



May 14, 2020

Greetings from VADA,

In this Thursday message, review critical updates from the U.S. Small Business Administration (SBA): The agency removed the May 14, 2020 deadline for returning Paycheck Protection Program (PPP) funding and provided clear guidance for borrower certifications. Read how the Virginia Motor Vehicle Dealer Board (MVDB or “Dealer Board”) will begin limited salesperson qualification testing by appointment. See how the Virginia Department of Motor Vehicles (DMV) will begin a phased reopening this coming Monday (May 18). And catch CBT News Jim Fitzpatrick’s latest interview with Bloomberg’s Kevin Tynan, a frequent VADA convention speaker.

### **SBA issues critical guidance on “safe harbor” for PPP loans, removes May 14 deadline.**

There has been a wave of guidance stemming from the U.S Treasury since Congress passed the Coronavirus Aid, Relief, and Economic Security (CARES) Act and first appropriated PPP funds.

Of note, SBA issued guidance in the form of [FAQs Questions 31 and 37](#) about whether businesses owned by large companies — *e.g.*, public companies or those owned by private equity — with adequate sources of liquidity to continue operations qualify for a PPP loans. SBA reminded borrowers of the required certification on the PPP Borrower Application Form that, “[c]urrent economic uncertainty makes this loan request necessary to support the ongoing operations of the Applicant.” The agency permitted borrowers to return, or repay, PPP funding to SBA and be deemed to have certified a need for the loan in good faith. The deadline was May 7 then May 14, 2020, as reflected in [FAQs Question 43](#) and an [Interim Final Rule](#).

Notwithstanding the above, yesterday (May 13), SBA issued further guidance ([FAQs Question 46](#)) that *removed* the May 14, 2020 deadline and stipulates a clear safe harbor:

*“Any borrower that, together with its affiliates, received PPP loans with an original principal amount of less than \$2 million will be deemed to have made the required certification concerning the necessity of the loan request in good faith.”*

It is not completely clear whether this means each *dealership* that received less than a \$2 million PPP loan or each *dealer group* that received such amount. Although, as NADA notes in [a helpful overview of the new guidance](#), there’s good reason to believe it’s the former—that each store, not group, has a respective \$2 million threshold.

What happens if your organization received a loan of \$2 million or more?

- SBA acknowledged borrowers of \$2 million or more may still “have an adequate basis for making the good-faith certification, based on their individual circumstances in light of the language of the certification and SBA guidance.”
- All such loans will be subject to review by SBA for compliance with PPP Interim Final Rules and the Borrower Application Form.
- If the agency finds a borrower lacked adequate basis to certify a need for the loan, “SBA will seek repayment of the outstanding PPP loan balance and will inform the lender that the borrower is not eligible for loan forgiveness.” Significantly, SBA adds, **“If the borrower repays the loan after receiving notification from SBA, SBA will not pursue administrative enforcement or referrals to other agencies based on its determination with respect to the certification concerning necessity of the loan request.”**

In sum, the guidance is welcome news in several ways:

- It should provide comfort to borrowers who received a PPP loan less than \$2 million.
- It indicates there are ways borrowers of \$2 million or more can still be deemed to have certified for the loan on the Borrower Application Form in good faith.
- If SBA finds a borrower of \$2 million or more is not eligible for loan forgiveness, the agency will notify the borrower and take no further administrative enforcement or referrals to other agencies so long as the borrower repays the loan upon receipt of that notice.
- It removes a deadline by which dealers may have felt compelled to make a decision about returning funding considering previous guidance.

[Read the NADA summary for more.](#) Also, NADA's Andy Koblenz and Doug Greenhaus conducted a webinar today (May 14) on "Clarifying Guidance from SBA and Treasury." Like all NADA webinars, the presentation was recorded and will be available on the paywall protected area of [NADA's website](#) for your convenience.

Lastly, SBA issued another [Interim Final Rule](#) concerning PPP loan increases.

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### **Motor Vehicle Dealer Board will administer limited, by-appointment testing for salesperson licensing.**

As reflected in [part two of our May 12 update](#), we have been working with the Motor Vehicle Dealer Board to expand testing capability without reliance on DMV being open.

Yesterday (May 13), MVDB Executive Director William Childress notified VADA staff that the Dealer Board *will* begin administering tests on a limited basis and by appointment. Here's how it will work:

- The Dealer Board will use field representatives or staff to proctor tests.
- The Dealer Board hopes to administer tests at dealership facilities.
- The Dealer Board will test up to two individuals at one time but will work with all involved.
- Tests will be by appointment. For appointments, call Anne Majors at (804) 367-1100, ext. 3016#.

Executive Director Childress expressed this is a fluid process that may feature adjustments. He added a desire to make sure everyone involved is as safe as possible. The hope is that the above will not be the norm long-term.

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### **Some Virginia DMVs will open Monday, May 18. The phased reopening will also include by-appointment salesperson testing.**

The Virginia DMV will begin a phased reopening, allowing in-person customers by appointment at certain locations beginning Monday, May 18. [A notice on the DMV website](#) reads:

*We look forward to serving you beginning on May 18, 2020. DMV is taking every precaution in planning a thoughtful, phased approach to safely reopening customer service centers. Operational adjustments are being made for social distancing. To minimize customer volume at DMV offices, **appointments will be required** for specific services generally necessitating in-person service. **Customers should use alternate service methods, such as online or by mail, when possible.***

DMV says its phased reopening will continue through mid-summer. Locations will only reopen when prepared for social distancing and equipped with plastic partitions separating DMV and customers.

In the “Locations and Services” section, DMV lists “Knowledge testing for learner’s permits and business partners...” as a service of focus for DMV upon reopening. **We have confirmed with DMV this will include by-appointment salesperson qualification testing at certain CSCs.** Click the links below to learn more about various aspects of DMV’s reopening plan. The agency suggests more information is coming soon.


- [Locations and Services](#)
  - [Appointments](#)
  - [Online Services](#)
  - [Health and Safety](#)
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### **CBT News interviews frequent VADA convention speaker, Bloomberg’s Kevin Tynan.**

Kevin Tynan, Senior Automotive Analyst with Bloomberg Intelligence, joined CBT News’ Jim Fitzpatrick for a discussion of the auto industry after COVID-19. A familiar face at VADA Annual Conventions, Tynan expects the American auto industry to rebound much more quickly from the impact of the pandemic than it did from the global economic crisis in 2008. Watch [the interview](#).

More than ever, it is a pleasure to serve the new car and truck dealers of Virginia.

Sincerely,



Donald L. Hall  
President and CEO