

116TH CONGRESS
2D SESSION

S. 4321

To establish the Paycheck Protection Program Second Draw Loan and amend the 7(a) loan guaranty program for recovery sector business concerns, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 27, 2020

Mr. RUBIO (for himself and Ms. COLLINS) introduced the following bill; which was read twice and referred to the Committee on Small Business and Entrepreneurship

A BILL

To establish the Paycheck Protection Program Second Draw Loan and amend the 7(a) loan guaranty program for recovery sector business concerns, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Continuing Small Business Recovery and Paycheck Pro-
6 tection Program Act”.

7 (b) TABLE OF CONTENTS.—The table of contents for
8 this Act is as follows:

- Sec. 1. Short title; table of contents.
 Sec. 2. Definitions.
 Sec. 3. Emergency rulemaking authority.

TITLE I—PAYCHECK PROTECTION PROGRAM IMPROVEMENTS

- Sec. 101. Additional eligible expenses.
 Sec. 102. Lender safe harbor.
 Sec. 103. Selection of covered period for forgiveness.
 Sec. 104. Simplified application.
 Sec. 105. Group insurance payments as payroll costs.
 Sec. 106. Paycheck protection program second draw loans.
 Sec. 107. Continued access to the paycheck protection program.
 Sec. 108. Increased ability for paycheck protection program borrowers to request an increase in loan amount due to updated regulations.
 Sec. 109. Calculation of maximum loan amount for farmers and ranchers under the paycheck protection program.
 Sec. 110. Farm Credit System institutions.
 Sec. 111. Definition of seasonal employer.
 Sec. 112. Changes to the 7(a) loan guaranty program for recovery sector business concerns.
 Sec. 113. Eligibility of 501(c)(6) organizations for loans under the paycheck protection program.
 Sec. 114. Prohibition on use of loan proceeds for lobbying activities.
 Sec. 115. Effective date; applicability.
 Sec. 116. Bankruptcy provisions.
 Sec. 117. Conflicts of interest.

TITLE II—SMALL BUSINESS PROGRAMS GENERALLY

- Sec. 121. Small business investment company program.

TITLE III—APPROPRIATIONS

- Sec. 131. Commitment authority and appropriations.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) **ADMINISTRATION; ADMINISTRATOR.**—The
 4 terms “Administration” and “Administrator” mean
 5 the Small Business Administration and the Adminis-
 6 trator thereof.

7 (2) **SMALL BUSINESS CONCERN.**—The term
 8 “small business concern” has the meaning given the
 9 term in section 3 of the Small Business Act (15
 10 U.S.C. 632).

1 **SEC. 3. EMERGENCY RULEMAKING AUTHORITY.**

2 Not later than 30 days after the date of enactment
 3 of this Act, the Administrator shall issue regulations to
 4 carry out this Act and the amendments made by this Act
 5 without regard to the notice requirements under section
 6 553(b) of title 5, United States Code.

7 **TITLE I—PAYCHECK PROTEC-**
 8 **TION PROGRAM IMPROVE-**
 9 **MENTS**

10 **SEC. 101. ADDITIONAL ELIGIBLE EXPENSES.**

11 (a) ALLOWABLE USE OF PPP LOAN.—Section
 12 7(a)(36)(F)(i) of the Small Business Act (15 U.S.C.
 13 636(a)(36)(F)(i)) is amended—

14 (1) in subclause (VI), by striking “and” at the
 15 end;

16 (2) in subclause (VII), by striking the period at
 17 the end and inserting a semicolon; and

18 (3) by adding at the end the following:

19 “(VIII) covered operations ex-
 20 penditures, as defined in section
 21 1106(a) of the CARES Act (15
 22 U.S.C. 9005(a));

23 “(IX) covered property damage
 24 costs, as defined in such section
 25 1106(a);

1 “(X) covered supplier costs, as
2 defined in such section 1106(a); and

3 “(XI) covered worker protection
4 expenditures, as defined in such sec-
5 tion 1106(a).”.

6 (b) LOAN FORGIVENESS.—Section 1106 of the
7 CARES Act (15 U.S.C. 9005) is amended—

8 (1) in subsection (a)—

9 (A) by redesignating paragraphs (6), (7),
10 and (8) as paragraphs (10), (11), and (12), re-
11 spectively;

12 (B) by redesignating paragraph (5) as
13 paragraph (8);

14 (C) by redesignating paragraph (4) as
15 paragraph (6);

16 (D) by redesignating paragraph (3) as
17 paragraph (4);

18 (E) by inserting after paragraph (2) the
19 following:

20 “(3) the term ‘covered operations expenditure’
21 means a payment for any business software or cloud
22 computing service that facilitates business oper-
23 ations, product or service delivery, the processing,
24 payment, or tracking of payroll expenses, human re-
25 sources, sales and billing functions, or accounting or

1 tracking of supplies, inventory, records and ex-
2 penses;”;

3 (F) by inserting after paragraph (4), as so
4 redesignated, the following:

5 “(5) the term ‘covered property damage cost’
6 means a cost related to property damage and van-
7 dalism or looting due to public disturbances that oc-
8 curred during 2020 that was not covered by insur-
9 ance or other compensation;”;

10 (G) by inserting after paragraph (6), as so
11 redesignated, the following:

12 “(5) the term ‘covered supplier cost’ means an
13 expenditure made by an entity to a supplier of goods
14 pursuant to a contract in effect before February 15,
15 2020 for the supply of goods that are essential to
16 the operations of the entity at the time at which the
17 expenditure is made;”;

18 (H) by inserting after paragraph (8), as so
19 redesignated, the following:

20 “(9) the term ‘covered worker protection ex-
21 penditure’—

22 “(A) means an operating or a capital ex-
23 penditure that is required to facilitate the adap-
24 tation of the business activities of an entity to
25 comply with requirements established or guid-

1 ance issued by the Department of Health and
2 Human Services, the Centers for Disease Con-
3 trol, or the Occupational Safety and Health Ad-
4 ministration during the period beginning on
5 March 1, 2020 and ending December 31, 2020
6 related to the maintenance of standards for
7 sanitation, social distancing, or any other work-
8 er or customer safety requirement related to
9 COVID-19;

10 “(B) may include—

11 “(i) the purchase, maintenance, or
12 renovation of assets that create or ex-
13 pand—

14 “(I) a drive-through window fa-
15 cility;

16 “(II) an indoor, outdoor, or com-
17 bined air or air pressure ventilation or
18 filtration system;

19 “(III) a physical barrier such as
20 a sneeze guard;

21 “(IV) an indoor, outdoor, or com-
22 bined commercial real property;

23 “(V) an onsite or offsite health
24 screening capability; or

1 “(VI) other assets relating to the
2 compliance with the requirements or
3 guidance described in subparagraph
4 (A), as determined by the Adminis-
5 trator in consultation with the Sec-
6 retary of Health and Human Services
7 and the Secretary of Labor; and
8 “(ii) the purchase of—
9 “(I) covered materials described
10 in section 328.103(a) of title 44, Code
11 of Federal Regulations, or any suc-
12 cessor regulation;
13 “(II) particulate filtering face-
14 piece respirators approved by the Na-
15 tional Institute for Occupational Safe-
16 ty and Health, including those ap-
17 proved only for emergency use author-
18 ization; or
19 “(III) other kinds of personal
20 protective equipment, as determined
21 by the Administrator in consultation
22 with the Secretary of Health and
23 Human Services and the Secretary of
24 Labor; and

1 “(C) does not include residential real prop-
2 erty or intangible property;” and

3 (I) in paragraph (11), as so redesign-
4 nated—

5 (i) in subparagraph (C), by striking
6 “and” at the end;

7 (ii) in subparagraph (D), by striking
8 “and” at the end; and

9 (iii) by adding at the end the fol-
10 lowing:

11 “(E) covered operations expenditures;

12 “(F) covered property damage costs;

13 “(G) covered supplier costs; and

14 “(H) covered worker protection expendi-
15 tures; and”;

16 (2) in subsection (b), by adding at the end the
17 following:

18 “(5) Any covered operations expenditure.

19 “(6) Any covered property damage cost.

20 “(7) Any covered supplier cost.

21 “(8) Any covered worker protection expendi-
22 ture.”;

23 (3) in subsection (d)(8), by inserting “any pay-
24 ment on any covered operations expenditure, any
25 payment on any covered property damage cost, any

1 payment on any covered supplier cost, any payment
2 on any covered worker protection expenditure,” after
3 “rent obligation,”; and

4 (4) in subsection (e)—

5 (A) in paragraph (2), by inserting “pay-
6 ments on covered operations expenditures, pay-
7 ments on covered property damage costs, pay-
8 ments on covered supplier costs, payments on
9 covered worker protection expenditures,” after
10 “lease obligations,”; and

11 (B) in paragraph (3)(B), by inserting
12 “make payments on covered operations expendi-
13 tures, make payments on covered property dam-
14 age costs, make payments on covered supplier
15 costs, make payments on covered worker protec-
16 tion expenditures,” after “rent obligation,”.

17 **SEC. 102. LENDER SAFE HARBOR.**

18 Subsection (h) of section 1106 of the CARES Act
19 (15 U.S.C. 9005) is amended to read as follows:

20 “(h) **HOLD HARMLESS.**—

21 “(1) **IN GENERAL.**—A lender may rely on any
22 certification or documentation submitted by an ap-
23 plicant for a covered loan or an eligible recipient of
24 a covered loan that—

1 “(A) is submitted pursuant to any statu-
2 tory requirement relating to covered loans or
3 any rule or guidance issued to carry out any ac-
4 tion relating to covered loans; and

5 “(B) attests that the applicant or eligible
6 recipient, as applicable, has accurately verified
7 any certification or documentation provided to
8 the lender.

9 “(2) NO ENFORCEMENT ACTION.—With respect
10 to a lender that relies on a certification or docu-
11 mentation described in paragraph (1)—

12 “(A) an enforcement action may not be
13 taken against the lender acting in good faith re-
14 lating to origination or forgiveness of a covered
15 loan based on such reliance; and

16 “(B) the lender acting in good faith shall
17 not be subject to any penalties relating to origi-
18 nation or forgiveness of a covered loan based on
19 such reliance.”.

20 **SEC. 103. SELECTION OF COVERED PERIOD FOR FORGIVE-**
21 **NESS.**

22 Section 1106 of the CARES Act (15 U.S.C. 9005)
23 is amended—

24 (1) by amending subsection (a)(3) to read as
25 follows:

1 “(3) the term ‘covered period’ means the pe-
2 riod—

3 “(A) beginning on the date of the origina-
4 tion of a covered loan; and

5 “(B) ending on a date selected by the eligi-
6 ble recipient of the covered loan that occurs
7 during the period—

8 “(i) beginning on the date that is 8
9 weeks after such date of origination; and

10 “(ii) ending on December 31, 2020;”;

11 and

12 (2) by striking subsection (l).

