



CONSUMER  
BANKERS  
ASSOCIATION

# CBA Membership Call

September 16, 2020

# New CBA Board Leadership



Immediate Past Chair  
Nitin Mhatre  
Webster Bank



Chair  
Christine Channels  
Bank of America



Chair-Elect  
Michelle Lee  
Wells Fargo



# \*CBA LIVE 2020

Virtual Experience | September 29 – October 1

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KELLY KING



MICHELLE LEE



NITIN MHATRE



CHRISTINE CHANNELS



CASSANDRA MCKINNEY



BRIAN BROOKS



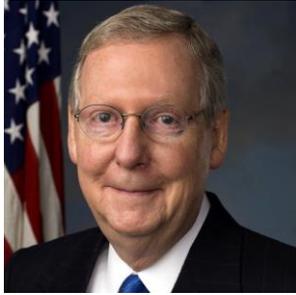
QUINCY MILLER



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### ❖ HEALS ACT

- **Total Cost:** Approximately \$1 trillion
- **Paycheck Protection Program:** Offers a “second draw” for eligible businesses.
- **PPP Forgiveness:** Offers a simplified forgiveness for loans under \$150,000 and loans between \$150,000-\$2,000,000:
- **Aid for State and Local Governments:** Not included
- **Unemployment Insurance:** \$300 per week
- **Stimulus Payments:** \$1,200 for individual incomes under \$75,000, \$2,400 for families and \$500 per dependent (up to 3).
- **Liability Protection:** Strengthens liability protections for businesses, schools and hospitals.
- **Education Provisions:** \$105 billion in funding for elementary and secondary schools, universities and other programs.
- **Healthcare Provisions:** \$45 billion for healthcare providers and vaccine testing/development.

*AFP via Getty Images*



### ❖ HEROES Act

- **Total Cost:** Approximately \$3 trillion
- **Paycheck Protection Program:** Extends the program through December 31, 2020.
- **Aid for State and Local Governments:** \$1 trillion
- **Unemployment Insurance:** \$600 per week
- **Stimulus Payments:** – : \$1,200 for individual incomes under \$75,000, \$2,400 for families and \$1,200 per dependent (up to 3)
- **Liability Protection:** Strengthens liability protections for workers.
- **Education Provisions:** \$100 billion in funding for childcare providers, school districts, and universities. Extends the suspension of student loan payments to September 30, 2021.
- **Healthcare Provisions:** \$180 billion for hospitals, healthcare providers, expanded testing and vaccines.

# PPP Changes in “Skinny” Bill

- ❖ **Simplified Forgiveness Application** provides a simplified forgiveness process for loans under \$150,000, and loans between \$150,000 and \$2,000,000;
  - For loans under \$150,000 – Language was added directly to “skinny” bill from S.4117 (Cramer/Menendez)
  - Additional Streamlined Forgiveness for loans between \$150,000 and \$2,000,000
- ❖ **Funds for Audits** – Provides \$50 million for audit funding, paid for by reducing funds available for PPP loans by \$50 million
- ❖ **Paycheck Protection Program Second Draw Loans** – creates a second loan from PPP for eligible businesses and businesses qualifying originally under this eligibility.
  - Eligibility
    - Would qualify as a small business concern by annual receipts size standard (if applicable) or meets the alternative size standard;
    - Employs not more than 300 employees; and
    - Demonstrates at least a 35 percent reduction in gross revenues in either the first or second quarter of 2020 compared to the same quarter in 2019 (provides alternative timeframes for entities not in operation during this time in 2019)
  - Maximum loan size would equal 2.5 times average total monthly payroll costs, up to \$2 million. Businesses that received a PPP loan may not receive another PPP loan that aggregates to more than \$10 million.
- ❖ **Continued Access to the Paycheck Protection Program** – lowers the maximum loan amount for PPP from \$10 million to \$2 million.
- ❖ **Increased Ability for Paycheck Protection Program Borrowers to Request an Increased in Loan Amount due to Updated Regulations** – allows borrowers whose loan calculations have increased due to changes in interim final rules to work with lenders to alter their loan value regardless of whether the loan has been fully disbursed or if Form 1502 has already been submitted.

