



CARES Act: New SBA Affiliation Guidance Provides No Relief to Startups and Portfolio Companies under PPP and EIDL

04.07.2020

In our April 3, 2020 alert, we summarized the potential adverse impact of the Small Business Administration's (SBA) affiliation rules on the eligibility of startups and portfolio companies to participate in the enhanced Economic Injury Disaster Loan (EIDL) program and the new Paycheck Protection Program (PPP) established under the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). As indicated in that alert, reports suggested that the SBA would soon modify the affiliation rules for the PPP program so that more startups and venture-backed companies would be eligible.

Late afternoon on April 3, 2020, the SBA released its Interim Final Rule, **"Business Loan Program Temporary Changes; Paycheck Protection Program."** To the disappointment of many, the Interim Final Rule made no changes to how the affiliation rules apply to startups and portfolio companies for the PPP program. The Interim Final Rule instead focused on faith-based organizations. It exempts from application of the SBA's affiliation rules faith-based organizations that otherwise would be disqualified from participating in the PPP program because of affiliations that are part of their religious exercise.

It remains possible that further guidance will be issued on the affiliation rules that will benefit startups and portfolio companies. Unless and until that happens, however, the SBA's broad affiliation rules could make many startups that have raised capital and portfolio companies ineligible to participate in the PPP and EIDL programs.

For more information on key affiliation rules and related illustrations in a comprehensive chart that includes other important affiliation rules, [click here](#).

Please note: This alert contains general, condensed summaries of actual legal matters, statutes and opinions for information purposes. It is not meant to be and should not be construed as legal advice. Readers with particular needs on specific issues should retain the services of competent counsel.

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