



# SBA Procedural Notice

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**TO:** All SBA Employees, and Microloan Intermediaries

**CONTROL NO.:** 5000-20080

**SUBJECT:** Guidance on the Implementation of the Extension of the Section 1112 Debt Relief Program for the Microloan Program, as Authorized by Section 325 of the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act

**EFFECTIVE:** January 19, 2021

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The purpose of this Notice is to provide guidance on the implementation of Section 1112 of the CARES Act, as amended by Section 325 of the Economic Aid Act, and the Second Round Section 1112 Payments that are authorized for the Microloan Program.

On March 27, 2020, the Coronavirus Aid, Relief and Economic Security Act (the CARES Act), Pub. L. 116-136, was enacted to provide emergency and immediate national economic relief and assistance across the American economy, including to small businesses, workers, families, and the health-care system, to alleviate the severe economic hardships and public health threat created by the 2019 Novel Coronavirus pandemic. Section 1112 of the CARES Act, as set forth in Pub. L. 116-136, authorizes SBA to pay, for a 6-month period, the principal, interest, and associated fees that Borrowers owe on covered Microloans (hereafter “First Round Section 1112 Payments”).

Under Section 325 of the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act (Economic Aid Act), enacted December 27, 2020, Pub. L. 116-260, Congress has authorized a second round of Section 1112 payments (hereafter referred to as “Second Round Section 1112 Payments”), which will cover the principal, interest, and associated fees that Borrowers owe on covered loans for the periods described below in paragraph II.B, subject to the availability of funds.

## **I. Availability of Funds for All Section 1112 Payments**

Under section 323(d)(1)(G) of the Economic Aid Act, Congress appropriated \$3,500,000,000 for carrying out section 325 of the Economic Aid Act and these funds remain available until expended. In addition, under Section 1112(c)(7) of the CARES Act, as added by Section 325 of the Economic Aid Act, SBA will monitor whether the amounts made available to make

payments under Section 1112 are sufficient to make the payments for the remaining First Round Section 1112 Payments and the Second Round Section 1112 Payments. If SBA determines that the amounts are insufficient, SBA will, in accordance with Section 1112(c)(7), develop and submit to Congress a plan to proportionally reduce the number of months provided for each authorized period under Section 1112(c)(1) of the CARES Act, as amended by Section 325 of the Economic Aid Act, while ensuring that all amounts made available to make Section 1112 payments are fully expended. The number of months of section 1112 payments described in Sections II.B of this Notice are subject to adjustment based on the availability of funds.

## **II. Second Round Section 1112 Payments**

### **A. Definitions**

For the purposes of implementing the Second Round Section 1112 Payments, the terms below have the following meaning:

1. A “**covered loan**” means a microloan that is closed by a Microloan Program Intermediary Lender under section 7(m) of the Small Business Act (15 U.S.C. 636(m)).
2. A Microloan that is “**closed**” means a microloan that has been approved and fully disbursed to the borrower.
3. A loan in “**regular servicing status**” means any Covered Loan that has been entered into the Microloan Program Electronic Reporting System (MPERS) and is in “completed” status and is not more than 120 days delinquent.
4. “**Intermediary**” means a Microloan Program Intermediary Lender.

### **B. Scheduling of Second Round Section 1112 Payments**

SBA will make Second Round Section 1112 Payments for a Covered Loan that is in a regular servicing status for the periods described below, subject to the availability of funds:

1. Microloans Closed Before March 27, 2020.

For a microloan that was closed before March 27, 2020, SBA will make the Second Round Section 1112 Payments for the 8-month period beginning with the first payment due on the loan on or after February 1, 2021.

2. Microloans Closed Before March 27, 2020 and Currently on Deferment.

If a loan closed before March 27, 2020 and is currently on deferment, the Intermediary shall terminate the deferment effective February 1, 2021 and SBA will make the Second Round Section 1112 Payments for the 8-month period beginning with the first payment due on the loan on or after February 1, 2021. After the 8-month period of Second Round Section 1112 Payments, the Intermediary should consider the Borrower’s circumstances and the need for an additional deferment.