13 **SEC. 104. SIMPLIFIED APPLICATION.**

14 Section 1106 of the CARES Act (15 U.S.C. 9005),
15 as amended by section 103 of this Act, is amended—

16 (1) in subsection (e), in the matter preceding
17 paragraph (1), by striking “An eligible” and insert-
18 ing “Except as provided in subsection (l), an eligi-
19 ble”;

20 (2) in subsection (f), by inserting “or the infor-
21 mation required under subsection (l), as applicable”
22 after “subsection (e)”; and

23 (3) by adding at the end the following:

24 “(l) SIMPLIFIED APPLICATION.—

25 “(1) COVERED LOANS UNDER \$150,000.—

1 “(A) IN GENERAL.—Notwithstanding sub-
2 section (e), with respect to a covered loan made
3 to an eligible recipient that is not more than
4 \$150,000, the covered loan amount shall be for-
5 given under this section if the eligible recipi-
6 ent—

7 “(i) signs and submits to the lender
8 an attestation that the eligible recipient
9 made a good faith effort to comply with
10 the requirements under section 7(a)(36) of
11 the Small Business Act (15 U.S.C.
12 636(a)(36)); and

13 “(ii) for the 3-year period following
14 submission of the attestation under clause
15 (i), retains records relevant to the attesta-
16 tion that prove compliance with those re-
17 quirements.

18 “(B) DEMOGRAPHIC INFORMATION.—An
19 eligible recipient of a covered loan described in
20 subparagraph (A) may complete and submit
21 any form related to borrower demographic in-
22 formation.

23 “(C) AUDIT.—The Administrator may—

24 “(i) review and audit covered loans
25 described in subparagraph (A); and

1 “(ii) in the case of fraud, ineligibility,
2 or other material noncompliance with ap-
3 plicable loan or loan forgiveness require-
4 ments, modify—

5 “(I) the amount of a covered loan
6 described in subparagraph (A); or

7 “(II) the loan forgiveness amount
8 with respect to a covered loan de-
9 scribed in subparagraph (A).

10 “(2) COVERED LOANS BETWEEN \$150,000 AND
11 \$2,000,000.—

12 “(A) IN GENERAL.—Notwithstanding sub-
13 section (e), with respect to a covered loan made
14 to an eligible recipient that is more than
15 \$150,000 and not more than \$2,000,000—

16 “(i) the eligible recipient seeking loan
17 forgiveness under this section—

18 “(I) is not required to submit the
19 supporting documentation described
20 in paragraph (1) or (2) of subsection
21 (e) or the certification described in
22 subsection (e)(3)(A);

23 “(II) shall retain all relevant
24 schedules, worksheets, and supporting
25 documentation for the 3-year period

1 following submission of the applica-
2 tion for loan forgiveness; and

3 “(III) may complete and submit
4 any form related to borrower demo-
5 graphic information;

6 “(ii) review by the lender of an appli-
7 cation submitted by the eligible recipient
8 for loan forgiveness under this section shall
9 be limited to whether the lender received a
10 complete application, with all fields com-
11 pleted, initialed, or signed, as applicable;
12 and

13 “(iii) the lender shall—

14 “(I) accept the application sub-
15 mitted by the eligible recipient for
16 loan forgiveness under this section;
17 and

18 “(II) submit the application to
19 the Administrator.

20 “(B) AUDIT.—The Administrator may—

21 “(i) review and audit covered loans
22 described in subparagraph (A); and

23 “(ii) in the case of fraud, ineligibility,
24 or other material noncompliance with ap-

1 plicable loan or loan forgiveness require-
2 ments, modify—

3 “(I) the amount of a covered loan
4 described in subparagraph (A); or

5 “(II) the loan forgiveness amount
6 with respect to a covered loan de-
7 scribed in subparagraph (A).

8 “(3) AUDIT PLAN.—

9 “(A) IN GENERAL.—Not later than 30
10 days after the date of enactment of the Con-
11 tinuing Small Business Recovery and Paycheck
12 Protection Program Act, the Administrator
13 shall submit to the Committee on Small Busi-
14 ness and Entrepreneurship of the Senate and
15 the Committee on Small Business of the House
16 of Representatives an audit plan that details—

17 “(i) the policies and procedures of the
18 Administrator for conducting reviews and
19 audits of covered loans; and

20 “(ii) the metrics that the Adminis-
21 trator shall use to determine which covered
22 loans will be audited for each category of
23 covered loans described in paragraphs (1)
24 and (2).

1 “(B) REPORTS.—Not later than 30 days
2 after the date on which the Administrator sub-
3 mits the audit plan required under subpara-
4 graph (A), and each month thereafter, the Ad-
5 ministrator shall submit to the Committee on
6 Small Business and Entrepreneurship of the
7 Senate and the Committee on Small Business
8 of the House of Representatives a report on the
9 review and audit activities of the Administrator
10 under this subsection, which shall include—

11 “(i) the number of active reviews and
12 audits;

13 “(ii) the number of reviews and audits
14 that have been ongoing for more than 60
15 days; and

16 “(iii) any substantial changes made to
17 the audit plan submitted under subpara-
18 graph (A).”.

19 **SEC. 105. GROUP INSURANCE PAYMENTS AS PAYROLL**
20 **COSTS.**

21 Section 7(a)(36)(A)(viii)(I)(aa)(EE) of the Small
22 Business Act (15 U.S.C. 636(a)(36)(A)(viii)(I)(aa)(EE))
23 is amended by inserting “and other group insurance” be-
24 fore “benefits”.

1 **SEC. 106. PAYCHECK PROTECTION PROGRAM SECOND**
2 **DRAW LOANS.**

3 Section 7(a) of the Small Business Act (15 U.S.C.
4 636(a)) is amended by adding at the end the following:

5 “(37) PAYCHECK PROTECTION PROGRAM SEC-
6 OND DRAW LOANS.—

7 “(A) DEFINITIONS.—In this paragraph—

8 “(i) the terms ‘community financial
9 institutions’, ‘credit union’, ‘eligible self-
10 employed individual’, ‘insured depository
11 institution’, ‘nonprofit organization’, ‘pay-
12 roll costs’, ‘seasonal employer’, and ‘vet-
13 erans organization’ have the meanings
14 given those terms in paragraph (36), ex-
15 cept that ‘eligible entity’ shall be sub-
16 stituted for ‘eligible recipient’ each place it
17 appears in the definitions of those terms;

18 “(ii) the term ‘covered loan’ means a
19 loan made under this paragraph;

20 “(iii) the terms ‘covered mortgage ob-
21 ligation’, ‘covered operating expenditure’,
22 ‘covered property damage cost’, ‘covered
23 rent obligation’, ‘covered supplier cost’,
24 ‘covered utility payment’, and ‘covered
25 worker protection expenditure’ have the
26 meanings given those terms in section

1 1106(a) of the CARES Act (15 U.S.C.
2 9005(a));

3 “(iv) the term ‘covered period’ means
4 the period beginning on the date of the
5 origination of a covered loan and ending on
6 December 31, 2020;

7 “(v) the terms ‘exchange’, ‘issuer’,
8 and ‘security’ have the meanings given
9 those terms in section 3(a) of the Securi-
10 ties Exchange Act of 1934 (15 U.S.C.
11 78c(a));

12 “(vi) the term ‘eligible entity’—

13 “(I) means any business concern,
14 nonprofit organization, veterans orga-
15 nization, Tribal business concern, eli-
16 gible self-employed individual, sole
17 proprietor, independent contractor, or
18 small agricultural cooperative that—

19 “(aa)(AA) with respect to a
20 business concern, would qualify
21 as a small business concern by
22 the annual receipts size standard
23 (if applicable) established by sec-
24 tion 121.201 of title 13, Code of

1 Federal Regulations, or any suc-
2 cessor regulation; or

3 “(BB) if the entity does not
4 qualify as a small business con-
5 cern, meets the alternative size
6 standard established under sec-
7 tion 3(a)(5);

8 “(bb) employs not more
9 than 300 employees; and

10 “(cc)(AA) except as provided
11 in subitems (BB), (CC), and
12 (DD), had gross receipts during
13 the first or second quarter in
14 2020 that are not less than 50
15 percent less than the gross re-
16 cepts of the entity during the
17 same quarter in 2019;

18 “(BB) if the entity was not
19 in business during the first or
20 second quarter of 2019, but was
21 in business during the third and
22 fourth quarter of 2019, had gross
23 receipts during the first or sec-
24 ond quarter of 2020 that are less
25 than 50 percent of the amount of

1 the gross receipts of the entity
2 during the third or fourth quar-
3 ter of 2019;

4 “(CC) if the entity was not
5 in business during the first, sec-
6 ond, or third quarter of 2019,
7 but was in business during the
8 fourth quarter of 2019, had gross
9 receipts during the first or sec-
10 ond quarter of 2020 that are less
11 than 50 percent of the amount of
12 the gross receipts of the entity
13 during the fourth quarter of
14 2019; or

15 “(DD) if the entity was not
16 in business during 2019, but was
17 in operation on February 15,
18 2020, had gross receipts during
19 the second quarter of 2020 that
20 are less than 50 percent of the
21 amount of the gross receipts of
22 the entity during the first quar-
23 ter of 2020; and

24 “(II) does not include—

1 “(aa) an issuer, the securi-
2 ties of which are listed on an ex-
3 change registered a national se-
4 curities exchange under section 6
5 of the Securities Exchange Act of
6 1934 (15 U.S.C. 78f);

7 “(bb) any entity that—

8 “(AA) is a type of busi-
9 ness concern described in
10 subsection (b), (c), (d), (e),
11 (f), (h), (l) (m), (p), (q), (r),
12 or (s) of section 120.110 of
13 title 13, Code of Federal
14 Regulations, or any suc-
15 cessor regulation;

16 “(BB) is a type of busi-
17 ness concern described in
18 section 120.110(g) of title
19 13, Code of Federal Regula-
20 tions, or any successor regu-
21 lation, except as otherwise
22 provided in the interim final
23 rule of the Administration
24 entitled ‘Business Loan Pro-
25 gram Temporary Changes;

1 Paycheck Protection Pro-
2 gram—Additional Eligibility
3 Criteria and Requirements
4 for Certain Pledges of
5 Loans’ (85 Fed. Reg. 21747
6 (April 20, 2020));

7 “(CC) is a type of busi-
8 ness concern described in
9 section 120.110(i) of title
10 13, Code of Federal Regula-
11 tions, or any successor regu-
12 lation, except if the business
13 concern is an organization
14 described in paragraph
15 (36)(D)(vii);

16 “(DD) is a type of
17 business concern described
18 in section 120.110(j) of title
19 13, Code of Federal Regula-
20 tions, or any successor regu-
21 lation, except as otherwise
22 provided in the interim final
23 rules of the Administration
24 entitled ‘Business Loan Pro-
25 gram Temporary Changes;

1 Paycheck Protection Pro-
2 gram—Eligibility of Certain
3 Electric Cooperatives’ (85
4 Fed. Reg. 29847 (May 19,
5 2020)) and ‘Business Loan
6 Program Temporary
7 Changes; Paycheck Protec-
8 tion Program—Eligibility of
9 Certain Telephone Coopera-
10 tives’ (85 Fed. Reg. 35550
11 (June 11, 2020)) or any
12 other guidance or rule
13 issued or that may be issued
14 by the Administrator;

15 “(EE) is a type of busi-
16 ness concern described in
17 section 120.110(n) of title
18 13, Code of Federal Regula-
19 tions, or any successor regu-
20 lation, except as otherwise
21 provided in the interim final
22 rule of the Administration
23 entitled ‘Business Loan Pro-
24 gram Temporary Changes;
25 Paycheck Protection Pro-

1 gram—Additional Eligibility
2 Revisions to First Interim
3 Final Rule’ (85 Fed. Reg.
4 38301 (June 26, 2020)) or
5 any other guidance or rule
6 issued or that may be issued
7 by the Administrator;