# Stimulus Negotiations

## ❖ September Stimulus Activity:

- Last week, Senate Republicans failed to pass a partisan “skinny” \$500B stimulus package. Included PPP forgiveness, second loan draw and hold harmless language.
  - Goal: Show activity before election and highlight Democrat resistance to a bill limited in both cost and policy objectives.
- UNLIKELY: White House & Congressional Democrats reach agreement on a large \$2T+ stimulus bill.
- POSSIBLY: Congressional leadership reach compromise on select items that would be included in a “must pass” gov’t funding bill by Sept. 30<sup>th</sup>.
- MOST LIKELY: No agreement. Adjourn until after election then address stimulus needs upon return.

## ❖ Significant Division Remains:

- Unemployment Insurance
- Aid for State and Local Governments.
- Liability Protections for businesses
- Education funding as it relates to the reopening of schools.

## ❖ Areas of Compromise:

- Paycheck Protection Program: Extension or Second Draw Program
- Paycheck Protection Program: Streamlined Forgiveness Process
- Stimulus Payments to individuals
- Funding for healthcare workers and vaccine testing.

# PPP Forgiveness Act



Senator  
Kevin Cramer  
(R-ND)



Senator  
Bob Menendez  
(D-NJ)



Senator  
Thom Tillis  
(R-NC)



Senator  
Kyrsten Sinema  
(D-AZ)



Representative  
Chrissy Houlahan  
(D-PA)



Representative  
Fred Upton  
(R-MI)

## PERCENTAGE OF PPP LOANS \$150K & UNDER



AK: 85%	DC: 78%	IL: 86%	MI: 84%	NE: 90%	OR: 85%	UT: 87%
AL: 88%	DE: 83%	IN: 85%	MN: 86%	NH: 86%	PA: 84%	VA: 85%
AR: 90%	FL: 89%	KS: 89%	MO: 87%	NJ: 85%	PR: 95%	VI: 91%
AS: 91%	GA: 88%	KY: 87%	MP: 88%	NM: 86%	RI: 86%	VT: 87%
AZ: 86%	GU: 86%	LA: 88%	MS: 92%	NV: 87%	SC: 88%	WA: 84%
CA: 85%	HI: 87%	MA: 84%	MT: 90%	NY: 86%	SD: 91%	WI: 86%
CO: 87%	IA: 90%	MD: 84%	NC: 87%	OH: 84%	TN: 88%	WV: 87%
CT: 86%	ID: 89%	ME: 90%	ND: 89%	OK: 89%	TX: 87%	WY: 90%

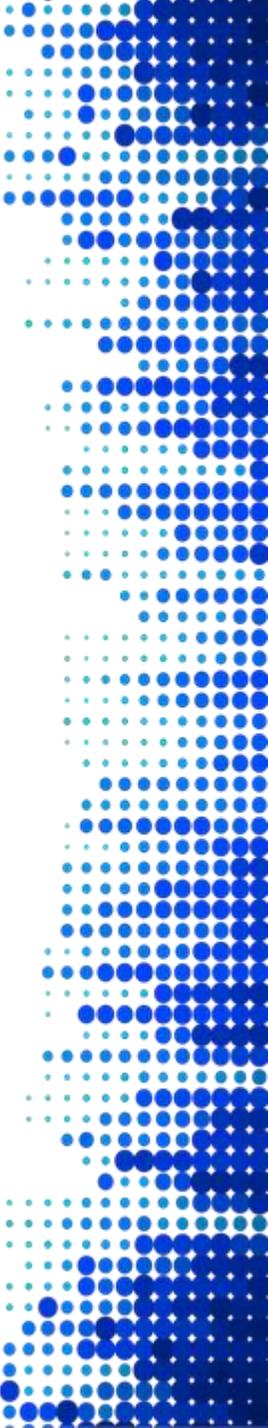
Source: Sen. Cramer's Website

### S. 4117 & H.R. 7777 by the Numbers:

- 30 - Sponsors and cosponsors in the Senate
- 77 - Sponsors and cosponsors in the House
- 85 - Percentage of small businesses eligible for streamlined relief
- 100 – Hours small business owners could spend completing current PPP forgiveness forms
- 7 – Billions of dollars small business owners could collectively save through streamlined PPP forgiveness
- 147 – Number of groups in CBA's PPP forgiveness coalition
- 0 – Number of loans prevented from SBA audit dues to streamlined forgiveness

# Upcoming Key Dates

- September 23: Next CBA Membership Call / DC Update
- September 29 – October 1: CBA LIVE
- September 29: Presidential Debate in Cleveland, OH
- September 30: End of the Fiscal Year / Expiration of Current Government Funding
- October 7: Vice Presidential Debate in Salt Lake City, UT
- October 15: Presidential Debate in Miami, FL
- October 22: Presidential Debate in Nashville, TN
- November 3: Election Day



The SBREFA Outline is better than expected, but the **devil will be in the details** of a final proposed rule.

