

The following are some of the ongoing obligations and reporting requirements arising out of the SBA and Treasury Loan Programs that should have documented compliance controls. The reports and certification requirements are significant, as false or misleading certifications could potentially give rise to civil False Claims Act liability and criminal penalties.

	Main Street Lending Program	Paycheck Protection Program	Economic Injury Disaster Loan Program
Use Restrictions	<ul style="list-style-type: none"> Recipients must refrain from repaying other debts of equal or lower priority (with the exception of mandatory principal payments) until the Main Street loan is repaid in full. Recipients may not seek to cancel or reduce any outstanding line of credit with any lenders. Recipient must intend to restore not less than 90 percent of its workforce in place on February 1, 2020, and all compensation and benefits to its workers not later than four months after the end of the public health emergency related to COVID-19. 	<p>The proceeds of the loan may be used for:</p> <ul style="list-style-type: none"> payroll costs (including (1) salaries, commissions or similar compensation, (2) costs related to the continuation of group health care benefits during periods of paid sick, medical or family leave and insurance premiums, (3) vacation, severance and retirement payments and (4) state and local employer taxes; loans cannot be spent on (i) compensation in excess of \$100,000 per employee, (ii) federal employer tax obligations, (iii) employees with a principal residence outside the U.S. and (iv) qualified sick leave wages and qualified family leave wages for which a credit is allowed under the Families First Coronavirus Response Act; payments of interest on mortgage obligations or lease obligations incurred before February 15, 2020; payment of utilities in force before February 15, 2020; and to refinance an Economic Injury Disaster Loan made during the period from January 31, 2020 through the date on which loans 	<ul style="list-style-type: none"> Proceeds may only be used for working capital necessary to carry the business until resumption of normal operations and for expenditures necessary to alleviate the specific economic injury (not to exceed that which the business could have provided had the injury not occurred).³ Proceeds may not be used to (i) refinance indebtedness, (ii) make payment on loans owned by another federal agency (including SBA), (iii) pay obligations from federal, state or local tax penalties, (iv) repair physical damage and (v) pay dividends to owners, partners, officers or stockholders (except for reasonable remuneration directly related to their performance of services for the business).⁴

³ 13 CFR 123.303(a).

⁴ 13 CFR 123.303(b).

		<p>under the Paycheck Protection Program were made available.¹</p> <p>Prohibited uses: (i) payments to officers, directors, key employees or 20% owners, (ii) refinancing or repaying certain types of debt or credit facilities, (iv) making certain investments, (v) past due taxes, (vi) a purpose that does not benefit the business, (vii) paying off creditors or (viii) purchasing another owner's interest in the business.²</p>	
Undertakings	<ul style="list-style-type: none"> • Recipients must not outsource or offshore jobs until two years after the loan is repaid. • Recipients may not pay dividends or buy back shares during the course of the loan or for 12 months after the loan has been paid off. At this time, it is unclear if non-public companies will be similarly restricted from making other types of capital distributions. • Highly paid officers and executives of companies that receive a large business loan are prohibited from increasing the compensation of any employee whose compensation exceeds \$425,000 or from offering them significant severance or termination benefits. • Recipients must not abrogate any collective bargaining agreements during 	<ul style="list-style-type: none"> • Recipients may not receive duplicative amounts under the Paycheck Protection Program.⁵ • Specific recordkeeping will be required to make the calculations and support requests for loan forgiveness, including payroll records, and information about the mortgage interest, lease and utility and other business expense payments during the Covered Period; 	<ul style="list-style-type: none"> • Recipients must have suffered a substantial economic injury (i.e., must be unable to meet obligations as they mature or pay ordinary and necessary operating expenses). This does not include loss of anticipated profits or a drop in sales.⁶ • Recipients must have used all reasonable available funds and been unable to obtain credit elsewhere prior to receiving an economic injury disaster loan.⁷ • Recipients cannot be, among other things, (i) engaged in lending, multi-level sales distribution, speculation or investment, (ii) a nonprofit or charitable concern, (iii) a consumer or marketing cooperative, (iv) deriving more than 1/3 of gross annual revenue from gambling activities, (v) a loan packager earning more than 1/3 of its gross annual revenue from packaging SBA loans,

¹ 15 U.S.C. 636(a)(36)(F)(iv).

² 13 CFR 120.130.

⁵ 15 U.S.C. 636(a)(36)(G)(i)(III) and (IV).

⁶ 13 CFR 123.300(a).

⁷ 13 CFR 123.300(b).

	the term of the loan and for a period of two years thereafter and will remain neutral in any union organizing effort during the term of the loan.		(vi) engaged in teaching religious beliefs or (vii) primarily engaged in political or lobbying activities. ⁸
Reporting	<ul style="list-style-type: none"> While the precise CARES Act reporting requirements have not yet been established, to the extent that oversight is modeled on TARP, the SIGTARP required TARP recipients to establish internal controls to ensure compliance with their requirements, report periodically on the implementation of those controls and their compliance and provide a signed certification from a senior official that such report is accurate. 	<ul style="list-style-type: none"> At the time of loan origination, recipients must provide a certification as to the truth and accuracy of the loan documentation and the existence of a current economic need. Certifications as to proper use of the funds will also be required in connection with the request for loan forgiveness. 	<ul style="list-style-type: none">

⁸ 13 CFR 123.301.