

Paycheck Protection Program Liquidity Facility (PPPLF) Borrowing Documentation Guide Depository Institutions

Overview

This guide describes how PPPLF program participants fill out and submit the documents necessary to qualify for the PPPLF program and submit borrowing requests. This guide is for descriptive purposes only and is not legally binding.

To qualify for the PPPLF, a depository institution must submit two pieces of borrowing documentation to its Reserve Bank: an updated PPPLF Letter of Agreement as amended January 14, 2021, (Amended LOA) and a Borrower Certification. Both are available on the [PPPLF page on the Discount Window website](#). In some situations, the depository institution must also submit an Authorizing Resolutions together with the Amended LOA and Borrower Certification.

Executing the Amended LOA

The Amended LOA is available on the PPPLF page on the website. Changes to the Amended LOA will not be accepted. Any depository institution that plans to request a new advance under the PPPLF on or after January 14, 2021, must execute the Amended LOA for depository institutions. Addresses of individual Reserve Banks to which to submit the Amended LOA, as well as the PPPLF email address needed to populate the notices section of the agreement, can be found under the [Select Your District page on the website](#). The Amended LOA must list the names and email addresses of the individuals who are authorized to pledge PPPLF collateral and request PPPLF advances on behalf of the institution. Please note that PPPLF loan requests will not be accepted from individuals not listed in the Amended LOA.

- For depository institutions that have already established a discount window borrowing arrangement, the Amended LOA must be signed by an individual authorized to sign documents on behalf of the institution as provided in the Authorizing Resolutions for Borrowers already on file with the Reserve Bank as part of the Federal Reserve's Operating Circular No 10 (OC 10).
- Within the Amended LOA, depository institutions must list the names and email addresses of the individuals authorized to pledge PPPLF collateral and request PPPLF advances; requests to pledge collateral and requested advances submitted by individuals on the OC 10 Official Authorization List currently on file will not be accepted.
- Note: some depository institutions require (in their Authorizing Resolutions for Borrowers) that two individuals act jointly to send the names, title and email address of the individuals to conduct discount window-related activities on behalf of the borrower. For these institutions, both individuals must sign the Amended LOA; the signature and other information for the second individual can be placed on the same line next to the signature and information of the first individual.
- For depository institutions that have not already established discount window borrowing arrangements, the institution must also submit an Authorizing Resolutions for Borrowers, available under the Required Agreements section of the website, along with the Amended LOA and the Borrower Certification. Please note that executing the Authorizing Resolutions requires the formal approval of the institution's Board of Directors or other governing body (see the Appendix for other information on executing the Authorizing Resolutions).

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IMPORTANT NOTE: The Amended LOA contains several important provisions that are useful to know when submitting requests for PPPLF advances. Among these provisions, by executing the Amended LOA, a PPPLF borrower:

- Agrees to the terms of OC 10. If any provision of OC 10 is inconsistent with the terms of the PPPLF letter of agreement, the terms of the PPPLF letter of agreement shall govern with respect to all advances made under the PPPLF.
- Agrees that only PPP loans may be pledged as collateral to the PPPLF.
- Agrees that the Reserve Bank may combine PPPLF collateral into pools of PPP loans having the same maturity date for purposes of making advances on the pooled PPPLF collateral, and shall have the right (but not the obligation) to separate, divide, or process on a lag any PPPLF advance as the Reserve Bank may determine to be advisable or convenient for administration.
- Agrees to immediately prepay a PPPLF advance after receiving any payments on PPP loans pledged as collateral for the advance so that the amount of any PPPLF advance outstanding does not exceed the outstanding amount of PPP loans pledged to secure the advance. Prepayments of any advance shall be accompanied by accrued and unpaid interest. Immediate prepayment is necessary:
 - i. Upon receipt of payment by the SBA for the amount of covered 7(a) loan forgiveness for any PPP loan (or, in the case of a pool of PPP loans, a PPP loan in such loan pool) that is pledged to secure an advance;
 - ii. Upon the purchase by the SBA of a PPP loan (or, in the case of a pool of PPP loans, a PPP loan in such loan pool) that is pledged to secure such advance to realize on the SBA's guarantee of that PPP loan; or
 - iii. When a borrower under a PPP loan (or, in the case of a pool of PPP loans, a PPP loan in such pool) repays or prepays such PPP loan.
- Agrees that PPPLF advances become recourse obligations if the borrower breaches any representation, warranty, or covenant of the PPPLF Agreement (including if any PPPLF collateral fails to satisfy the requirements of the PPP) or if the borrower has engaged in fraud or misrepresentation.
- Depository institutions that do not have a Federal Reserve master account, and do not already have an existing correspondent arrangement for the discount window or the PPPLF, must establish a correspondent relationship in order to receive PPPLF advances. These institutions designate a correspondent within the Amended LOA and submit a correspondent letter of agreement found at the end of the Amended LOA. Please note that this letter requires the authorization of the designated correspondent and must be signed by an official of the correspondent. Electronic signatures or scanned signatures are acceptable. Note for existing PPPLF participants: If a designated depository institution has already been established for the PPPLF, this section of the letter of agreement does not need to be completed.
- U.S. branches and agencies of foreign banks that are eligible to participate in the SBA's PPP program must submit opinions of U.S. and foreign outside counsel, available in Appendix 4 of the Federal Reserve's Operating Circular No 10.