8 “(FF) is a type of busi-
9 ness concern described in
10 section 120.110(o) of title
11 13, Code of Federal Regula-
12 tions, or any successor regu-
13 lation, except as otherwise
14 provided in any guidance or
15 rule issued or that may be
16 issued by the Administrator;
17 or

18 “(GG) is an entity that
19 is organized for research or
20 for engaging in advocacy in
21 areas such as public policy
22 or political strategy or other-
23 wise describes itself as a
24 think tank in any public
25 documents;

1 “(HH) is an entity that
2 would be described in the
3 subsections listed in
4 subitems (AA) through (GG)
5 if the entity were a business
6 concern; or

7 “(II) is assigned, or
8 was approved for a loan
9 under paragraph (36) with,
10 a North American Industry
11 Classification System code
12 beginning with 52;

13 “(cc) any business concern
14 or entity primarily engaged in
15 political or lobbying activities,
16 which shall include any entity
17 that is organized for research or
18 for engaging in advocacy in areas
19 such as public policy or political
20 strategy or otherwise describes
21 itself as a think tank in any pub-
22 lic documents; or

23 “(dd) any business concern
24 or entity—

1 “(AA) for which an en-
2 tity created in or organized
3 under the laws of the Peo-
4 ple’s Republic of China or
5 the Special Administrative
6 Region of Hong Kong, or
7 that has significant oper-
8 ations in the People’s Re-
9 public of China or the Spe-
10 cial Administrative Region
11 of Hong Kong, owns or
12 holds, directly or indirectly,
13 not less than 20 percent of
14 the economic interest of the
15 business concern or entity,
16 including as equity shares or
17 a capital or profit interest in
18 a limited liability company
19 or partnership; or

20 “(BB) that retains, as
21 a member of the board of di-
22 rectors of the business con-
23 cern, a person who is a resi-
24 dent of the People’s Repub-
25 lic of China; and

1 “(vii) the term ‘Tribal business con-
2 cern’ means a Tribal business concern de-
3 scribed in section 31(b)(2)(C).

4 “(B) LOANS.—Except as otherwise pro-
5 vided in this paragraph, the Administrator may
6 guarantee covered loans to eligible entities
7 under the same terms, conditions, and processes
8 as a loan made under paragraph (36).

9 “(C) MAXIMUM LOAN AMOUNT.—

10 “(i) IN GENERAL.—Except as other-
11 wise provided in this subparagraph, the
12 maximum amount of a covered loan made
13 to an eligible entity is the lesser of—

14 “(I) the product obtained by mul-
15 tiplying—

16 “(aa) the average total
17 monthly payment for payroll
18 costs incurred or paid by the eli-
19 gible entity during the 1-year pe-
20 riod before the date on which the
21 loan is made; by

22 “(bb) 2.5; or

23 “(II) \$2,000,000.

24 “(ii) SEASONAL EMPLOYERS.—The
25 maximum amount of a covered loan made

1 to an eligible entity that is a seasonal em-
2 ployer is the lesser of—

3 “(I) the product obtained by mul-
4 tipling—

5 “(aa) at the election of the
6 eligible entity, the average total
7 monthly payments for payroll
8 costs incurred or paid by the eli-
9 gible entity—

10 “(AA) for a 12-week
11 period beginning February
12 15, 2019 or March 1, 2019
13 and ending June 30, 2019;
14 or

15 “(BB) for a consecutive
16 12-week period between May
17 1, 2019 and September 15,
18 2019; by

19 “(bb) 2.5; or

20 “(II) \$1,000,000.

21 “(iii) NEW ENTITIES.—The maximum
22 amount of a covered loan made to an eligi-
23 ble entity that did not exist during the 1-
24 year period preceding February 15, 2020
25 is the lesser of—

1 “(I) the product obtained by mul-
2 tipling—

3 “(aa) the quotient obtained
4 by dividing—

5 “(AA) the sum of the
6 total monthly payments by
7 the eligible entity for payroll
8 costs paid or incurred by the
9 eligible entity as of the date
10 on which the eligible entity
11 applies for the covered loan;
12 by

13 “(BB) the number of
14 months in which those pay-
15 roll costs were paid or in-
16 curred; by

17 “(bb) 2.5; or

18 “(II) \$2,000,000.

19 “(iv) BUSINESS CONCERNS WITH
20 MORE THAN 1 PHYSICAL LOCATION.—

21 “(I) IN GENERAL.—Any eligible
22 entity that employs not more than
23 300 employees per physical location of
24 the eligible entity and that is assigned
25 a North American Industry Classifica-

1 tion System Code beginning with 72
2 at the time of disbursal shall be eligi-
3 ble to receive a covered loan.

4 “(II) LIMIT FOR MULTIPLE LO-
5 CATIONS.—With respect to an eligible
6 entity with more than 1 physical loca-
7 tion, the total amount of all covered
8 loans shall be not more than
9 \$2,000,000.

10 “(v) LOAN NUMBER LIMITATION.—An
11 eligible entity may only receive 1 covered
12 loan.

13 “(vi) 90 DAY RULE FOR MAXIMUM
14 LOAN AMOUNT.—The maximum aggregate
15 loan amount of loans guaranteed under
16 this subsection that are approved for an el-
17 igible entity (including any affiliates) with-
18 in 90 days of approval of another loan
19 under this subsection for the eligible entity
20 (including any affiliates) shall not exceed
21 \$10,000,000.

22 “(D) EXCEPTION FROM CERTAIN CERTIFI-
23 CATION REQUIREMENTS.—An eligible entity ap-
24 plying for a covered loan shall not be required

1 to make the certification described in subclause
2 (III) or (IV) of paragraph (36)(G)(i).

3 “(E) FEE WAIVER.—With respect to a cov-
4 ered loan—

5 “(i) in lieu of the fee otherwise appli-
6 cable under paragraph (23)(A), the Ad-
7 ministrator shall collect no fee; and

8 “(ii) in lieu of the fee otherwise appli-
9 cable under paragraph (18)(A), the Ad-
10 ministrator shall collect no fee.

11 “(F) ELIGIBLE CHURCHES AND RELIGIOUS
12 ORGANIZATIONS.—

13 “(i) SENSE OF CONGRESS.—It is the
14 sense of Congress that the interim final
15 rule of the Administration entitled ‘Busi-
16 ness Loan Program Temporary Changes;
17 Paycheck Protection Program’ (85 Fed.
18 Reg. 20817 (April 15, 2020)) properly
19 clarified the eligibility of churches and reli-
20 gious organizations for loans made under
21 paragraph (36).

22 “(ii) APPLICABILITY OF PROHIBI-
23 TION.—The prohibition on eligibility estab-
24 lished by section 120.110(k) of title 13,
25 Code of Federal Regulations, or any suc-

1 cessor regulation, shall not apply to a cov-
2 ered loan.

3 “(G) GROSS RECEIPTS FOR NONPROFIT
4 AND VETERANS ORGANIZATIONS.—For purposes
5 of calculating gross receipts under subpara-
6 graph (A)(vi)(I)(cc) for an entity that is a non-
7 profit organization or a veterans organization,
8 gross receipts—

9 “(i) shall include proceeds from fund-
10 raising events, federated campaigns, gifts,
11 donor-advised funds, and funds from simi-
12 lar sources; and

13 “(ii) shall not include—

14 “(I) Federal grants (excluding
15 any loan forgiveness on loans received
16 under paragraph (36) or this para-
17 graph;

18 “(II) revenues from a supporting
19 organization;

20 “(III) grants from private foun-
21 dations that are disbursed over the
22 course of more than 1 calendar year;
23 or

24 “(IV) any contribution of prop-
25 erty other than money, stocks, bonds,

1 and other securities, provided that the
2 non-cash contribution is not sold by
3 the organization in a transaction un-
4 related to the tax-exempt purpose of
5 the organization.

6 “(H) LOAN FORGIVENESS.—

7 “(i) IN GENERAL.—Except as pro-
8 vided otherwise provided in this subpara-
9 graph, an eligible entity shall be eligible for
10 forgiveness of indebtedness on a covered
11 loan in the same manner as an eligible re-
12 cipient with respect to a loan made under
13 paragraph (36), as described in section
14 1106 of the CARES Act (15 U.S.C. 9005).

15 “(ii) FORGIVENESS AMOUNT.—An eli-
16 gible entity shall be eligible for forgiveness
17 of indebtedness on a covered loan in an
18 amount equal to the sum of the following
19 costs incurred or expenditures made during
20 the covered period:

21 “(I) Payroll costs.

22 “(II) Any payment of interest on
23 any covered mortgage obligation
24 (which shall not include any prepay-

1 ment of or payment of principal on a
2 covered mortgage obligation).

3 “(III) Any covered operations ex-
4 penditure.

5 “(IV) Any covered property dam-
6 age cost.

7 “(V) Any payment on any cov-
8 ered rent obligation.

9 “(VI) Any covered utility pay-
10 ment.

11 “(VII) Any covered supplier cost.

12 “(VIII) Any covered worker pro-
13 tection expenditure.

14 “(iii) LIMITATION ON FORGIVENESS
15 FOR ALL ELIGIBLE ENTITIES.—The for-
16 giveness amount under this subparagraph
17 shall be equal to the lesser of—

18 “(I) the amount described in
19 clause (ii); and

20 “(II) the amount equal to the
21 quotient obtained by dividing—

22 “(aa) the amount of the cov-
23 ered loan used for payroll costs
24 during the covered period; and

25 “(bb) 0.60.

1 “(I) LENDER ELIGIBILITY.—Except as
2 otherwise provided in this paragraph, a lender
3 approved to make loans under paragraph (36)
4 may make covered loans under the same terms
5 and conditions as in paragraph (36).

6 “(J) REIMBURSEMENT FOR LOAN PROC-
7 ESSING AND SERVICING.—The Administrator
8 shall reimburse a lender authorized to make a
9 covered loan in an amount that is—

10 “(i) 3 percent of the principal amount
11 of the financing of the covered loan up to
12 \$350,000; and

13 “(ii) 1 percent of the principal
14 amount of the financing of the covered
15 loan above \$350,000, if applicable.

16 “(K) SET ASIDE FOR SMALL ENTITIES.—
17 Not less than \$25,000,000,000 of the total
18 amount of covered loans guaranteed by the Ad-
19 ministrator shall be made to eligible entities
20 with not more than 10 employees as of Feb-
21 ruary 15, 2020.

22 “(L) SET ASIDE FOR COMMUNITY FINAN-
23 CIAL INSTITUTIONS, SMALL INSURED DEPOSI-
24 TORY INSTITUTIONS, CREDIT UNIONS, AND
25 FARM CREDIT SYSTEM INSTITUTIONS.—Not less

1 than \$10,000,000,000 of the total amount of
2 covered loans guaranteed by the Administrator
3 shall be made by—

4 “(i) community financial institutions;

5 “(ii) insured depository institutions
6 with consolidated assets of less than
7 \$10,000,000,000;

8 “(iii) credit unions with consolidated
9 assets of less than \$10,000,000,000; and

10 “(iv) institutions of the Farm Credit
11 System chartered under the Farm Credit
12 Act of 1971 (12 U.S.C. 2001 et seq.) with
13 consolidated assets of less than
14 \$10,000,000,000 (not including the Fed-
15 eral Agricultural Mortgage Corporation).

