The Small Business Administration (SBA) has rolled out Form 3508S, which provides automatic forgiveness for nearly 70 percent of the paycheck protection program (PPP) borrowers who have loans under $50,000. It was only last June (which in a COVID-19 world seems like a decade ago) that the SBA “streamlined” the process of applying for loan forgiveness when it introduced Form 3508EZ, a simplified form for businesses that are not subject to the statutory reductions to forgiveness because of reductions in compensation or employees (the statutory reductions). However, many businesses using Form 3580EZ had to take the position that they qualified for one of the safe harbors to the statutory reductions. With the SBA’s 25th PPP loan Interim Final Rule (IFR) and Form 3508S, issued October 8, forgiveness is now available to borrowers of PPP loans of $50,000 or less, but only if that borrower, together with its affiliates, have not received PPP loans totaling $2 million or more. Per SBA guidance in the 25th IFR, Form 3508S — eligible borrowers do not have to provide detailed calculations of forgiveness amounts, are exempt from reductions in forgiveness based on reductions in FTE employees or reductions in wages, and do not have to claim that a safe harbor to the statutory reductions applies.

Form 3508S reflects these changes. The forgiveness amount calculation worksheet is gone, and lenders are now able to rely on the amount provided by the borrower along with the representation that the amount
is accurate (though the SBA reserves the right to request additional documentation to evaluate eligibility).

The SBA estimates that 3.57 million PPP borrowers, comprising roughly $62 billion of PPP funds, will be eligible to use Form 3058S — based on an SBA PPP loan report, this constitutes almost 70 percent of the 5,212,128 total PPP loans and almost 12 percent of the $525,012,201,124 total disbursed through the PPP. Of these, nearly half reported zero employees (presumably not counting the owner) or one employee. Of the rest, the SBA assumes that most either did not reduce salary or FTEs or would qualify for one of the safe harbors. Therefore, the SBA is prioritizing application efficiency for these borrowers on the assumption that the at-risk dollar amounts are *di minimis*.

The IFR and new application form are not retroactive — borrowers that have already applied for forgiveness have to stay with the application form, regular or EZ, that they already submitted. For eligible borrowers that have not (or could not because their banks had not yet started taking PPP loan forgiveness applications), these changes are a welcome relief from impending administrative headaches as the PPP winds down.

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1 There had been discussion of creating an automatic forgiveness process for PPP loans of $150,000 or less. The SBA apparently set the threshold at $50,000.