3. Microloans Closed Beginning on March 27, 2020 and Ending on September 27, 2020.

For a microloan closed during the period beginning on March 27, 2020 and ending on September 27, 2020, SBA may make Second Round Section 1112 Payments for these microloans if SBA determines that there are sufficient funds.

4. Microloans Closed Beginning on September 28, 2020 and Ending on January 31, 2021

Section 325 of the Economic Aid Act does not authorize Section 1112 payments for a microloan closed during the period beginning on September 28, 2020 and ending on January 31, 2021. With respect to any loan that was closed during this period, Intermediaries are prohibited from refinancing that loan on or after February 1, 2021 in order to obtain Section 1112 payments.

5. Microloans Closed Beginning on February 1, 2021 and Ending on September 30, 2021

For a new microloan closed during the period beginning on February 1, 2021 and ending on September 30, 2021, SBA will make Section 1112 payments for the 6-month period beginning with the first payment due on the microloan after the microloan has closed and is in regular servicing status.

**C. Payment Processes for the Second Round Section 1112 Payments**

The payment processes for the Second Round Section 1112 Payments are as follows:

1. Intermediaries Must Submit Loan Data by 7<sup>th</sup> Day of Month

By the 7th day of each month, Intermediaries must update MPERS with the loan data required for SBA to pay the Second Round Section 1112 Payment, and SBA will make the payments to the Intermediaries by the 15th day of the same month. For example, for payments due in February, Intermediaries must update MPERS with the required loan data by February 7, and SBA will make the payments by February 15. SBA will deposit the payments into each Intermediary's applicable Microloan Revolving Fund (MRF) account.

2. SBA's Monthly Section 1112 Report

SBA will send a report to each Intermediary detailing the payment breakout for each covered microloan on or about the 15th day of each month (Monthly Section 1112 Report). Each Intermediary shall update MPERS to show that it applied the payments as detailed in the Monthly Section 1112 Report for each microloan no later than 7<sup>th</sup> day of the following month.

3. Microloans Serviced by SBA

For any microloan that has been placed into SBA servicing, SBA will credit the loan payment to the Borrower's account.

**D. Monthly Payment Limit for Second Round Section 1112 Payments**

No single monthly payment of principal and interest that is made by SBA during the second round of Section 1112 payments may total more than \$9,000. The Borrower will be responsible for any amount that exceeds \$9,000 and must either pay the Intermediary the amount over \$9,000 at the time the payment is due or enter into an agreement with the Intermediary to pay that amount under mutually agreeable terms that are consistent with prudent lending standards.

## **E. Additional Guidance on Second Round Section 1112 Payments**

### **1. Payments Received from Borrowers During Second Round**

If an Intermediary receives any regular loan payment from a Borrower, in whole or in part, during the authorized period that SBA is making the loan payments, the Intermediary must inform the Borrower that it has the option of the Intermediary either returning the loan payment to the Borrower or applying the loan payment to further reduce the loan balance after application of SBA's payment.

### **2. Prepayments in Full**

For any loan that is scheduled to be prepaid in full, the last payment that SBA will make under Section 1112 will be the monthly loan payment due prior to the date of prepayment.

### **3. Payments Will Not Exceed Outstanding Loan Balance**

SBA payments will not exceed the outstanding balance of principal and interest owed on a covered loan by the Borrower. The SBA payments may not be used to pay any outstanding late fees owed by the Borrower.

### **4. Prohibition on Intermediaries Charging Late Fees (Applies to Both First and Second Round Section 1112 Payments)**

No Intermediary may charge a late fee to a Borrower with respect to a covered loan during both the first and second rounds of Section 1112 Payments.