16 “(M) PUBLICATION OF GUIDANCE.—Not
17 later than 10 days after the date of enactment
18 of this paragraph, the Administrator shall issue
19 guidance addressing barriers to accessing cap-
20 ital for minority, underserved, veteran, and
21 women-owned business concerns for the purpose
22 of ensuring equitable access to covered loans.

23 “(N) STANDARD OPERATING PROCEDURE.—The Administrator shall, to the max-
24 imum extent practicable, allow a lender ap-
25

1 proved to make covered loans to use existing
2 program guidance and standard operating pro-
3 cedures for loans made under this subsection.

4 “(O) COMPLIANCE WITH OVERSIGHT RE-
5 QUIREMENTS.—

6 “(i) IN GENERAL.—Except as pro-
7 vided in clause (ii), on and after the date
8 of enactment of this paragraph, the Ad-
9 ministrator shall comply with any data or
10 information requests or inquiries made by
11 the Comptroller General of the United
12 States or the Inspector General of any
13 agency not later than 30 days (or such
14 later date as the Comptroller General or
15 Inspector General, as applicable, may
16 specify) after receiving the request or in-
17 quiry.

18 “(ii) EXCEPTION.—If the Adminis-
19 trator is unable to comply with a request
20 or inquiry described in clause (i) within the
21 30-day period or, if applicable, later period
22 described in that clause, the Administrator
23 shall, during that 30-day (or later) period,
24 submit to the Committee on Small Busi-
25 ness and Entrepreneurship of the Senate

1 and the Committee on Small Business of
2 the House of Representatives a notification
3 that includes a detailed justification for the
4 inability of the Administrator to comply
5 with the request or inquiry.

6 “(P) PROHIBITION ON USE OF PROCEEDS
7 FOR LOBBYING ACTIVITIES.—None of the pro-
8 ceeds of a covered loan may be used for lob-
9 bying activities, as defined in section 3 of the
10 Lobbying Disclosure Act of 1995 (2 U.S.C.
11 1602).”.

12 **SEC. 107. CONTINUED ACCESS TO THE PAYCHECK PROTEC-**
13 **TION PROGRAM.**

14 (a) IN GENERAL.—Section 7(a)(36)(E)(ii) of the
15 Small Business Act (15 U.S.C. 636(a)(36)(E)(ii)) is
16 amended by striking “\$10,000,000” and inserting
17 “\$2,000,000”.

18 (b) APPLICABILITY OF MAXIMUM LOAN AMOUNT
19 CALCULATION.—

20 (1) DEFINITIONS.—In this subsection, the
21 terms “covered loan” and “eligible recipient” have
22 the meanings given those terms in section 7(a)(36)
23 of the Small Business Act (15 U.S.C. 636(a)(36)).

24 (2) APPLICABILITY.—The amendment made by
25 subsection (a) shall apply only with respect to a cov-

1 ered loan applied for by an eligible recipient on or
2 after the date of enactment of this Act.

3 **SEC. 108. INCREASED ABILITY FOR PAYCHECK PROTEC-**
4 **TION PROGRAM BORROWERS TO REQUEST**
5 **AN INCREASE IN LOAN AMOUNT DUE TO UP-**
6 **DATED REGULATIONS.**

7 (a) DEFINITIONS.—In this section, the terms “cov-
8 ered loan” and “eligible recipient” have the meanings
9 given those terms in section 7(a)(36) of the Small Busi-
10 ness Act (15 U.S.C. 636(a)(36)).

11 (b) INCREASED AMOUNT.—Notwithstanding the in-
12 terim final rule issued by the Administration entitled
13 “Business Loan Program Temporary Changes; Paycheck
14 Protection Program—Loan Increases” (85 Fed. Reg.
15 29842 (May 19, 2020)), an eligible recipient of a covered
16 loan that is eligible for an increased covered loan amount
17 as a result of any interim final rule that allows for covered
18 loan increases may submit a request for an increase in
19 the covered loan amount even if—

20 (1) the initial covered loan amount has been
21 fully disbursed; or

22 (2) the lender of the initial covered loan has
23 submitted to the Administration a Form 1502 report
24 related to the covered loan.

1 **SEC. 109. CALCULATION OF MAXIMUM LOAN AMOUNT FOR**
 2 **FARMERS AND RANCHERS UNDER THE PAY-**
 3 **CHECK PROTECTION PROGRAM.**

4 (a) IN GENERAL.—Section 7(a)(36) of the Small
 5 Business Act (15 U.S.C. 636(a)(36)), as amended by sec-
 6 tion 107 of this Act, is amended—

7 (1) in subparagraph (E), in the matter pre-
 8 ceding clause (i), by striking “During” and inserting
 9 “Except as provided in subparagraph (T), during”;
 10 and

11 (2) by adding at the end the following:

12 “(T) CALCULATION OF MAXIMUM LOAN
 13 AMOUNT FOR FARMERS AND RANCHERS.—

14 “(i) DEFINITION.—In this subpara-
 15 graph, the term ‘covered recipient’ means
 16 an eligible recipient that—

17 “(I) operates as a sole propri-
 18 etorship or as an independent con-
 19 tractor, or is an eligible self-employed
 20 individual;

21 “(II) reports farm income or ex-
 22 penses on a Schedule F (or any equiv-
 23 alent successor schedule); and

24 “(III) was in business during the
 25 period beginning on February 15,
 26 2019 and ending on June 30, 2019.

1 “(ii) NO EMPLOYEES.—With respect
2 to covered recipient without employees, the
3 maximum covered loan amount shall be the
4 lesser of—

5 “(I) the sum of—

6 “(aa) the product obtained
7 by multiplying—

8 “(AA) the gross income
9 of the covered recipient in
10 2019, as reported on a
11 Schedule F (or any equiva-
12 lent successor schedule),
13 that is not more than
14 \$100,000, divided by 12;
15 and

16 “(BB) 2.5; and

17 “(bb) the outstanding
18 amount of a loan under sub-
19 section (b)(2) that was made
20 during the period beginning on
21 January 31, 2020 and ending on
22 April 3, 2020 that the borrower
23 intends to refinance under the
24 covered loan, not including any
25 amount of any advance under the

1 loan that is not required to be re-
2 paid; or

3 “(II) \$2,000,000.

4 “(iii) WITH EMPLOYEES.—With re-
5 spect to a covered recipient with employ-
6 ees, the maximum covered loan amount
7 shall be calculated using the formula de-
8 scribed in subparagraph (E), except that
9 the gross income of the covered recipient
10 described in clause (ii)(I)(aa)(AA) of this
11 subparagraph, as divided by 12, shall be
12 added to the sum calculated under sub-
13 paragraph (E)(i)(I).

14 “(iv) RECALCULATION.—A lender that
15 made a covered loan to a covered recipient
16 before the date of enactment of this sub-
17 paragraph may, at the request of the cov-
18 ered recipient—

19 “(I) recalculate the maximum
20 loan amount applicable to that cov-
21 ered loan based on the formula de-
22 scribed in clause (ii) or (iii), as appli-
23 cable, if doing so would result in a
24 larger covered loan amount; and

1 “(II) provide the covered recipi-
2 ent with additional covered loan
3 amounts based on that recalcula-
4 tion.”.

5 **SEC. 110. FARM CREDIT SYSTEM INSTITUTIONS.**

6 (a) DEFINITION OF FARM CREDIT SYSTEM INSTITU-
7 TION.—In this section, the term “Farm Credit System in-
8 stitution”—

9 (1) means an institution of the Farm Credit
10 System chartered under the Farm Credit Act of
11 1971 (12 U.S.C. 2001 et seq.); and

12 (2) does not include the Federal Agricultural
13 Mortgage Corporation.

14 (b) FACILITATION OF PARTICIPATION IN PPP AND
15 SECOND DRAW LOANS.—

16 (1) APPLICABLE RULES.—Solely with respect to
17 loans under paragraphs (36) and (37) of section
18 7(a) of the Small Business Act (15 U.S.C. 636(a)),
19 Farm Credit Administration regulations and guid-
20 ance issued as of July 14, 2020, and compliance
21 with such regulations and guidance, shall be deemed
22 functionally equivalent to requirements referenced in
23 section 3(a)(iii)(II) of the interim final rule of the
24 Administration entitled “Business Loan Program
25 Temporary Changes; Paycheck Protection Program”

1 (85 Fed. Reg. 20811 (April 15, 2020)) or any simi-
2 lar requirement referenced in that interim final rule
3 in implementing such paragraph (37).

4 (2) APPLICABILITY OF CERTAIN LOAN RE-
5 QUIREMENTS.—For purposes of making loans under
6 paragraph (36) or (37) of section 7(a) of the Small
7 Business Act (15 U.S.C. 636(a)) or forgiving those
8 loans in accordance with section 1106 of the CARES
9 Act (15 U.S.C. 9005) and subparagraph (H) of such
10 paragraph (37), sections 4.13, 4.14, and 4.14A of
11 the Farm Credit Act of 1971 (12 U.S.C. 2199,
12 2202, 2202a) (including regulations issued under
13 those sections) shall not apply.

14 (3) RISK WEIGHT.—

15 (A) IN GENERAL.—With respect to the ap-
16 plication of Farm Credit Administration capital
17 requirements, a loan described in subparagraph
18 (B)—

19 (i) shall receive a risk weight of zero
20 percent; and

21 (ii) shall not be included in the cal-
22 culation of any applicable leverage ratio or
23 other applicable capital ratio or calculation.

24 (B) LOANS DESCRIBED.—A loan referred
25 to in subparagraph (A) is—

1 (i) a loan made by a Farm Credit
2 Bank described in section 1.2(a) of the
3 Farm Credit Act of 1971 (12 U.S.C.
4 2002(a)) to a Federal Land Bank Associa-
5 tion, a Production Credit Association, or
6 an agricultural credit association described
7 in that section to make loans under para-
8 graph (36) or (37) of section 7(a) of the
9 Small Business Act (15 U.S.C. 636(a)) or
10 forgive those loans in accordance with sec-
11 tion 1106 of the CARES Act (15 U.S.C.
12 9005) and subparagraph (H) of such para-
13 graph (37); or

14 (ii) a loan made by a Federal Land
15 Bank Association, a Production Credit As-
16 sociation, an agricultural credit associa-
17 tion, or the bank for cooperatives described
18 in section 1.2(a) of the Farm Credit Act of
19 1971 (12 U.S.C. 2002(a)) under para-
20 graph (36) or (37) of section 7(a) of the
21 Small Business Act (15 U.S.C. 636(a)).

22 (4) RESERVATION OF LOAN GUARANTEES.—
23 Section 7(a)(36)(S) of the Small Business Act (15
24 U.S.C. 636(a)(36)(S)) is amended—

25 (A) in clause (i)—

1 (i) in subclause (I), by striking “and”
2 at the end;

3 (ii) in subclause (II), by striking the
4 period at the end and inserting “; and”;
5 and

6 (iii) by adding at the end the fol-
7 lowing:

8 “(III) institutions of the Farm
9 Credit System chartered under the
10 Farm Credit Act of 1971 (12 U.S.C.
11 2001 et seq.) with consolidated assets
12 of not less than \$10,000,000,000 and
13 less than \$50,000,000,000.”; and

14 (B) in clause (ii)—

15 (i) in subclause (II), by striking
16 “and” at the end;

17 (ii) in subclause (III), by striking the
18 period at the end and inserting “; and”;
19 and

20 (iii) by adding at the end the fol-
21 lowing:

22 “(IV) institutions of the Farm
23 Credit System chartered under the
24 Farm Credit Act of 1971 (12 U.S.C.

