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PPP: Fraud After Funding

Fall 2020

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PRESENTATION AGENDA

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Introduction

Recap of PPP

- Authorized by the coronavirus Aid, Relief, and Economic Security (CARES) Act in March 2020
- Program administered by the SBA
- Allows qualifying small businesses and others suffering financial hardship from the COVID-19 pandemic to receive low-interest loans
- First roll out April 3, 2020 - Additional funding April 24, 2020

Recap of PPP

- Loans 100% Guaranteed by the SBA
 - Loosened SBA requirements, such as no personal guarantee or collateral needed
- Full loan amount may qualify for loan forgiveness
- For unforgiven loans, loans made on or after June 5 have a 5-year maturity
 - Before June 5, a 2-year maturity
- Loans will have an interest rate of 1% and proceeds must be used for:
 - Payroll costs (60%), interest on mortgages, rent, and utilities

PPP Statistics

Through program close on August 8, 2020:

- 5,212,128 loans were approved by SBA
- 5,460 participating lenders
- \$525 Billion in approvals
- \$120 Billion remains as of June
- Average PPP loan size is \$101,000
- 58% are under \$50,000



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What are the risks?

Risks in PPP Portfolio

- Bad Debt Risks
 - Loan amounts not forgivable may have a higher level of default.
- Operational Risks
 - Due diligence may have been lax during the rush of applications
- Compliance Risks
 - Compliance gaps could occur due to rushed processing
- Reputational Risks
 - What if fraud is found in your portfolio and headlines abound?

Identifying PPP Red Flags

Application Phase:

- Inflated payroll (loan amounts based on 2.5x cost of payroll)
- Business does not meet the definition of “small” or is publicly traded
- Crime rings – multiple applications are submitted using phishing information

Forgiveness Phase:

- Lack of documentation – cannot provide proof of how loans were used
- Identity theft – Funds were funneled into an unrelated account
- Manipulation of application – Borrowers may misrepresent eligibility requirements



U.S. Secret Service/SBA Collaboration

Borrower Fraud:

- False statements on applications
- Fraudulent supporting documents (e.g., payroll, tax forms)
- Identity (ID) theft Corporate ID theft (shell corporations)
- Inflation of payroll
- Misuse of proceeds
- Unqualified borrowers



U.S. Secret Service/SBA Collaboration

Fraud Indicators:

- New Employer Identification Numbers (EIN)
- Shell corporations/dormant EINs
- Recent business incorporations
- Inflation of payroll
- Large loan amounts
- False statements on applications
- Employee/employer collusion



U.S. Secret Service/SBA Collaboration

- Newly created and/or multiple bank accounts with abnormal transaction activity
- Consumer accounts rather than business accounts
- Quick movement of money in and out of accounts (often within 1-2 days)
- Withdrawals made via cash or apps (e.g. Cash App, Zelle)
- Abnormal transaction activity for client based on historical transactions
- Transfers to overseas accounts known for poor anti-money laundering controls



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PPP Fraud Cases

DOJ Case Statistics

As of September 10, 2020:

- 57 individuals charged
- \$175 Million in fraud

Used for:

- Luxury cars
- Home renovations
- Diamond jewelry
- Adult entertainment
- Trips to Las Vegas



THE UNITED STATES
DEPARTMENT *of* JUSTICE

Rhode Island Identity Theft and Conspiracy

- Two men charged with conspiring to obtain \$530K in PPP
- Claims to have dozens of employees at 4 different businesses
- Businesses include a restaurant that neither owned
- One of the men stole his brother's identity
- Fraud was discussed between the men in email



Former NFL Player

- Ex-NY Jets Josh Bellamy charged in \$24 Million bank fraud case
- The 31-year-old was arrested in Florida with 10 other defendants
- Includes \$1.2 Million in PPP funds for Drip Entertainment LLC
 - \$62K spent at Seminole Hard Rock Hotel & Casino
 - \$104K for luxury goods (Dior, Gucci, and various other high-end jewelers)
 - \$302K withdrawal in cash



Reality TV Personality – Georgia

- Love & Hip-Hop star indicted on fraud over a \$3.7 Million PPP Loan
- His company, Flaming Trucking, was to receive the PPP funds
- Claimed to have 107 employees and submitted forged bank records
- Use of funds tracked to:
 - Rolex Presidential watch (can be up to \$14k)
 - 5.73 carat diamond ring and other jewelry
 - \$139K to lease a Rolls Royce
 - \$50k for previous fraud restitution and \$40k in back child support
 - When arrested, he had \$80k at his home and \$9.4K in his pocket



Suburban Chicago Restaurateur

Gifford's Kitchen & Social in Elgin, ILL

- 43-year-old owner charged with \$175K in PPP funding
- Charged with bank fraud and making false statements
- In early March, Gifford's was no longer operational
- Defendant provided falsified figures estimating Gifford's monthly payroll and other business expenses to make it appear to remain in business



Small Town Fraud

- Maud, Texas, population 1086 – May 2020 case
- charged with fraudulently applying for \$5 Million in PPP
- Two different lenders (loan stacking)
- Claimed to have 400 employees but had zero
- Used a name generator on the internet to create fake names of employees
- Also submitted forged tax documents



Fleeing Fraudsters

- Married couple charged with \$1.4 Million PPP funds
- Submitted 18 applications with false payroll tax returns
- FBI apprehended them at JFK trying to flee to Poland
- Feds froze all but \$30k that had been withdrawn in cash





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What now?

