



August 10, 2020

Detection and Mitigation of Paycheck Protection Program and Economic Injury Disaster Loan Fraud

The Coronavirus Aid, Relief, and Economic Security (CARES) Act, through the U.S. Small Business Administration (SBA), provided two sources of funding for small businesses affected by the economic downturn associated with the Novel Coronavirus pandemic:

Paycheck Protection Program (PPP) - designed for payroll costs and benefits mortgage interest and rent and utilities.

Economic Injury Disaster Loans (EIDL) - designed for working capital (fixed debts payroll accounts payable).

PPP Overview

Provides small businesses with funds to pay up to 8 weeks of payroll costs, including benefits. Funds (maximum loan amount is \$10M) can be used for payroll, interest on mortgages, rent, and utilities. The entire loan amount may be forgiven. \$349B was allocated initially; \$310B was added on April 24, 2020; and approximately \$120B remains as of June 11, 2020. Funds are disbursed through financial institutions.

Small businesses under this program are defined as manufacturers, suppliers, or resellers and the business must have fewer than 500 employees and have been in operation on February 15, 2020. This includes non-profits (501c3), veteran organizations (501c19), tribal businesses (31b2C), sole proprietorships, self-employed, and independent contractors. For all other businesses, size is assessed based on annual revenue specific to that industry (size standards are codified in 13 CFR 121.201). Businesses currently in bankruptcy and with owners subject to formal criminal charges or presently incarcerated, currently delinquent or defaulted within the last 7 years on a loan from SBA or any other federal agency, or suspended or debarred are ineligible.

Any borrower that, together with its affiliates, received PPP loans with an original principal amount of less than \$2M will be deemed to have made the required certification concerning the necessity of the loan request in good faith. SBA has determined that this safe harbor is appropriate because borrowers with loans below this threshold are generally less likely to have had access to adequate sources of liquidity.

EIDL Overview

Provides small businesses with working capital for fixed debts, payroll, accounts payable, and other bills resulting from the pandemic. Funds are disbursed directly from SBA and are available until December 31, 2020. The Disaster Loan Emergency Advance is up to \$10K (ending July 10, 2020), maximum loan amount is \$2M, with a maximum unsecured loan amount of \$25K. On April 24, 2020, \$60B in funding was added.

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Small businesses under this program are defined as cooperatives, employee stock ownership plans (ESOP), tribal small business, private non-profits with IRS designation 501(c),(d), or (e), private non-profits doing business under state law, and faith-based organizations. Business associated with illegal activity (as defined by Federal guidelines), with principals with 50% (or more) that are more than 60 days delinquent on child support, displays of a prurient sexual nature (directly or indirectly), more than 1/3 of gross annual revenue from legal gambling activities, or are agricultural enterprises (unless otherwise approved), state, local, or municipal governments, members of Congress, and in lobbying are ineligible.

Ineligible uses of the loan include paying owners (unless for performance of services), dividends or bonuses, repaying of stockholder/principal loans (with exceptions), for expansion of facilities, acquisition of fixed assets, relocation, repair or replacement of physical damages, federal debts except Internal Revenue Service, and refinancing long term debts.

Financial institutions with questions about EIDL eligibility should contact SBA at eidl.ach.inquiries@sba.gov.

Scams

- Scam websites including fake brokers, loan agents, lenders, or other entities posing as gatekeepers to SBA loans
- Attempts to elicit personally identifiable information (PII) or proprietary financial information
- Misuse of SBA logo or insignia

Borrower Fraud

- False statements on applications
- Fraudulent supporting documents (e.g., payroll, tax forms)
- Identity (ID) theft
- Corporate ID theft (shell corporations)
- Inflation of payroll
- Misuse of proceeds
- Unqualified borrowers
- Lender/broker fraud

Fraud Indicators

- Request for upfront payments
- Offers for high-interest bridge loans
- Fees in excess of SBA limits
- New Employer Identification Numbers (EIN)

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- Shell corporations/dormant EINs
- Recent business incorporations
- FinCEN reports/Suspicious Activity Reports (SAR)
- Inflation of payroll
- Large loan amounts
- False statements on applications
- Employee/employer collusion
- Newly created and/or multiple bank accounts with abnormal transaction activity
- Consumer accounts rather than business accounts
- Quick movement of money in and out of accounts (often within 1-2 days)
- Withdrawals made via cash or apps (e.g. Cash App, Zelle)
- Abnormal transaction activity for client based on historical transactions
- Transfers to overseas accounts known for poor anti-money laundering controls

Not all fraud indicators listed above on their own imply fraud, but rather in combination with other fraud indicators.

Suspicious Activity Report (SAR) Filing

SAR reporting, in conjunction with effective implementation of due diligence requirements by financial institutions, is crucial to identifying and stopping financial crimes, including those related to the COVID-19 pandemic. Financial institutions should provide all pertinent and available information in the SAR and narrative.

