

## CARES Act PPP and EIDL - *Ineligible Entities*

The CARES Act (Act) provides multiple financial assistance programs to small businesses impacted by COVID-19. As part of the Act, the Small Business Administration (SBA) and Congress have broadened the criterion for businesses eligible to receive SBA assistance, such as expanding the size standard to include small business concerns under 500 employees and expanding to most non-profits (different non-profits are [eligible for PPP and/or EIDL loans](#)). Additionally, the recent [FAQ released by the Treasury](#) further specifies expanded criterion for determining eligible businesses. The SBA, however, does include a listing of certain business entities that are not eligible for SBA loans, which would extend to PPP and EIDL programs. It is our understanding that these businesses would still be **ineligible for PPP or EIDL funding**, unless explicitly stated otherwise in further SBA or Treasury guidance.

The following information is based on ineligible entities identified in 13 CFR 120.110 and described further in SBA's Standard Operating Procedure (SOP) 50 10, Subpart B, Chapter 2, except that non-profit organizations authorized under the CARES Act are eligible.<sup>1</sup>

### INELIGIBLE ENTITIES:

- Entities that have more than 500 employees and do not qualify as a "small business concern"<sup>4</sup>
- Entities not in operation on 2/15/2020<sup>1</sup>
- Illegal activity<sup>1</sup>
- Household employers <sup>1</sup>
- 20% or more owner is incarcerated, on probation, on parole; subject to an indictment; has been convicted of a felony within the last five years <sup>1</sup>
- Entities that have obtained a direct or guaranteed loan from SBA and that is currently delinquent or has defaulted within the last seven years and caused a loss to the government<sup>1</sup>
- Financial businesses (i.e., banks, finance companies, and factors)<sup>1,2</sup>
- Life Insurance Companies<sup>1,2</sup>
- Businesses located in a foreign country<sup>1,2</sup>
- Pyramid sale distribution plans<sup>1,2</sup>
- Gambling<sup>1,2</sup>
- Private clubs and businesses which limit the number of memberships for reasons other than capacity<sup>1,2</sup>
- Government-owned entities (with the exception of businesses owned by Native American Tribes) <sup>1,2</sup>
- Passive businesses owned by developers and landlords that do not actively use or occupy the assets acquired or improved with loan proceeds (Eligible Passive Companies must use loan proceeds only to acquire or lease, and/or improve or renovate, real or personal property that it leases to one or more Operating Companies for conducting the Operating Company's business, or to finance a change of ownership between the existing owners of the Eligible Passive Company)<sup>1,2,3</sup>
- For-profit businesses engaged in teaching, counseling, or indoctrinating religion or religious beliefs<sup>1,2</sup>
- Loan packagers earning more than one-third of their gross annual revenue from packaging SBA loans<sup>1,2</sup>
- Businesses in which the Lender or CDC, or any of its Associates owns an equity interest<sup>1,2</sup>
- Businesses which present live performances, or sales of a prurient sexual nature<sup>1,2</sup>
- Political or lobbying activities<sup>1,2</sup>
- Speculative businesses (such as oil wildcatting) <sup>1,2</sup>

### SOURCES:

1. [Interim Final Rule - SBA Docket No. SBA-2020-0015](#)
2. [13 CFE 120.110 Ineligible for SBA Loans](#)
3. [13 CFR 120.111 - Eligible Passive Company](#)
4. [PPP FAQ - Treasury.gov](#)

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