The CFPB has addressed many of our major areas of concern but were vague on others. This is a **first round** and things will change; however, the outline gives a good indication of direction by the CFPB.

### **Positives include:**

- Limiting the collection to women or minority owned “Small Business” entities only
- Simplifying the definition of “Small Business” to one that is easily applied at time of application
- Defining products in and out of scope for reporting
- Defining transaction types that are in scope (e.g. new loans)
- Firewall provisions eased
- All “lenders” (including no Depositories) would be covered (with some proposed exceptions)
- 24-month implementation period.

### **Some concerns remain:**

- Privacy – proposed balancing test
- Public data reporting
- Many required informational fields (compliance difficulties)
- Lenders duty to inquire
- A possible definition of “small business” that is too complicated

# Section 1071: Timeline, Scope & Definitions

## Projected Timeline

- October 15 - SBREFA Meeting
- Proposed Rule – Summer/Fall 2021
- Final Rule – Spring/Summer 2022
- Effective Date – Summer 2024

## Scope

- Would apply to any application to any financial institution for credit only for small businesses, **not all** majority women and minority owned businesses.

## Definitions

### **Financial Institutions:**

- A general definition of “financial institution” consistent with the section 1071 definition. The Bureau notes that Regulation B has not otherwise defined this term.
- Depository institutions with assets under a given threshold should be exempt from collecting and reporting (size-based exemption).
- Use a size-based test together with an activity-based test to determine coverage under its 1071 rule.

### **Small Business:**

- Gross annual revenue of the applicant business in the prior year, with a potential “small” threshold of \$1 million or \$5 million.
- Maximum of 500 employees for manufacturing and wholesale industries and a maximum of \$8 million in gross annual revenue for all other industries.
- Gross annual revenue or the number of employees based on 13 two-digit NAICS code categories that applies to the largest number of firms within each two-digit NAICS final rule or otherwise prescribes the size standard for its use.

# Section 1071: Definitions cont'd

## Definitions

### **Women-Owned Business**

- Mirrors terminology of HMDA's aggregate categories, would also clarify that a multiracial person could be considered a minority individual.
- Mirrors FinCEN customer due diligence rule.

### **Product coverage**

- One that meets the definition of "credit" under ECOA and is not otherwise excluded from collection and reporting requirements, including: **term loans, lines of credit, and business credit cards.**
- Not Covered: **Consumer credit** used for business purposes, **leases, trade credit, factoring, and merchant cash advances.**

### **Application**

- Largely consistent with Reg B definition: "An oral or written request for an extension of credit that is made in accordance with procedures used by a creditor for the type of credit requested."
- Clarifies certain circumstances that would not be reportable under section 1071, including: **inquiries/prequalification, reevaluation, extension, and renewal requests**, except requests for additional credit amounts, and solicitations and firm offers of credit.

## Section 1071: Data Points

### Mandatory data points under consideration are:

- Whether the applicant is a women-owned business, a minority-owned business, and/or a small business
- Application/loan number
- Application date
- Loan/credit type
- Loan/credit purpose
- Credit amount/limit applied for
- Credit amount/limit approved
- Type of action taken
- Action taken date
- Census tract (principal place of business)
- Gross annual revenue
- Race, sex, and ethnicity of principal owner(s)