1 2001 et seq.) with consolidated assets
2 of less than \$10,000,000,000.”.

3 **SEC. 111. DEFINITION OF SEASONAL EMPLOYER.**

4 (a) PPP LOANS.—Section 7(a)(36)(A) of the Small
5 Business Act (15 U.S.C. 636(a)(36)(A)) is amended—

6 (1) in clause (xi), by striking “and” at the end;

7 (2) in clause (xii), by striking the period at the
8 end and inserting “; and”; and

9 (3) by adding at the end the following:

10 “(xiii) the term ‘seasonal employer’
11 means an eligible recipient that—

12 “(I) does not operate for more
13 than 7 months in any calendar year;
14 or

15 “(II) during the preceding cal-
16 endar year, had gross receipts for any
17 6 months of that year that were not
18 more than 33.33 percent of the gross
19 receipts of the employer for the other
20 6 months of that year.”.

21 (b) LOAN FORGIVENESS.—Paragraph (12) of section
22 1106(a) of the CARES Act (15 U.S.C. 9005(a)), as so
23 redesignated by by section 101(b) of this Act, is amended
24 to read as follows:

1 “(12) the terms ‘payroll costs’ and ‘seasonal
2 employer’ have the meanings given those terms in
3 section 7(a)(36) of the Small Business Act (15
4 U.S.C. 636(a)(36)).”.

5 **SEC. 112. CHANGES TO THE 7(A) LOAN GUARANTY PRO-**
6 **GRAM FOR RECOVERY SECTOR BUSINESS**
7 **CONCERNS.**

8 Section 7(a) of the Small Business Act (15 U.S.C.
9 636(a)), as amended by section 106 of this Act, is amend-
10 ed by adding at the end the following:

11 “(38) RECOVERY SECTOR LOANS.—

12 “(A) DEFINITIONS.—In this paragraph—

13 “(i) the term ‘covered loan’ means a
14 loan made under this paragraph;

15 “(ii) the term ‘covered population cen-
16 sus tract’ means a population census tract
17 for which—

18 “(I) in the case of a tract that is
19 not located within a metropolitan
20 area, the median income does not ex-
21 ceed 80 percent of the statewide (or,
22 with respect to a possession or terri-
23 tory of the United States, the
24 possession- or territory-wide) median
25 family income; or

1 “(II) in the case of a tract that
2 is located within a metropolitan area,
3 the median family income does not ex-
4 ceed 80 percent of the greater of the
5 statewide (or, with respect to a pos-
6 session or territory of the United
7 States, the possession- or territory-
8 wide) median family income and the
9 metropolitan area median family in-
10 come;

11 “(iii) the term ‘covered seasonal em-
12 ployer’ means a small business concern
13 that—

14 “(I) is a seasonal employer, as
15 defined in paragraph (36); and

16 “(II) during the preceding cal-
17 endar year—

18 “(aa) had gross receipts as
19 described in paragraph
20 (36)(A)(xiii)(II); and

21 “(bb) employed not more
22 than 250 employees during not
23 fewer than 5 months out of that
24 year;

25 “(iv) the term ‘eligible entity’—

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“(I) means any small business concern that—

“(aa) except with respect to a covered seasonal employer, employs not more than 500 employees;

“(bb)(AA) except as provided in subitems (BB), (CC), and (DD), had gross receipts during the first or second quarter in 2020 that are less than 50 percent of the gross receipts of the business concern during the same quarter in 2019;

“(BB) if the small business concern was not in business during the first or second quarter of 2019, but was in business during the third and fourth quarter of 2019, had gross receipts during the first or second quarter of 2020 that are less than 50 percent of the amount of the gross receipts of the small business

1 concern during the third or
2 fourth quarter of 2019;

3 “(CC) if the small business
4 concern was not in business dur-
5 ing the first, second, or third
6 quarter of 2019, but was in busi-
7 ness during the fourth quarter of
8 2019, had gross receipts during
9 the first or second quarter of
10 2020 that are less than 50 per-
11 cent of the amount of the gross
12 receipts of the small business
13 concern during the fourth quar-
14 ter of 2019; or

15 “(DD) if the small business
16 concern was not in business dur-
17 ing the first or second quarter of
18 2020, had gross receipts during
19 any 2-month period during 2020
20 that are less than 50 percent of
21 the amount of the gross receipts
22 of the small business concern
23 during any other 2-month period
24 during 2020; and

1 “(cc)(AA) is a covered sea-
2 sonal employer seeking a covered
3 loan of not more than
4 \$1,000,000; or

5 “(BB) is a small business
6 concern the principal place of
7 business of which is in, and not
8 less than 50 percent of the total
9 gross income of which is derived
10 from the active conduct of the
11 business concern within, a small
12 business low-income census tract;
13 and

14 “(II) does not include—

15 “(aa) an entity described in
16 paragraph (37)(A)(vi)(II);

17 “(bb) any entity that re-
18 ceived a loan under paragraph
19 (37); or

20 “(cc) any entity that re-
21 ceived a loan under paragraph
22 (36) after the date of enactment
23 of this paragraph; and

24 “(v) the term ‘small business low-in-
25 come census tract’—

1 “(I) means—
2 “(aa) a covered population
3 census tract for which the pov-
4 erty rate is not less than 20 per-
5 cent; or
6 “(bb) an area—
7 “(AA) that is not
8 tracted as a population cen-
9 sus tract;
10 “(BB) for which the
11 poverty rate in the equiva-
12 lent county division (as de-
13 fined by the Bureau of the
14 Census) is not less than 20
15 percent; and
16 “(CC) for which the
17 median income in the equiv-
18 alent county division (as de-
19 fined by the Bureau of the
20 Census) does not exceed 80
21 percent of the statewide (or,
22 with respect to a possession
23 or territory of the United
24 States, the possession- or

1 territory-wide) median in-
2 come; and

3 “(II) does not include any area
4 or population census tract with a me-
5 dian family income that is not less
6 than 120 percent of the median family
7 income in the United States, accord-
8 ing to the most recent American Com-
9 munities Survey data from the Bu-
10 reau of the Census.

11 “(B) LOANS.—Except as otherwise pro-
12 vided in this paragraph, the Administrator may
13 guarantee covered loans made to eligible enti-
14 ties—

15 “(i) under the same terms, conditions,
16 and processes as a loan made under this
17 subsection; and

18 “(ii) to meet working capital needs,
19 acquire fixed assets, or refinance existing
20 indebtedness while recovering from the
21 COVID–19 pandemic.

22 “(C) MAXIMUM LOAN AMOUNT.—The max-
23 imum amount of a covered loan made to an eli-
24 gible entity shall be the lesser of—

25 “(i) \$10,000,000; or

1 “(ii) the amount equal to 200 percent
2 of the average annual receipts of the eligi-
3 ble entity.

4 “(D) LOAN NUMBER LIMITATION.—An eli-
5 gible entity may only receive 1 covered loan.

6 “(E) 90 DAY RULE FOR MAXIMUM LOAN
7 AMOUNT.—The maximum aggregate loan
8 amount of loans guaranteed under this sub-
9 section that are approved for an eligible entity
10 (including any affiliates) within 90 days of ap-
11 proval of another loan under this subsection for
12 the eligible entity (including any affiliates) shall
13 not exceed \$10,000,000.

14 “(F) APPLICATION DEADLINE.—An eligi-
15 ble entity desiring a covered loan shall submit
16 an application not later than December 31,
17 2020.

18 “(G) FEE WAIVER.—With respect to a cov-
19 ered loan—

20 “(i) in lieu of the fee otherwise appli-
21 cable under paragraph (23)(A), the Ad-
22 ministrators shall collect no fee; and

23 “(ii) in lieu of the fee otherwise appli-
24 cable under paragraph (18)(A), the Ad-
25 ministrators shall collect no fee.

1 “(H) LOAN TERMS.—

2 “(i) IN GENERAL.—In order to receive
3 a covered loan, an eligible entity shall not
4 be required to show that the eligible entity
5 is unable to obtain credit elsewhere.

6 “(ii) MATURITY AND INTEREST
7 RATE.—A covered loan shall—

8 “(I) have a maturity of 20 years;
9 and

10 “(II) bear an interest rate of
11 equal to the sum of—

12 “(aa) the Secured Overnight
13 Financing Rate in effect for each
14 of the days in the relevant quar-
15 ter that interest is charged, as
16 compiled and released by the
17 Federal Reserve Bank of New
18 York; and

19 “(bb) 300 basis points.

20 “(iii) GUARANTEE.—In an agreement
21 to participate in a covered loan on a de-
22 ferred basis, the participation by the Ad-
23 ministration shall be 100 percent of the
24 covered loan.

1 “(iv) SUBSIDY FOR INTEREST PAY-
2 MENTS.—

3 “(I) IN GENERAL.—The Admin-
4 istrator shall pay the amount of inter-
5 est that is owed on a covered loan in
6 regular servicing status for the matu-
7 rity of the loan such that the interest
8 rate paid by the eligible entity is, at
9 all times, equal to a rate of 1 percent.

10 “(II) TIMING OF PAYMENT.—The
11 Administrator shall—

12 “(aa) begin making pay-
13 ments under subclause (I) not
14 later than 30 days after the date
15 on which the first such payment
16 is due; and

17 “(bb) make payments with-
18 out regard to the payment defer-
19 ral described in clause (iv).

20 “(III) APPLICATION OF PAY-
21 MENT.—Any payment made by the
22 Administrator under subclause (I)
23 shall be applied to the covered loan
24 such that the eligible entity is relieved
25 of the obligation to pay that amount.

1 “(v) PAYMENT DEFERRAL.—

2 “(I) IN GENERAL.—No payment
3 of principal or interest shall be due on
4 a covered loan for the first 2 years of
5 the covered loan.

6 “(II) ADDITIONAL DEFERRAL.—

7 After the 2-year deferral period under
8 subclause (I), the Administrator may
9 grant not more than an additional 2
10 years of principal deferral to the eligi-
11 ble entity if the eligible entity is cer-
12 tified by the Administrator and the
13 Secretary as economically distressed
14 based on publicly available criteria es-
15 tablished by the Administrator.

16 “(vi) LIMITATION ON CHANGES IN
17 TERMS.—Notwithstanding any other provi-
18 sion of this subsection, for a covered loan,
19 the Administrator shall not approve any
20 increase in loan amount or change in guar-
21 anty percentage, interest rate, interest ac-
22 crual method, or maturity, except for such
23 changes as may be necessary for prepay-
24 ment and the deferment of payment under
25 clause (v).

1 “(I) PROHIBITION ON USE OF PROCEEDS
2 FOR DISASTER LOANS.—An eligible entity shall
3 not use the proceeds of a covered loan to refi-
4 nance any loan made under subsection (b).

5 “(J) SECONDARY MARKET.—In order to
6 increase the liquidity of the secondary market
7 for covered loans, the Administrator shall, not
8 later than 60 days after the date of enactment
9 of this paragraph, substantially reduce barriers
10 to the sale of covered loans on the secondary
11 market.

12 “(K) LENDER ELIGIBILITY.—In order to
13 increase access to and the equitable distribution
14 of covered loans, the Administrator shall estab-
15 lish a process by which a lender approved to
16 make loans under paragraph (36) may make
17 covered loans.

