customized tools where needed to track and process loan repayments and forgiveness applications
- Support document management and retention of decisioning

Inquiry and litigation readiness

- Evaluate and assist institutions to prepare for inquiries and litigation by assessing current processes, including document management/retention
- Develop and execute customized test plans to address all in-scope regulations at the loan level (including reperformance of loan forgiveness decisioning)
- Document program criteria interpretations, decisioning (both approvals and denials)

The views expressed herein are those of the author(s) and not necessarily the views of FTI Consulting, Inc., its management, its subsidiaries, its affiliates, or its other professionals.

FTI Consulting, Inc., including its subsidiaries and affiliates, is a consulting firm and is not a certified public accounting firm or a law firm.

MAUREEN KIEDAISCH

Senior Managing Director
maureen.kiedaisch@fticonsulting.com

DAVID KING

Managing Director
david.king@fticonsulting.com

MIRIAM WYCKOFF

Senior Director
miriam.wyckoff@fticonsulting.com

JOE LAKIER

Senior Director
joe.lakier@fticonsulting.com