

## Description and Purpose of Paycheck Protection Program

Congress passed “The Coronavirus Aid, Relief, and Economic Security Act” (CARES Act), which included the “Paycheck Protection Program” (PPP) for small businesses. The PPP will provide short-term cash flow assistance to small businesses to help these businesses and their employees deal with the immediate economic impact of the COVID-19 pandemic. Loans are made by lenders certified by the Small Business Administration (SBA) and guaranteed by the federal government.

We expect the Small Business Administration to release more details soon. However, in the meantime, Old National Bank has issued this guide to help small businesses and self-employed individuals with questions you may be asking as well as what you need to know in order to prepare to apply for a loan.

**PLEASE NOTE THAT THE BELOW IS SUBJECT TO CHANGE BASED ON ADDITIONAL AND FINAL GUIDANCE FROM THE SBA.**

### Eligibility Period

**PPP loans must be made during the period prior to June 30, 2020.**

### PPP Eligible Businesses and Non-Profits

**The PPP is available to the following business concerns:**

- A small business with 500 or fewer employees or a small business that otherwise meets the SBA’s size standard
- 501(c)(3) with fewer than 500 employees
- An individual who operates as a sole proprietor
- An individual who operates as an independent contractor
- An individual who is self-employed who regularly carries on any trade or business
- 501(c)(19) Veterans Organization that meets the SBA size standard
- A Tribal business concern that meets the SBA size standard

**In addition, special rules make the PPP available to the following business concerns:**

- For businesses in the accommodation and food services sectors (businesses with a NAICS code beginning in 72), the 500-employee rule is applied per physical location
- For businesses that operate as a franchise or receive financial assistance from an approved Small Business Investment Company, the normal affiliation rules do not apply

*NOTE: The 500-employee threshold includes all employees—full-time, part-time, and any other status.*

### Use of PPP Loan Funds

**Small businesses that receive loans under the PPP must use loan funds to:**

- pay payroll costs (i.e., salaries, wages, vacation, parental, family, medical, or sick leave, severance, retirement benefits, and state or local taxes assessed on compensation)
- costs related to group health care benefits (i.e., insurance premiums)
- employee commissions and tips
- interest on mortgage obligations, rent, including rent under a lease, utilities or interest on other debt, incurred prior to obtaining the loan

If the applicant took out an emergency bridge note during the period beginning January 31, 2020 and ending on the date which the PPP loans are made available, these funds may be eligible for refinance under the covered loan.

## PPP Loan Terms

PPP loans can be as large as 250% of the business's average monthly payroll costs over the last 12 months plus any emergency bridge note the applicant made during the period beginning January 31, 2020 and ending on the date on which the PPP loans are made available, not to exceed \$10 million; provided, that, salaries over \$100,000 are not counted as payroll costs. PPP loans have a maximum interest rate of 4%. In addition, the loans can have a maximum maturity of ten (10) years from such date.

### How do I calculate my average monthly payroll costs?

**Sum of included payroll costs – Sum of excluded payroll costs = Payroll costs**

#### Included payroll costs:

For Employers: The sum of the payments of any compensation with respect to employees that is a:

- Salary, wage, commission, or similar compensation
- Payment of cash tip or equivalent
- Payment for vacation, parental, family, medical or sick leave
- Allowance for dismissal or separation
- Payment required for the provisions of group health care benefits, including insurance premiums
- Payment of any retirement benefit
- Payment of state or local tax assessed on the compensation of the employee

For Sole Proprietors, Independent Contractors, and Self-Employed Individuals: The sum of payments of any compensations to or income of a sole proprietor or independent contractor is a wage, commission, income, net earnings from self-employment, or similar compensation and that is in the amount that is not more than \$100,000 in one year, as pro-rated for the covered period.