Guidance on Returning Funds

If a Receiving Depository Financial Institution (RDFI) has determined to return an Automated Clearing House (ACH) credit entry because the RDFI believes the entry was initiated due to fraud, the RDFI should select the Return Reason Code that most closely approximates the reason for the return. The following examples may be acceptable options:

- ✓ R03 (No Account/Unable to Locate Account)
- ✓ R17 (File Record Edit Criteria/Entry with Invalid Account Number Initiated Under Questionable Circumstances), which requires "QUESTIONABLE" to be inserted in the first twelve positions of the Addenda Record
- ✓ R23 (Credit Entry Refused by Receiver)

RDFIs can make a business decision to return these credit entries outside of the standard return timeframe. Due to the extraordinary circumstances and the lenders' desire to recoup the funds, it is unlikely that the return of credits will be dishonored as untimely. Under National Automated Clearing House Association (Nacha) Operating Rules, RDFIs are not

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liable for funds resulting from ACH credit entries initiated due to fraud if the funds are no longer available in the receiver's account. The Originating Depository Financial Institution (ODFI) warrants to the RDFI that the entry is correct and properly authorized. If the RDFI posts a fraudulent credit to the account number in the entry, and the funds are withdrawn, the RDFI is not liable for the funds.

Nacha Operating Rules do not allow for the partial return of funds through a return entry. Partial return of funds can be handled outside of the ACH Network (e.g., with a wire transfer or an official check), or with a new ACH credit entry agreed to by both institutions to return the available amount. The ODFI should, or be prepared to, offer a Letter of Indemnity to the RDFI. Nacha offers a standard [Letter of Indemnity](#) that the ODFI can use to facilitate the return process.

EIDL funds are disbursed by SBA and will feature ACH code: SBAD TREAS 310.

Financial institutions with questions on returning EIDL funds should contact SBA at eidl.ach.inquiries@sba.gov.

EIDL funds being returned via checks should contain:

1. Loan number, which can be found in:
 - a) The 10 digits following CT* in the ACH description SBAD TREAS 310/MISC PAY RMT*CT*#####, or
 - b) The first 10 digits of the Customer ID ending in 73000
2. Payee name
3. Annotation - EIDL Repayment and/or Advance Due to Fraud

EIDL funds being returned via checks should be mailed to:

SBA/Denver Finance Center
721 19th Street
Denver, CO 80202

Guidance on Searching ACH Codes

PPP funds are disbursed through third-party financial institutions. There are instances when a participating lender will receive the PPP application, but the loan disbursement will be sent from another ODFI. The RDFI can determine where the funds were disbursed by querying the ODFI's ACH routing number or the first 8 numbers of the trace number through the Federal Reserve Bank [E-Payments Routing Directory](#), which provides basic routing information for Fedwire® Funds Service, Fedwire Securities Service, and FedACH® transactions. This information is synchronized with the Federal Reserve FedACH and Fedwire databases daily and is provided solely as a service to financial institutions and other authorized users to help process and settle their transactions efficiently.



U.S. Secret Service
Office of Investigations

U.S. Small Business Administration
Office of Inspector General



To most effectively counter these criminal activities, the U.S. Secret Service and the SBA Office of Inspector General continue partnering with the U.S. Department of the Treasury and the Treasury Financial Crimes Enforcement Network (FinCEN), the U.S. Department of Justice, United States Attorney Office (USAO) COVID-19 task forces, state, local, tribal, and territorial (SLTT) law enforcement agencies, state prosecutors, various Inspector Generals, other Federal law enforcement agencies, and foreign law enforcement.

Reporting Suspected Fraud

The Secret Service Cyber Fraud Task Forces (CFTF), whose mission is to prevent, detect, and mitigate complex cyber-enabled financial crimes, with the ultimate goal of arresting and convicting the most harmful perpetrators, are strategically located throughout the country.

Financial institutions should contact their local Secret Service field office CFTF to report suspected fraud and when unable to reverse or return the funds.

<https://www.secretservice.gov/contact/field-offices/>

Financial institutions who suspect attempted EIDL fraud can contact the National Center for Disaster Fraud Hotline at 866-720-5721 or fill out the [Web Complaint Form](#).

Financial institutions may also report fraud, waste, abuse, or mismanagement of federal funds involving SBA programs, operations, or personnel to the SBA OIG Hotline at 800-767-0385 or [online](#).

Information contained in this alert was compiled from the following sources:

U.S. Secret Service Office of Investigations

U.S. Small Business Administration Office of Inspector General

U.S. Department of the Treasury Financial Crimes Enforcement Network (FinCEN)

National Cyber-Forensics and Training Alliance (NCFTA)

National Automated Clearing House Association (Nacha)

The Federal Reserve

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