### Discretionary data points under consideration are:

- Pricing
- Time in business
- NAICS code and number of employees

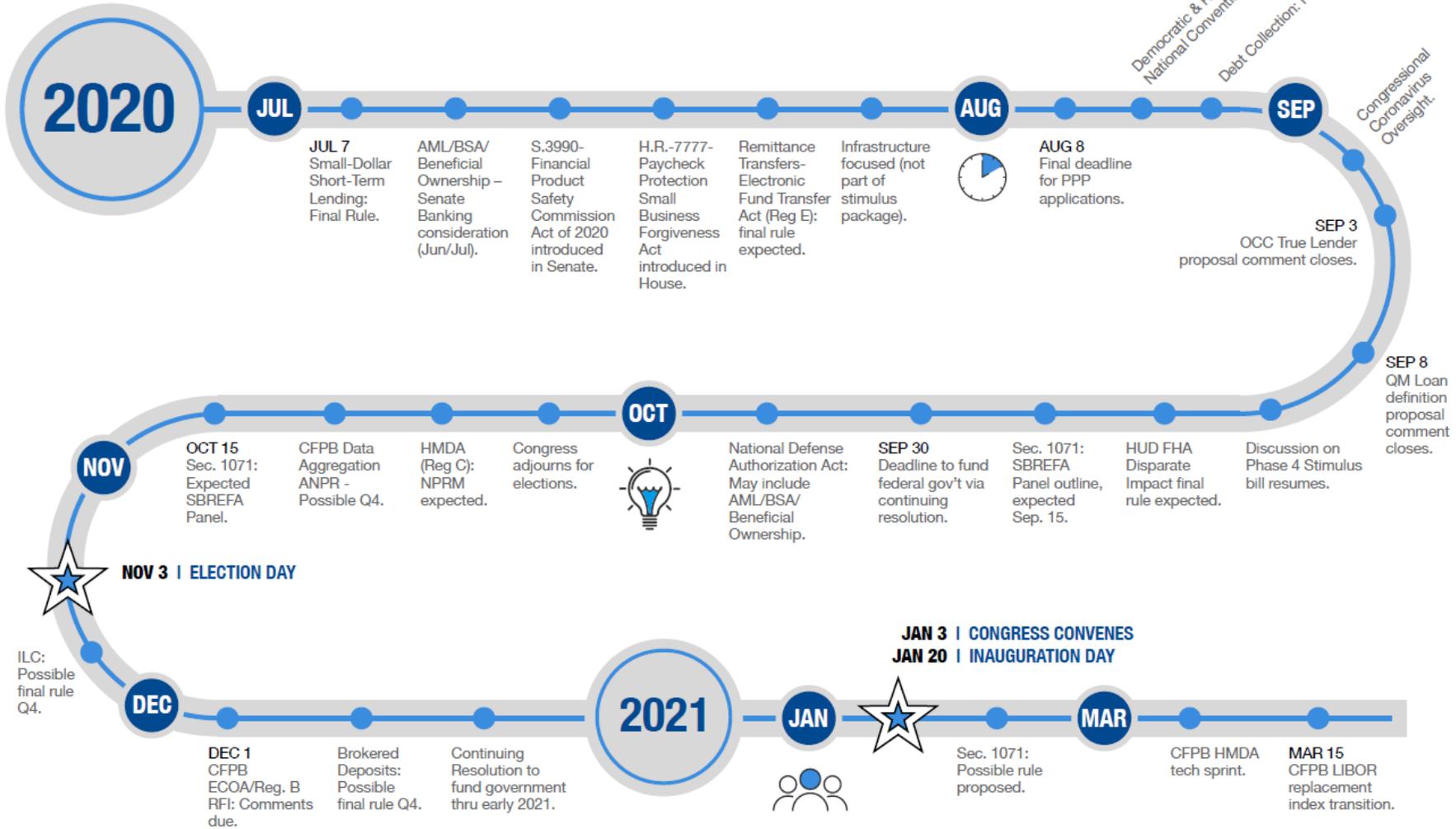
*The Bureau is not currently considering specifying a particular time period in which FIs must seek to collect 1071 data from applicants.*

# Upcoming Fed CRA ANPR

- Fed to release CRA ANPR on September 21.
- ANPR will likely be about 80 questions long and have a 120 day comment period, putting a deadline for comments roughly around February 1. The 2018 OCC ANPR had 31 questions with a 75 day comment period.
- The Fed's ANPR is a more theoretical rulemaking that allows for broader feedback.
- The earliest to expect a final rule is late 2022, 4 years prior to the expiration of Fed Governor Brainard's tenure.
- During the same time, the industry will also have to respond to the OCC NPR on thresholds, which will also likely be released next week. CBA expects the timeline on the OCC NPR to be 30 to 45 days, putting comments due pre-Thanksgiving.

# BANKING BLUEPRINT | COVID-19

A TIMELINE OF KEY ISSUES FOR RETAIL BANKS



Dates are projections and may change.