



CFPB Issues Guidance on 30-Day Deadline for Notice of Adverse Action on PPP Loans

On May 6, 2020 the CFPB issued useful guidance on when the 30-day deadline to send a notice of adverse action under Regulation B starts to run on Paycheck Protection Program (PPP) applications. The news is good—PPP applications are not deemed “completed” until the SBA has issued a loan number for the loan or a response about the availability of PPP funds. This means PPP applications will not “time out” solely due to delays in receiving loan numbers from the SBA or during interim periods while the PPP has exhausted its funding.

When is a PPP loan application “completed”?

According to the CFPB, a PPP application that a creditor has submitted to the SBA for loan processing is not a “completed application” under Regulation B until the creditor receives a loan number from the SBA or a response about the availability of PPP funds. Under Regulation B, an application is completed when “a creditor has received all the information [it] regularly obtains and considers in evaluating applications for the amount and type of credit requested . . .,” including “any approvals or reports by governmental agencies . . . that are necessary to guarantee, insure, or provide security for the credit or collateral.”

While financial institutions have delegated authority to approve a loan under the PPP, the SBA must issue a loan number for the loan to be guaranteed by the SBA. Therefore, where the creditor has submitted to the SBA a PPP loan application, the 30-day timeline to notify the applicant of the action taken on a completed application under Regulation B does not begin until a creditor has received a loan number from the SBA or a response about the availability of funds. A creditor must act with reasonable diligence to collect information needed to complete an application.

If a creditor receives a PPP loan application and refuses to grant the credit without ever submitting the PPP loan application to the SBA, does the creditor need to provide adverse action notification?

Yes. If an application is missing information but provides sufficient data for a credit decision, the creditor may evaluate the application and make its credit decision. But if the credit is denied the creditor must send a notice of adverse action.

If a creditor has sufficient data for a credit decision but has not received a loan number from the SBA or a response about the availability of funds, can the creditor deny the application based on incompleteness?

No, under Regulation B an application may be denied for incompleteness only if an application is incomplete regarding information that the applicant can provide and the creditor lacks sufficient data for a credit decision. (Alternatively, if an application is incomplete regarding matters that an applicant can complete, a creditor has the option of providing a notice of incompleteness under Section 1002.9(c)(1)(ii) in lieu of an adverse action notice.)

If the creditor has not received a loan number or a response about funds availability from the SBA, but the PPP application is otherwise complete, the creditor cannot deny the application based on incompleteness (or provide a notice of incompleteness) because an SBA loan number or response about funding availability is not information that an applicant can provide.

For further assistance.

The law firm has been assisting a number of BCG members and other clients with their PPP loans, including compliance with Regulation B, borrower eligibility and other matters. For more information contact Mark Aldrich at [**MAldrich@ABlawyers.com**](mailto:MAldrich@ABlawyers.com) or Robert Olsen at [**ROlsen@ABlawyers.com**](mailto:ROlsen@ABlawyers.com).