18 “(L) REIMBURSEMENT FOR LOAN PROC-
19 ESSING AND SERVICING.—The Administrator
20 shall reimburse a lender authorized to make a
21 covered loan in an amount that is—

22 “(i) 3 percent of the principal amount
23 of the financing of the covered loan up to
24 \$350,000; and

1 “(ii) 1 percent of the principal
2 amount of the financing of the covered
3 loan above \$350,000, if applicable.

4 “(M) STANDARD OPERATING PROCE-
5 DURE.—The Administrator shall, to the max-
6 imum extent practicable, allow a lender ap-
7 proved to make covered loans to use existing
8 program guidance and standard operating pro-
9 cedures for loans made under this subsection.”.

10 **SEC. 113. ELIGIBILITY OF 501(C)(6) ORGANIZATIONS FOR**
11 **LOANS UNDER THE PAYCHECK PROTECTION**
12 **PROGRAM.**

13 Section 7(a)(36)(D) of the Small Business Act (15
14 U.S.C. 636(a)(36)(D)) is amended—

15 (1) in clause (v), by inserting “or whether an
16 entity described in clause (vii) employs not more
17 than 300 employees,” after “clause (i)(I),”; and

18 (2) by adding at the end the following:

19 “(vii) ELIGIBILITY FOR CERTAIN
20 501(C)(6) ORGANIZATIONS.—

21 “(I) IN GENERAL.—Except as
22 provided in subclause (II), any organi-
23 zation that is described in section
24 501(c)(6) of the Internal Revenue
25 Code and that is exempt from tax-

1 ation under section 501(a) of such
2 Code (excluding professional football
3 leagues and organizations with the
4 purpose of promoting or participating
5 in a political campaign or other activ-
6 ity) shall be eligible to receive a cov-
7 ered loan if—

8 “(aa) the organization does
9 not receive more than 10 percent
10 of its receipts from lobbying ac-
11 tivities;

12 “(bb) the lobbying activities
13 of the organization do not com-
14 prise more than 10 percent of the
15 total activities of the organiza-
16 tion; and

17 “(cc) the organization em-
18 ploys not more than 300 employ-
19 ees.

20 “(II) DESTINATION MARKETING
21 ORGANIZATIONS.—Notwithstanding
22 subclause (I), during the covered pe-
23 riod, any destination marketing orga-
24 nization shall be eligible to receive a
25 covered loan if—

1 “(aa) the destination mar-
2 keting organization does not re-
3 ceive more than 10 percent of its
4 receipts from lobbying activities;

5 “(bb) the lobbying activities
6 of the destination marketing or-
7 ganization do not comprise more
8 than 10 percent of the total ac-
9 tivities of the organization;

10 “(cc) the destination mar-
11 keting organization employs not
12 more than 300 employees; and

13 “(dd) the destination mar-
14 keting organization—

15 “(AA) is described in
16 section 501(c) of the Inter-
17 nal Revenue Code and is ex-
18 empt from taxation under
19 section 501(a) of such Code;
20 or

21 “(BB) is a quasi-gov-
22 ernmental entity or is a po-
23 litical subdivision of a State
24 or local government, includ-

1 ing any instrumentality of
2 those entities.”.

3 **SEC. 114. PROHIBITION ON USE OF LOAN PROCEEDS FOR**
4 **LOBBYING ACTIVITIES.**

5 Section 7(a)(36)(F) of the Small Business Act (15
6 U.S.C. 636(a)(36)(F)) is amended by adding at the end
7 the following:

8 “(vi) PROHIBITION.—None of the pro-
9 ceeds of a covered loan may be used for
10 lobbying activities, as defined in section 3
11 of the Lobbying Disclosure Act of 1995 (2
12 U.S.C. 1602).”.

13 **SEC. 115. EFFECTIVE DATE; APPLICABILITY.**

14 The amendments made to paragraph (36) of section
15 7(a) of the Small Business Act (15 U.S.C. 636(a)) and
16 title I of the CARES Act (Public Law 116–136) under
17 this title shall be effective as if included in the CARES
18 Act and shall apply to any loan made pursuant to section
19 7(a)(36) of the Small Business Act (15 U.S.C.
20 636(a)(36)).

21 **SEC. 116. BANKRUPTCY PROVISIONS.**

22 (a) IN GENERAL.—Section 364 of title 11, United
23 States Code, is amended by adding at the end the fol-
24 lowing:

1 “(g)(1) The court, after notice and a hearing, may
2 authorize a debtor in possession or a trustee that is au-
3 thorized to operate the business of the debtor under sec-
4 tion 1183, 1184, 1203, 1204, or 1304 of this title to ob-
5 tain a loan under section 7(a)(36) of the Small Business
6 Act (15 U.S.C. 636(a)(36)), and such loan shall be treated
7 as a debt to the extent the loan is not forgiven under sec-
8 tion 1106 of the CARES Act (15 U.S.C. 9005) with pri-
9 ority equal to a claim of the kind specified in subsection
10 (c)(1) of this section.

11 “(2) The trustee may incur debt described in para-
12 graph (1) notwithstanding any provision in a contract,
13 prior order authorizing the trustee to incur debt under this
14 section, prior order authorizing the trustee to use cash col-
15 lateral under section 363, or applicable law that prohibits
16 the debtor from incurring additional debt.

17 “(3) The court shall hold a hearing within 7 days
18 after the filing and service of the motion to obtain a loan
19 described in paragraph (1).”.

20 (b) ALLOWANCE OF ADMINISTRATIVE EXPENSES.—
21 Section 503(b) of title 11, United States Code, is amend-
22 ed—

23 (1) in paragraph (8)(B), by striking “and” at
24 the end;

1 (2) in paragraph (9), by striking the period at
2 the end and inserting “; and”; and

3 (3) by adding at the end the following:

4 “(10) any debt incurred under section
5 364(g)(1) of this title.”.

6 (c) CONFIRMATION OF PLAN FOR REORGANIZA-
7 TION.—Section 1191 of title 11, United States Code, is
8 amended by adding at the end the following:

9 “(f) SPECIAL PROVISION RELATED TO COVID–19
10 PANDEMIC.—Notwithstanding section 1129(a)(9)(A) of
11 this title and subsection (e) of this section, a plan that
12 provides for payment of a claim of a kind specified in sec-
13 tion 503(b)(10) of this title may be confirmed under sub-
14 section (b) of this section if the plan proposes to make
15 payments on account of such claim when due under the
16 terms of the loan giving rise to such claim.”.

17 (d) CONFIRMATION OF PLAN FOR FAMILY FARMERS
18 AND FISHERMEN.—Section 1225 of title 11, United
19 States Code, is amended by adding at the end the fol-
20 lowing:

21 “(d) Notwithstanding section 1222(a)(2) of this title
22 and subsection (b)(1) of this section, a plan that provides
23 for payment of a claim of a kind specified in section
24 503(b)(10) of this title may be confirmed if the plan pro-
25 poses to make payments on account of such claim when

1 due under the terms of the loan giving rise to such
2 claim.”.

3 (e) CONFIRMATION OF PLAN FOR INDIVIDUALS.—

4 Section 1325 of title 11, United States Code, is amended
5 by adding at the end the following:

6 “(d) Notwithstanding section 1322(a)(2) of this title
7 and subsection (b)(1) of this section, a plan that provides
8 for payment of a claim of a kind specified in section
9 503(b)(10) of this title may be confirmed if the plan pro-
10 poses to make payments on account of such claim when
11 due under the terms of the loan giving rise to such
12 claim.”.

13 (f) EFFECTIVE DATE; SUNSET.—

14 (1) EFFECTIVE DATE.—The amendments made
15 by subsections (a) through (e) shall—

16 (A) take effect on the date on which the
17 Administrator of the Small Business Adminis-
18 tration submits to the Director of the Executive
19 Office for United States Trustees a written de-
20 termination that, subject to satisfying any other
21 eligibility requirements, any debtor in posses-
22 sion or trustee that is authorized to operate the
23 business of the debtor under section 1183,
24 1184, 1203, 1204, or 1304 of title 11, United
25 States Code, would be eligible for a loan under

1 section 7(a)(36) of the Small Business Act (15
2 U.S.C. 636(a)(36)); and

3 (B) apply to any case pending on or com-
4 menced on or after the date described in sub-
5 paragraph (A).

6 (2) SUNSET.—

7 (A) IN GENERAL.—If the amendments
8 made by this section take effect under para-
9 graph (1), effective on the date that is 2 years
10 after the date of enactment of this Act—

11 (i) section 364 of title 11, United
12 States Code, is amended by striking sub-
13 section (g);

14 (ii) section 503(b) of title 11, United
15 States Code, is amended—

16 (I) in paragraph (8)(B), by add-
17 ing “and” at the end;

18 (II) in paragraph (9), by striking
19 “; and” at the end and inserting a pe-
20 riod; and

21 (III) by striking paragraph (10);

22 (iii) section 1191 of title 11, United
23 States Code, is amended by striking sub-
24 section (f);

1 (iv) section 1225 of title 11, United
2 States Code, is amended by striking sub-
3 section (d); and

4 (v) section 1325 of title 11, United
5 States Code, is amended by striking sub-
6 section (d).

7 (B) APPLICABILITY.—Notwithstanding the
8 amendments made by subparagraph (A) of this
9 paragraph, if the amendments made by sub-
10 sections (a), (b), (c), (d), and (e) take effect
11 under paragraph (1) of this subsection, such
12 amendments shall apply to any case under title
13 11, United States Code, commenced before the
14 date that is 2 years after the date of enactment
15 of this Act.

16 **SEC. 117. CONFLICTS OF INTEREST.**

17 (a) DEFINITIONS.—In this section:

18 (1) CONTROLLING INTEREST.—The term “con-
19 trolling interest” means owning, controlling, or hold-
20 ing not less than 20 percent, by vote or value, of the
21 outstanding amount of any class of equity interest in
22 an entity.

23 (2) COVERED ENTITY.—

24 (A) DEFINITION.—The term “covered enti-
25 ty” means an entity in which a covered indi-

1 vidual directly or indirectly holds a controlling
2 interest.

3 (B) TREATMENT OF SECURITIES.—For the
4 purpose of determining whether an entity is a
5 covered entity, the securities owned, controlled,
6 or held by 2 or more individuals who are related
7 as described in paragraph (3)(B) shall be ag-
8 gregated.

9 (3) COVERED INDIVIDUAL.—The term “covered
10 individual” means—

11 (A) the President, the Vice President, the
12 head of an Executive department, or a Member
13 of Congress; and

14 (B) the spouse, child, son-in-law, or daugh-
15 ter-in-law, as determined under applicable com-
16 mon law, of an individual described in subpara-
17 graph (A).

18 (4) EXECUTIVE DEPARTMENT.—The term “Ex-
19 ecutive department” has the meaning given the term
20 in section 101 of title 5, United States Code.

21 (5) MEMBER OF CONGRESS.—The term “Mem-
22 ber of Congress” means a Member of the Senate or
23 House of Representatives, a Delegate to the House
24 of Representatives, and the Resident Commissioner
25 from Puerto Rico.

1 (6) EQUITY INTEREST.—The term “equity in-
2 terest” means—

3 (A) a share in an entity, without regard to
4 whether the share is—

5 (i) transferable; or

6 (ii) classified as stock or anything
7 similar;

8 (B) a capital or profit interest in a limited
9 liability company or partnership; or

10 (C) a warrant or right, other than a right
11 to convert, to purchase, sell, or subscribe to a
12 share or interest described in subparagraph (A)
13 or (B), respectively.

