

# Expert Advice for New Phases for Lenders and Borrowers on PPP and MSLP Loans: PPP Loan Forgiveness and SBA PPP-MSLP Loan Reviews

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The Federal government's COVID emergency loan programs and credit facilities have moved into critical new phases. As highlighted by the recent media focus on the new SBA PPP Forgiveness Questionnaire for borrowers, both borrowers and lenders face new and challenging issues regarding these loan programs, particularly PPP loans and the Main Street Loan Program.

## *PPP Loan Program –*

For most borrowers, the time period for spending PPP loan proceeds has expired. As a result, such borrowers are beginning to submit applications loan forgiveness. New hurdles and challenges have been created:

- For borrowers, forgiveness issues include: (1) filling out forgiveness applications in an effective manner consistent with SBA requirements; (2) understanding the requirements and forms, including submitting the new SBA Forgiveness Questionnaire which requires detailed information and documentation about the borrower's finances, liquidity and recent operations; (3) responding to lenders and the SBA regarding forgiveness applications; and (4) managing appeals of denials of forgiveness applications.
- Lenders must evaluate forgiveness applications consistently with SBA requirements, and correctly submit the applications. Lenders need to ensure that they take no action that do not comply with the PPP program and CARES Act guidelines.

## *Main Street Loans*

Since the Federal government owns a participation interest in each Main Street loan, these loans require special attention from lenders and borrowers alike. Both must ensure that the terms of the loan program and documents are followed. With the Federal Reserve's announcement that the last day to submit applications to its Special Purpose Vehicle portal will be December 14, lenders must now focus on following their servicing and other obligations as provided in their agreements with the Federal Reserve's Special Purpose Vehicle (the entity that purchases Main Street loan participations for the Federal government).

PPP and Main Street loans require that lenders and borrowers address these issues carefully. If a borrower or lender finds itself in a potentially adversarial situation with the government, it is imperative that such party have a skilled and experienced advocate representing it to protect its interests.

Buchalter is a leading provider of counseling regarding all aspects of PPP and MSLP loans:

- Our Commercial Finance Group organized its attorneys to create in-depth expertise in every aspect and requirement of the PPP and MSLP Programs. Buchalter's Commercial Finance Group is comprised of attorneys with extensive borrower and lender transactional and regulatory expertise. Our commercial finance attorneys are uniquely positioned to advise clients on the PPP and MSLP Programs and help structure and document any of the credit facilities that are offered under the MSLP Program.
- As a leading commercial finance transactional firm, Buchalter has handled large numbers of PPP and MSLP loans for lenders and borrowers, and has advised many clients on the issues discussed above.

Buchalter's Financial Services Regulatory Group and Litigation Group are leaders in counseling responses to government inquiries and investigations. If necessary, they have vast experience in government related litigation and other disputes. The groups include recognized leaders in litigating and counseling financial institutions about the entire range of governmental and regulatory issues. The team's expertise includes senior experience inside the Federal government, and attorneys well-versed in advising financial institutions across the full range of financial regulatory matters.



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