#### Excluded payroll costs:

- Compensation of an individual employee in excess of an annual salary of \$100,000.
- Payroll taxes, railroad retirement taxes, and income taxes
- Any compensation of an employee whose principal place of residence is outside of the United States
- Qualified sick leave wages for which a credit is allowed under section 7001 of the Families First Coronavirus Response Act, or qualified family leave wages for which a credit is allowed under section 7003 of the Families First Coronavirus Response Act

#### Maximum loan amount:

Non-seasonal Employers:

- 2.5x the average total monthly payroll costs incurred during the year prior to the loan date
- For business not operational in 2019 maximum loan amount is 2.5x the average total monthly payroll costs incurred for January and February 2020

Seasonal Employers:

- 2.5x the average total monthly payroll costs incurred for the 12-week period beginning February 15, 2019 or March 1, 2019 (decided by the loan recipient) and ending June 30, 2019

## Payment Forgiveness

Principal amounts on PPP loans, may be forgiven, if loan funds are used to cover payroll costs, interest payments on mortgages (not including prepayments or principal), rent and utilities.

The amount of a PPP loan that may be forgiven cannot exceed the principal amount of the loan. To get the full benefit of loan forgiveness, businesses must keep their employees and pay them at least 75% percent of their prior-year compensation.

The amount of the loan that may be forgiven will be reduced if the average number of full-time equivalent (FTE) employees during the forgiveness period is less than the average number of FTE employees at either the period, (a) February 15, 2019 through June 30, 2019, or (b) January 1, 2020 to February 29, 2020. The employer chooses which

period to compare. In addition, to encourage employers to rehire workers laid off due to the COVID-19 crisis, employers that rehire previously laid-off workers will not be penalized for having a reduced payroll at the beginning of the forgiveness period. If, during the period from February 15, 2020 through 30 days after enactment of the CARES Act, there is either a reduction in the number of or wages paid to FTE employees and the employer eliminates the reduction by June 30, 2020, the amount of loan forgiveness will be determined without regard to the reduction.

To apply for forgiveness, businesses must submit documentation regarding the eligible uses of loan funds (payroll costs, mortgage interest, utilities, etc.), a certification that such documents are true and correct, and the amount to be forgiven, as well as any other documentation the SBA Administrator deems necessary. The SBA will pay any loan forgiveness amounts to its certified lenders on applicant's behalf and this canceled indebtedness will not result in taxable income to the business.

## **Payment Deferral**

Under the PPP, all applicants are allowed payment deferrals for the first 6 months and up to a total of 12 months.

## **No Security or Personal Guarantee; SBA Fee and Hardship Requirements Waived**

No collateral is required to be pledged and the normal personal guarantee requirement for SBA loans is waived. The SBA's guaranty fee and annual servicing fee are also waived, as is the requirement that the business is not able to access credit elsewhere. So long as a business uses the PPP loan proceeds for the purposes described above, the loan will be nonrecourse to the business' shareholders, members and partners.

## **Regulations Expected Soon**

Once the SBA publishes regulations for the PPP application process, Old National Bank will be able to advise and help businesses apply for PPP loans. Following the release of these regulations, Old National Bank will provide additional analysis and guidance.

## **What Lenders are Looking for and Required Documentation**

While we do not have all the details yet around requirements, we do know the following questions will be asked:

- Has the borrower been in operation before February 15, 2020 and had employees for whom they paid salaries and payroll taxes or paid independent contractors?
- Can the borrower provide a good faith certification?
  - The uncertainty of current economic conditions makes the loan request necessary to support the ongoing operations of the business
  - The borrower will use the loan proceeds to retain workers and maintain payroll or make interest payments, leases, and utility payments
  - Borrower does not have an application pending for a loan duplicative of the purpose and amount applied for here
  - From February 15, 2020 to December 31, 2020 the borrower has not received a loan duplicative of the purpose and amounts applied for here (Note: There is an opportunity to fold in emergency loans made between January 31, 2020 and the date the PPP program becomes available into a new loan)

We also recommend applicants start to gather the following information in anticipation of the program going live:

- 2019 tax returns or 2019 year-end balance sheet and profit loss statements
- Last 4 quarters of payroll forms (941)
- Verification of the number of employees and payroll incurred over the most recent 12-month period identifying employees in excess of \$100M  
Forms 1099-MISC for self-employed individuals

Additional required information may be needed based on SBA published regulations for the PPP application process.