

## SBA Issues New Guidance on Certification of Necessity Safe Harbor

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**PRACTICES** Asset-Based Lending, Corporate, Finance

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On May 13, 2020, the Small Business Administration (“**SBA**”) issued an update to the [Frequently Asked Questions document](#) (“**FAQs**”) relating to its Paycheck Protection Program (“**PPP**”), originally published on April 2, 2020 and updated regularly thereafter, providing additional guidance on the PPP Certification of Necessity Safe Harbor. The PPP is a small business loan program established pursuant to Title I of the Coronavirus Aid, Relief, and Economic Security (“**CARES**”) Act signed by President Trump on March 27, 2020, and supplemented by the Paycheck Protection Program and Health Care Enhancement Act (the “**PPP/HCE Act**”), which provided additional funding for the program.

The PPP loan application requires borrowers to make a certification that “[c]urrent economic uncertainty makes this loan request necessary to support the ongoing operations” of the borrower (the “**Necessity Certification**”). On April 23, the SBA released additional guidance on this certification, providing that borrowers must make the Necessity Certification “in good faith, taking into account their current business activity and their ability to access other sources of liquidity sufficient to support their ongoing operations in a manner that is not significantly detrimental to the business.” (FAQ #31). The latest FAQs released on May 13, 2020 includes the following additional important information concerning the Necessity Certification.

Read the full alert [here](#).