PPP Loan Fraud Indictments

LOAN DATE	LOAN TYPE	ENTITY NAME	LOAN AMOUNT	FUNDING INSTITUTION	APPLICANT'S NAME
04/19/2020	PPP	ATX INC	\$247,900.00	Citizens Bank	B.O.
04/19/2020	PPP	DXX Enterprise, LLC	\$217,983.00	Fifth Third Bank	Antonio George
04/29/2020	PPP	SFX Transportation.INC	\$206,100.00	Citizens Bank	A.O.
04/29/2020	PPP	Seven Investment Group, LLC	\$192,140.00	Fifth Third Bank	Antonio George
05/02/2020	PPP	Cabrejas Renovations LLC	\$69,800.00	Citizens Bank	S.V.
05/02/2020	PPP	The Kongo Enterprise	\$198,100.00	Citizens Bank	A.O.
05/07/2020	PPP	The Tax Wolf LLC	\$69,300.00	Citizens Bank	Antonio George
05/15/2020	PPP	Diva Nails & Spa III LLC	\$193,700.00	Citizens Bank	J.H.
05/15/2020	PPP	Orcas Inc	\$111,100.00	Citizens Bank (Not Funded)	F.G.
05/16/2020	PPP	S & V Alliance LLC	\$72,100.00	Citizens Bank	S.V.
05/20/2020	PPP	Express Property Preservation LLC	\$217,600.00	Citizens Bank (Not Funded)	U.D.
06/01/2020	PPP	Bless My Grind LLC	\$195,383.00	Kabbage, Inc.	K.W.
06/03/2020	PPP	Cercle Interieur Inc.	\$195,383.00	Kabbage, Inc.	F.G.
06/03/2020	PPP	The Black Wolf Inc.	\$195,383.00	Kabbage, Inc.	A.S.
06/08/2020	PPP	Defined Jewelry Inc	\$197,000.00	Citizens Bank	A.S.

Antonio

Financial Institution Partnership

Financial Institutions were a “key component of our ability to bring these cases so quickly”. The DOJ’s public-private partnerships help “maximize our awareness and visibility of suspicious conduct and our collection of critical evidence.”

EDD Reviews

- New customers: Full CDD performed on a risk focused approach
- Extensive due diligence should be conducted on all businesses and principals
- Balance the borrower's anticipated payroll costs with number of actual employees

EDD Reviews

- Plan site visits to verify the number of employees disclosed
- PPP loans should be tracked in AML/Fraud transaction monitoring software, particularly use of funds
- As with all suspicious activity monitoring, thoroughly document all due diligence steps

PPP Lookback Checklist

Customer Due Diligence

- Review the PPP loan documentation to ensure that the application and attestation are fully completed with no evident red flags
- Were current BSA procedures followed (with the exclusion of verifying beneficial ownership on existing customers)?
- Conduct negative news search on entity and all principals/beneficial owners

PPP Lookback Checklist

- Review public records for existence and filing date of the entity (was it a viable business prior to pandemic?)
- Complete credit check if not done at onboarding. Is there evidence of “loan stacking?”
- Are all related TINs valid?
- Are all borrowers related to the business?

PPP Lookback Checklist

Enhanced Due Diligence

- Conduct complete relationship EDD review
- Follow the use of loan proceeds from funding to current
- Review payroll expenditures and taxes. If funding account elsewhere, consider this a red flag and submit a 314(b) request if warranted

PPP Lookback Checklist

- Balance the borrower's anticipated payroll costs with number of employees
- Review for thorough financial institution records of loan decision-making and spending of proceeds
- Update policies & procedures to show enhanced due diligence for PPP loans.

SAR Filings & Notification

- File SAR anytime fraud is suspected
 - What about unforgiven loans?
- Notify SBA at 800-767-0385 or online at www.SBA.gov
- Notify local Secret Service field office at www.secretservice.gov/contact/field-offices/
- Contact other local law enforcement (FBI, IRS, etc.)

Guidance on Returning Funds

- Follow NACHA Rules with correct Return Reason Code:
 - R03 – No account/Unable to locate account
 - R17 (File record edit criteria/entry with invalid account number under questionable circumstances)
 - R23 (Credit entry refused by receiver)
- RDFIs can make a business decision to return outside of timeframe
- RDFI will not be held liable for fraudulent ACH credits
- Partial returns must be made outside of ACH (wire, cashier's check)



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Key Takeaways

Key Takeaways

- Be proactive and partner with law enforcement
- No community is too small for PPP fraud
- Remember to look inside your organization
- It's never too late for due diligence
- Your regulators will expect it!





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Questions?

**Banker's
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sageworks®



FARIN



Customer Centric

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Resources:
FinCEN.gov/coronavirus
SBA.gov
Abrigo.com
bankingjournal.aba.com

Thank You