14 (b) REQUIREMENT.—The principal executive officer
15 and the principal financial officer, or individuals per-
16 forming similar functions, of an entity seeking to enter
17 a transaction made under paragraph (36), (37), or (38)
18 of section 7(a) of the Small Business Act (15 U.S.C.
19 636(a)), as added and amended by this title, shall, before
20 that transaction is approved, disclose to the Administrator
21 whether the entity is a covered entity.

22 (c) APPLICABILITY.—The requirement under sub-
23 section (b)—

24 (1) shall apply with respect to any transaction
25 made under paragraph (36), (37), or (38) of section

1 7(a) of the Small Business Act (15 U.S.C. 636(a)),
2 as added and amended by this title, on or after the
3 date of enactment of this Act; and

4 (2) shall not apply with respect to—

5 (A) any transaction described in paragraph
6 (1) that was made before the date of enactment
7 of this Act; or

8 (B) forgiveness under section 1106 of the
9 CARES Act (15 U.S.C. 9005) or any other pro-
10 vision of law of any loan associated with any
11 transaction described in paragraph (1) that was
12 made before the date of enactment of this Act.

13 **TITLE II—SMALL BUSINESS** 14 **PROGRAMS GENERALLY**

15 **SEC. 121. SMALL BUSINESS INVESTMENT COMPANY PRO-** 16 **GRAM.**

17 (a) **IN GENERAL.**—Part A of title III of the Small
18 Business Investment Act of 1958 (15 U.S.C. 681 et seq.)
19 is amended—

20 (1) in section 302(a) (15 U.S.C. 682(a))—

21 (A) in paragraph (1)—

22 (i) in subparagraph (A), by striking
23 “or” at the end;

1 (ii) in subparagraph (B), by striking
 2 the period at the end and inserting “; or”;
 3 and

4 (iii) by adding at the end the fol-
 5 lowing:

6 “(C) \$20,000,000, adjusted every 5 years
 7 for inflation, with respect to each licensee au-
 8 thorized or seeking authority to sell bonds to
 9 Administration as a participating investment
 10 company under section 321.”; and

11 (2) by adding at the end the following:

12 **“SEC. 321. SMALL BUSINESS AND DOMESTIC PRODUCTION**
 13 **RECOVERY INVESTMENT FACILITY.**

14 “(a) DEFINITIONS.—In this section:

15 “(1) ELIGIBLE SMALL BUSINESS CONCERN.—

16 The term ‘eligible small business concern’—

17 “(A) means a small business concern
 18 that—

19 “(i) meets the revenue reduction re-
 20 quirements established by paragraph
 21 (37)(A)(vi)(I)(cc) of section 7(a) of the
 22 Small Business Act (15 U.S.C. 636(a));

23 “(ii) is a manufacturing business that
 24 is assigned a North American Industry
 25 Classification System code beginning with

1 31, 32, or 33 at the time at which the
2 small business concern receives an invest-
3 ment from a participating investment com-
4 pany under the facility; or

5 “(iii) is located in a small business
6 low-income census tract; and

7 “(B) does not include an entity described
8 in paragraph (37)(A)(vi)(II) of such section
9 7(a).

10 “(2) FACILITY.—The term ‘facility’ means the
11 facility established under subsection (b).

12 “(3) FUND.—The term ‘Fund’ means the fund
13 established under subsection (h).

14 “(4) PARTICIPATING INVESTMENT COMPANY.—
15 The term ‘participating investment company’ means
16 a small business investment company approved
17 under subsection (d) to participate in the facility.

18 “(5) PROTÉGÉ INVESTMENT COMPANY.—The
19 term ‘protégé investment company’ means a small
20 business investment company that—

21 “(A) is majority managed by new, inexperi-
22 enced, or otherwise underrepresented fund man-
23 agers; and

1 “(B) elects and is selected by the Adminis-
2 tration to participate in the pathway-protégé
3 program under subsection (g).

4 “(6) SMALL BUSINESS CONCERN.—The term
5 ‘small business concern’ has the meaning given the
6 term in section 3(a) of the Small Business Act (15
7 U.S.C. 632(a)).

8 “(7) SMALL BUSINESS LOW-INCOME CENSUS
9 TRACT.—The term ‘small business low-income cen-
10 sus tract’ has the meaning given the term in section
11 7(a)(38)(A) of the Small Business Act.

12 “(b) ESTABLISHMENT.—

13 “(1) FACILITY.—The Administrator shall estab-
14 lish and carry out a facility to improve the recovery
15 of eligible small business concerns from the COVID-
16 19 pandemic, increase resiliency in the manufac-
17 turing supply chain of eligible small business con-
18 cerns, and increase the economic development of
19 small business low-income census tracts by providing
20 financial assistance to participating investment com-
21 panies that facilitate equity financings to eligible
22 small business concerns in accordance with this sec-
23 tion.

24 “(2) ADMINISTRATION OF FACILITY.—The fa-
25 cility shall be administered by the Administrator act-

1 ing through the Associate Administrator described in
2 section 201.

3 “(c) APPLICATIONS.—

4 “(1) IN GENERAL.—Any small business invest-
5 ment company may submit to the Administrator an
6 application to participate in the facility.

7 “(2) REQUIREMENTS FOR APPLICATION.—An
8 application to participate in the facility shall include
9 the following:

10 “(A) A business plan describing how the
11 applicant intends to make successful equity in-
12 vestments in eligible small business concerns.

13 “(B) Information regarding the relevant
14 investment qualifications and backgrounds of
15 the individuals responsible for the management
16 of the applicant.

17 “(C) A description of the extent to which
18 the applicant meets the selection criteria under
19 subsection (d)(2).

20 “(3) EXCEPTIONS TO APPLICATION FOR NEW
21 LICENSEES.—Not later than 90 days after the date
22 of enactment of this section, the Administrator shall
23 reduce requirements for applicants applying to oper-
24 ate as a participating investment company under
25 this section in order to encourage the participation

1 of new small business investment companies in the
2 facility under this section, which may include the re-
3 quirements established under part 107 of title 13,
4 Code of Federal Regulations, or any successor regu-
5 lation, relating to—

6 “(A) the approval of initial management
7 expenses;

8 “(B) the management ownership diversity
9 requirement;

10 “(C) the disclosure of general compen-
11 satory practices and fee structures; or

12 “(D) any other requirement that the Ad-
13 ministrator determines to be an obstacle to
14 achieving the purposes described in this para-
15 graph.

16 “(d) SELECTION OF PARTICIPATING INVESTMENT
17 COMPANIES.—

18 “(1) DETERMINATION.—

19 “(A) IN GENERAL.—Except as provided in
20 paragraph (3), not later than 60 days after the
21 date on which the Administrator receives an ap-
22 plication under subsection (c), the Adminis-
23 trator shall—

1 “(i) make a final determination to ap-
2 prove or disapprove such applicant to par-
3 ticipate in the facility; and

4 “(ii) transmit the determination to the
5 applicant in writing.

6 “(B) COMMITMENT AMOUNT.—Except as
7 provided in paragraph (3), at the time of ap-
8 proval of an applicant, the Administrator shall
9 make a determination of the amount of the
10 commitment that may be awarded to the appli-
11 cant under this section.

12 “(2) SELECTION CRITERIA.—In making a de-
13 termination under paragraph (1), the Administrator
14 shall consider—

15 “(A) the probability that the investment
16 strategy of the applicant will successfully repay
17 any financial assistance provided by the Admin-
18 istration, including the probability of a return
19 significantly in excess thereof;

20 “(B) the probability that the investments
21 made by the applicant will—

22 “(i) provide capital to eligible small
23 business concerns; or

24 “(ii) create or preserve jobs in the
25 United States;

1 “(C) the probability that the applicant will
2 meet the objectives in the business plan of the
3 applicant, including the financial goals, and, if
4 applicable, the pathway-protégé program in ac-
5 cordance with subsection (g); and

6 “(D) the probability that the applicant will
7 assist eligible small business concerns in achiev-
8 ing profitability.

9 “(3) APPROVAL OF PARTICIPATING INVEST-
10 MENT COMPANIES.—

11 “(A) PROVISIONAL APPROVAL.—

12 “(i) IN GENERAL.—Notwithstanding
13 paragraph (1), with respect to an applica-
14 tion submitted by an applicant to operate
15 as a participating investment company
16 under this section, the Administrator may
17 provide provisional approval for the appli-
18 cant in lieu of a final determination of ap-
19 proval and determination of the amount of
20 the commitment under that paragraph.

21 “(ii) PURPOSE.—The purpose of a
22 provisional approval under clause (i) is
23 to—

24 “(I) encourage applications from
25 investment companies with an invest-

1 ment mandate from the committed
2 private market capital of the invest-
3 ment company that does not conform
4 to the requirements described in this
5 section at the time of application;

6 “(II) allow the applicant to more
7 effectively raise capital commitments
8 in the private markets by referencing
9 the intent of the Administrator to
10 award the applicant a commitment;
11 and

12 “(III) allow the applicant to more
13 precisely request the desired amount
14 of commitment pending the securing
15 of capital from private market inves-
16 tors.

17 “(iii) LIMIT ON PERIOD OF THE
18 TIME.—The period between a provisional
19 approval under clause (i) and the final de-
20 termination of approval under paragraph
21 (1) shall not exceed 12 months.

22 “(e) COMMITMENTS AND SBIC BONDS.—

23 “(1) IN GENERAL.—The Administrator may,
24 out of amounts available in the Fund, purchase or
25 commit to purchase from a participating investment

1 company 1 or more accruing bonds that include eq-
2 uity features as described in this subsection.

3 “(2) BOND TERMS.—A bond purchased by the
4 Administrator from a participating investment com-
5 pany under this subsection shall have the following
6 terms and conditions:

7 “(A) TERM AND INTEREST.—

8 “(i) IN GENERAL.—The bond shall be
9 issued for a term of not less than 15 years
10 and shall bear interest at a rate deter-
11 mined by the Administrator of not more
12 than 2 percent.

13 “(ii) ACCRUAL OF INTEREST.—Inter-
14 est on the bond shall accrue and shall be
15 payable in accordance with subparagraph
16 (D).

17 “(iii) PREPAYMENT.—The bond shall
18 be prepayable without penalty after the
19 end of the 1-year period beginning on the
20 date on which the bond was purchased.

21 “(B) PROFITS.—

22 “(i) IN GENERAL.—The Administra-
23 tion shall be entitled to receive a share of
24 the profits net of any profit sharing per-
25 formance compensation of the participating

1 investment company equal to the quotient
2 obtained by dividing—

3 “(I) one-third of the commitment
4 that the participating investment com-
5 pany is approved for under subsection
6 (d); by

7 “(II) the commitment approved
8 under subsection (d) plus the regu-
9 latory capital of the participating in-
10 vestment company at the time of ap-
11 proval under that subsection.

12 “(ii) DETERMINATION OF PERCENT-
13 AGE.—The share to which the Administra-
14 tion is entitled under clause (i)—

15 “(I) shall be determined at the
16 time of approval under subsection (d);
17 and

18 “(II) without the approval of the
19 Administration, shall not be revised,
20 including to reflect subsequent dis-
21 tributions of profits, returns of cap-
22 ital, or repayments of bonds, or other-
23 wise.

24 “(C) PROFIT SHARING PERFORMANCE
25 COMPENSATION.—

1 “(i) RECEIPT BY ADMINISTRATION.—

2 The Administration shall receive a share of
3 profits of not more than 2 percent, which
4 shall be deposited into the Fund and be
5 available to make commitments under this
6 subsection.