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Filling out the Borrower Certification

The Borrower Certification is required to ensure that the lending Reserve Banks meet their statutory requirements for lending programs established under Section 13(3) of the Federal Reserve Act, such as the PPPLF. Without this information, the Reserve Banks cannot legally lend under the PPPLF. Under the law, the Reserve Banks must establish procedures to prohibit borrowing by insolvent institutions, and obtain evidence that a program participant is unable to secure adequate credit accommodations from other banking institutions before such lending begins. For the PPPLF, the Reserve Banks will meet these requirements using certifications from the PPPLF participants. Changes to this document will not be accepted. Following is guidance for participants in making the certifications. The borrower certification must be signed by an individual authorized to sign documents on behalf of the institution as provided in the Authorizing Resolutions for Borrowers, with the name of the institution noted directly above.

- **Not Insolvent:** For a PPPLF participant to comply with the requirement for certifying that it is not insolvent, it may certify that it is not (1) in bankruptcy, resolution under Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act, or any other Federal or State insolvency proceeding, and that it is not (2) generally failing to pay undisputed debts as they become due during the 90 days preceding the date of borrowing under PPPLF.
- **Lack of Adequate Credit Accommodations:** For a PPPLF participant to comply with the requirement for certifying that it lacks adequate credit accommodations from other banking institutions, it may rely on current economic or market conditions, including conditions related to the availability and price of credit available to small businesses in light of the COVID-19 pandemic. A PPPLF participant is not required to certify that credit is unavailable. Rather, the PPPLF participant can rely on the fact that credit is not available at prices or on conditions that are consistent with the purposes of the PPPLF or with normal market conditions. In particular, a PPPLF participant may rely on the fact that the Board of Governors of the Federal System authorized the establishment of the PPPLF to improve the ability of PPP lenders to obtain reasonably priced long-term financing for PPP loans.

Submitting the Amended LOA, Borrower Certification, and Authorizing Resolutions [If Applicable]

The Amended LOA, Borrower Certification (if applicable)¹, and Authorizing Resolutions (if applicable) must be submitted by email to the PPPLF email address at the lending Reserve Bank; these email addresses are available under the Select Your District page on the website.

¹ The participant does not need to submit a Borrower Certification with the Amended LOA if the participant has previously submitted a Borrower Certification for the PPPLF.

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APPENDIX

Executing the Authorizing Resolutions for Borrowers

The Authorizing Resolutions for Borrowers designates individuals who are authorized to request discount window loans and execute discount window-related documents, among other actions, on behalf of the depository institution. The Authorizing Resolutions must be formally adopted by the Board of Directors or other governing body of the institution and must be signed by a certifying official, such as the secretary of the institution or another person (with the exception of authorized individuals described earlier) authorized to certify the statements in the resolution.

Some tips for filling out the Authorizing Resolutions include:

- “Borrower” is the name of the institution
- If the Borrower is a state-chartered institution, it operates under the laws of that state; if a nationally chartered institution, it operates under the laws of the United States
- Head office location must be a street address
- The Borrower may specify that a single person may take discount window-related actions on behalf of the institution, or require that the permission of two people is required to take these actions