### **5. One-Loan Limitation**

A borrower that has received Section 1112 payments on a loan closed beginning on March 27, 2020 and ending on September 27, 2020 may not receive assistance under Section 1112 for any other loan closed beginning on or after February 1, 2021. *See* Section 1112(g) of the CARES Act. This one-loan limitation does not apply to affiliates of the borrower.

### **6. Maximum Number of Section 1112 Payments for Microloan that is Refinanced**

If an existing microloan is receiving payments under Section 1112 of the CARES Act, and that loan is refinanced, the maximum amount that SBA will pay on these loans combined shall not exceed the total number of months authorized for the initial loan.

a. For microloans that were closed on or before March 27, 2020, the microloan is eligible to receive Second Round Section 1112 Payments for an 8-month period. *See* Section II.B.1 and 2 above. If this microloan is refinanced, the maximum amount that SBA will pay on the initial and refinanced loan combined shall not exceed 8 months during the Second Round of Section 1112 Payments.

b. For microloans that are closed on or after February 1, 2021, the microloan is eligible to receive Second Round Section 1112 Payments for a 6-month period. *See* Section II.B.5 above. If this microloan is refinanced, the maximum amount that SBA will pay on the initial and refinanced loan combined shall not exceed 6 months.

c. The Intermediary that refinanced the loan must ensure that the loan receives the correct number of remaining Section 1112 payments. For example, if SBA has made Section 1112 payments for 4 months for a new microloan approved after February 1, 2021, and the Borrower refinances that loan with a new microloan, the new loan will only be eligible to receive 2 additional monthly payments under Section 1112, for a combined total of 6 months on the initial and refinanced loans. If more than the combined total of 6 months of payments are made, the Intermediary must immediately notify SBA and immediately return any excess payment(s) received. If any excess payments are discovered during a review by SBA, SBA will require the Intermediary to return the excess payments.

#### **F. Minimum Maturity on New Microloans**

Intermediaries are prohibited from underwriting any new microloan that will close during the period beginning on February 1, 2021 and ending on September 30, 2021 with a maturity of six months or less.

### **III. Reconciliation of Payments to Microloan Intermediaries for Both First and Second Round Section 1112 Payments**

#### **A. Monthly Section 1112 Reports**

As noted in Section II.C.2 above, each month, SBA sends the Monthly Section 1112 Report to each Intermediary identifying the loans for which Section 1112 payments are being made for that month and the amount that should be applied to that loan. Based on this report, Intermediaries must apply all Section 1112 payments received. In addition, on a monthly basis, Intermediaries must reconcile the Section 1112 payments received and determine whether there are any overpayments, underpayments, or missed payments for any loan. If so, the Intermediary must provide this information to SBA using the columns reserved for lender corrections and lender notes in the Monthly Section 1112 Report, and certify that the information contained in the report is true and correct and complies with the requirements set forth in this Notice. Intermediaries must submit to SBA, via email to their assigned HQ Financial Analyst, a copy of the Monthly Section 1112 Report with the reconciliations no later than the 5<sup>th</sup> day of the month following the month that the payment was received.

#### **B. SBA Reconciliations/Audits**

SBA, or SBA's agent, may perform subsequent reconciliations of the payments made under section 1112. When requested, Intermediaries must provide loan transcripts for the loans for which section 1112 payments were made within 10 business days of the request from SBA or its agent.

**C. Adjustments Allowed on Payments to Intermediaries**

If the reconciliation or audit shows an overpayment, the Intermediary must pay SBA any amounts due to SBA as a result of any reconciliation or audit performed, and SBA may net the amount due from future payments due to the Intermediary. If the reconciliation or audit shows an underpayment, SBA will pay any amount due the Intermediary as a result of the reconciliation or audit.

**Questions**

Questions on this Notice may be directed to Daniel Upham, Chief, Microenterprise Development Division via email at [Daniel.Upham@sba.gov](mailto:Daniel.Upham@sba.gov).

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