7 “(ii) RECEIPT BY MANAGERS.—The

8 managers of the participating investment
9 company may receive a maximum profit
10 sharing performance compensation of 25
11 percent minus the share of profits paid to
12 the Administration under clause (i).

13 “(D) PROHIBITION ON DISTRIBUTIONS.—

14 No distributions on capital, including profit dis-
15 tributions, shall be made by the participating
16 investment company to the investors or man-
17 agers of the participating investment company
18 until the Administration has received payment
19 of all accrued interest on the bond committed
20 under this section.

21 “(E) REPAYMENT OF PRINCIPAL.—Except

22 as described in subparagraph (F), repayments
23 of principal of the bond of a participating in-
24 vestment company shall be—

1 “(i) made at the same time as returns
2 of private capital; and

3 “(ii) in amounts equal to the pro rata
4 share of the Administration of the total
5 amount being repaid or returned at such
6 time.

7 “(F) LIQUIDATION OR DEFAULT.—Upon
8 any liquidation event or default, as defined by
9 the Administration, any unpaid principal or ac-
10 crued interest on the bond shall—

11 “(i) have a priority over all equity of
12 the participating investment company; and

13 “(ii) be paid before any return of eq-
14 uity or any other distributions to the inves-
15 tors or managers of the participating in-
16 vestment company.

17 “(3) AMOUNT OF COMMITMENTS AND PUR-
18 CHASES.—

19 “(A) MAXIMUM AMOUNT.—The maximum
20 amount of outstanding bonds and commitments
21 to purchase bonds for any participating invest-
22 ment company under the facility shall be the
23 lesser of—

1 “(i) twice the amount of the regu-
2 latory capital of the participating invest-
3 ment company; or

4 “(ii) \$200,000,000.

5 “(4) COMMITMENT PROCESS.—Commitments by
6 the Administration to purchase bonds under the fa-
7 cility shall remain available to be sold by a partici-
8 pating investment company until the end of the
9 fourth fiscal year following the year in which the
10 commitment is made, subject to review and approval
11 by the Administration based on regulatory compli-
12 ance, financial status, change in management, devi-
13 ation from business plan, and such other limitations
14 as may be determined by the Administration by reg-
15 ulation or otherwise.

16 “(5) COMMITMENT CONDITIONS.—

17 “(A) IN GENERAL.—As a condition of re-
18 ceiving a commitment under the facility, not
19 less than 50 percent of amounts invested by the
20 participating investment company shall be in-
21 vested in eligible small business concerns.

22 “(B) EXAMINATIONS.—In addition to the
23 matters set forth in section 310(c), the Admin-
24 istration shall examine each participating in-
25 vestment company in such detail so as to deter-

1 mine whether the participating investment com-
2 pany has complied with the requirements under
3 this subsection.

4 “(f) DISTRIBUTIONS AND FEES.—

5 “(1) DISTRIBUTION REQUIREMENTS.—

6 “(A) DISTRIBUTIONS.—As a condition of
7 receiving a commitment under the facility, a
8 participating investment company shall make
9 all distributions to the Administrator in the
10 same form and in a manner as are made to in-
11 vestors, or otherwise at a time and in a manner
12 consistent with regulations or policies of the
13 Administration.

14 “(B) ALLOCATIONS.—A participating in-
15 vestment company shall make allocations of in-
16 come, gain, loss, deduction, and credit to the
17 Administrator with respect to any outstanding
18 bonds as if the Administrator were an investor.

19 “(2) FEES.—The Administrator may not
20 charge fees for participating investment companies
21 other than examination fees that are consistent with
22 the license of the participating investment company.

23 “(3) BIFURCATION.—Losses on bonds issued by
24 participating investment companies shall not be off-

1 set by fees or any other charges on debenture small
2 business investment companies.

3 “(g) PROTÉGÉ PROGRAM.—The Administrator shall
4 establish a pathway-protégé program in which a protégé
5 investment company may receive technical assistance and
6 program support from a participating investment company
7 on a voluntary basis and without penalty for non-partici-
8 pation.

9 “(h) LOSS LIMITING FUND.—

10 “(1) IN GENERAL.—There is established in the
11 Treasury a fund for making commitments and pur-
12 chasing bonds with equity features under the facility
13 and receiving capital returned by participating in-
14 vestment companies.

15 “(2) USE OF FUNDS.—Amounts appropriated
16 to the Fund or deposited in the Fund under para-
17 graph (3) shall be available to the Administrator,
18 without further appropriation, for making commit-
19 ments and purchasing bonds under the facility and
20 expenses and payments, excluding administrative ex-
21 penses, relating to the operations of the Adminis-
22 trator under the facility.

23 “(3) DEPOSITING OF AMOUNTS.—

24 “(A) IN GENERAL.—All amounts received
25 by the Administrator from a participating in-

1 investment company relating to the facility, in-
2 cluding any moneys, property, or assets derived
3 by the Administrator from operations in con-
4 nection with the facility, shall be deposited in
5 the Fund.

6 “(B) PERIOD OF AVAILABILITY.—Amounts
7 deposited under subparagraph (A) shall remain
8 available until expended.

9 “(i) APPLICATION OF OTHER SECTIONS.—To the ex-
10 tent not inconsistent with requirements under this section,
11 the Administrator may apply sections 309, 311, 312, 313,
12 and 314 to activities under this section and an officer, di-
13 rector, employee, agent, or other participant in a partici-
14 pating investment company shall be subject to the require-
15 ments under such sections.

16 “(j) AUTHORIZATION OF APPROPRIATIONS.—There
17 is authorized to be appropriated for the first fiscal year
18 beginning after the date of enactment of this part
19 \$10,000,000,000 to carry out the facility. Amounts appro-
20 priated pursuant to this subsection shall remain available
21 until the end of the second fiscal year beginning after the
22 date of enactment of this section.”.

23 (b) APPROVAL OF BANK-OWNED, NON-LEVERAGED
24 APPLICANTS.—Section 301(c)(2) of the Small Business

1 Investment Act of 1958 (15 U.S.C. 681(c)(2)) is amend-
2 ed—

3 (1) in subparagraph (B), in the matter pre-
4 ceding clause (i), by striking “Within” and inserting
5 “Except as provided in subparagraph (C), within”;
6 and

7 (2) by adding at the end the following:

8 “(C) EXCEPTION FOR BANK-OWNED, NON-
9 LEVERAGED APPLICANTS.—Notwithstanding
10 subparagraph (B), not later than 45 days after
11 the date on which the Administrator receives a
12 completed application submitted by a bank-
13 owned, non-leveraged applicant in accordance
14 with this subsection and in accordance with
15 such requirements as the Administrator may
16 prescribe by regulation, the Administrator
17 shall—

18 “(i) review the application in its en-
19 tirety; and

20 “(ii)(I) approve the application and
21 issue a license for such operation to the
22 applicant if the requirements of this sec-
23 tion are satisfied; or

1 “(II) disapprove the application and
2 notify the applicant in writing of the dis-
3 approval.”.

4 (c) **ELECTRONIC SUBMISSIONS.**—Part A of title III
5 of the Small Business Investment Act of 1958 (15 U.S.C.
6 681 et seq.), as amended by subsection (a) of this section,
7 is amended by adding at the end the following:

8 **“SEC. 322. ELECTRONIC SUBMISSIONS.**

9 “The Administration shall permit any document sub-
10 mitted under this title, or pursuant to a regulation car-
11 rying out this title, to be submitted electronically, includ-
12 ing by permitting an electronic signature for any signature
13 that is required on such a document.”.

14 **TITLE III—APPROPRIATIONS**

15 **SEC. 131. COMMITMENT AUTHORITY AND APPROPRIA-**
16 **TIONS.**

17 (a) **COMMITMENT AUTHORITY.**—

18 (1) **CARES ACT AMENDMENTS.**—Section
19 1102(b) of the CARES Act (Public Law 116–136)
20 is amended—

21 (A) in paragraph (1)—

22 (i) in the paragraph heading, by in-
23 serting “AND SECOND DRAW” after
24 “PPP”;

1 (ii) by striking “August 8, 2020” and
2 inserting “December 31, 2020”;

3 (iii) by striking “paragraph (36)” and
4 inserting “paragraphs (36) and (37)”; and

5 (iv) by striking “\$659,000,000,000”
6 and inserting “\$749,000,000,000”; and

7 (B) by amending paragraph (2) to read as
8 follows:

9 “(2) OTHER 7(A) LOANS.—During fiscal year
10 2020, the amount authorized for commitments for
11 section 7(a) of the Small Business Act (15 U.S.C.
12 636(a)) under the heading ‘Small Business Adminis-
13 tration—Business Loans Program Account’ in the
14 Financial Services and General Government Appro-
15 priations Act, 2020 (division C of Public Law 116–
16 193) shall apply with respect to any commitments
17 under such section 7(a) other than under para-
18 graphs (36), (37), and (38) of such section 7(a).”.

19 (2) RECOVERY SECTOR LOANS.—During the pe-
20 riod beginning on the date of enactment of this Act
21 and ending on December 31, 2020, the amount au-
22 thorized for commitments under paragraph (38) of
23 section 7(a) of the Small Business Act (15 U.S.C.
24 636(a)), as added by this title, shall be
25 \$100,000,000,000.

1 (b) DIRECT APPROPRIATIONS.—

2 (1) RESCISSION.—With respect to unobligated
3 balances under the heading ““Small Business Ad-
4 ministration—Business Loans Program Account,
5 CARES Act” as of the day before the date of enact-
6 ment of this Act, \$100,000,000,000 shall be re-
7 scinded and deposited into the general fund of the
8 Treasury.

9 (2) NEW DIRECT APPROPRIATIONS.—There is
10 appropriated, out of amounts in the Treasury not
11 otherwise appropriated, for the fiscal year ending
12 September 30, 2020—

13 (A) to remain available until September
14 30, 2021, for additional amounts—

15 (i) \$190,000,000,000 under the head-
16 ing “Small Business Administration—
17 Business Loans Program Account, CARES
18 Act” for the cost of guaranteed loans as
19 authorized under paragraph (36) and (37)
20 of section 7(a) of the Small Business Act
21 (15 U.S.C. 636(a)), as amended and added
22 by this Act; and

23 (ii) \$57,700,000,000 under the head-
24 ing “Small Business Administration—Re-
25 recovery Sector Loans” for the cost of guar-

1 anted loans as authorized under para-
2 graph (38) of section 7(a) of the Small
3 Business Act (15 U.S.C. 636(a)), as added
4 by this Act; and

5 (B) to remain available until September
6 30, 2023, \$10,000,000,000 under the heading
7 “Small Business Administration—SBIC” to
8 carry out part D of title III of the Small Busi-
9 ness Investment Act of 1958 (15 U.S.C. 681 et
10 seq.), as added by this Act.

11 (c) EMERGENCY DESIGNATION.—

12 (1) IN GENERAL.—The amounts provided under
13 this section are designated as an emergency require-
14 ment pursuant to section 4(g) of the Statutory Pay-
15 As-You-Go Act of 2010 (2 U.S.C. 933(g)).

16 (2) DESIGNATION IN SENATE.—In the Senate,
17 this section is designated as an emergency require-
18 ment pursuant to section 4112(a) of H. Con. Res.
19 71 (115th Congress), the concurrent resolution on
20 the budget for fiscal year 2018.

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