

AMENDMENT NO. _____ Calendar No. _____

Purpose: To establish the Paycheck Protection Program Second Draw Loan and amend the 7(a) loan guaranty program for recovery sector business concerns.

IN THE SENATE OF THE UNITED STATES—116th Cong., 2d Sess.

S. 178

To condemn gross human rights violations of ethnic Turkic Muslims in Xinjiang, and calling for an end to arbitrary detention, torture, and harassment of these communities inside and outside China.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. RUBIO (for
himself and Ms. COLLINS)

Viz:

1 At the appropriate place, insert the following:

2 **SEC. ____ . SMALL BUSINESS RECOVERY.**

3 (a) **SHORT TITLE.**—This section may be cited as the
4 “Continuing Small Business Recovery and Paycheck Pro-
5 tection Program Act”.

6 (b) **DEFINITIONS.**—In this section:

7 (1) **ADMINISTRATION; ADMINISTRATOR.**—The
8 terms “Administration” and “Administrator” mean
9 the Small Business Administration and the Adminis-
10 trator thereof, respectively.

1 (2) SMALL BUSINESS CONCERN.—The term
2 “small business concern” has the meaning given the
3 term in section 3 of the Small Business Act (15
4 U.S.C. 632).

5 (c) EMERGENCY RULEMAKING AUTHORITY.— Not
6 later than 30 days after the date of enactment of this Act,
7 the Administrator shall issue regulations to carry out this
8 section and the amendments made by this section without
9 regard to the notice requirements under section 553(b) of
10 title 5, United States Code.

11 (d) ADDITIONAL ELIGIBLE EXPENSES.—

12 (1) ALLOWABLE USE OF PPP LOAN.—Section
13 7(a)(36)(F)(i) of the Small Business Act (15 U.S.C.
14 636(a)(36)(F)(i)) is amended—

15 (A) in subclause (VI), by striking “and” at
16 the end;

17 (B) in subclause (VII), by striking the pe-
18 riod at the end and inserting a semicolon; and

19 (C) by adding at the end the following:

20 “(VIII) covered operations ex-
21 penditures, as defined in section
22 1106(a) of the CARES Act (15
23 U.S.C. 9005(a));

1 “(IX) covered property damage
2 costs, as defined in such section
3 1106(a);

4 “(X) covered supplier costs, as
5 defined in such section 1106(a); and

6 “(XI) covered worker protection
7 expenditures, as defined in such sec-
8 tion 1106(a).”.

9 (2) LOAN FORGIVENESS.—Section 1106 of the
10 CARES Act (15 U.S.C. 9005) is amended—

11 (A) in subsection (a)—

12 (i) by redesignating paragraphs (6),
13 (7), and (8) as paragraphs (10), (11), and
14 (12), respectively;

15 (ii) by redesignating paragraph (5) as
16 paragraph (8);

17 (iii) by redesignating paragraph (4) as
18 paragraph (6);

19 (iv) by redesignating paragraph (3) as
20 paragraph (4);

21 (v) by inserting after paragraph (2)
22 the following:

23 “(3) the term ‘covered operations expenditure’
24 means a payment for any business software or cloud
25 computing service that facilitates business oper-

1 ations, product or service delivery, the processing,
2 payment, or tracking of payroll expenses, human re-
3 sources, sales and billing functions, or accounting or
4 tracking of supplies, inventory, records and ex-
5 penses;”;

6 (vi) by inserting after paragraph (4),
7 as so redesignated, the following:

8 “(5) the term ‘covered property damage cost’
9 means a cost related to property damage and van-
10 dalism or looting due to public disturbances that oc-
11 curred during 2020 that was not covered by insur-
12 ance or other compensation;”;

13 (vii) by inserting after paragraph (6),
14 as so redesignated, the following:

15 “(5) the term ‘covered supplier cost’ means an
16 expenditure made by an entity to a supplier of goods
17 pursuant to a contract in effect before February 15,
18 2020 for the supply of goods that are essential to
19 the operations of the entity at the time at which the
20 expenditure is made;”;

21 (viii) by inserting after paragraph (8),
22 as so redesignated, the following:

23 “(9) the term ‘covered worker protection ex-
24 penditure’—

1 “(A) means an operating or a capital ex-
2 penditure that is required to facilitate the adap-
3 tation of the business activities of an entity to
4 comply with requirements established or guid-
5 ance issued by the Department of Health and
6 Human Services, the Centers for Disease Con-
7 trol, or the Occupational Safety and Health Ad-
8 ministration during the period beginning on
9 March 1, 2020 and ending December 31, 2020
10 related to the maintenance of standards for
11 sanitation, social distancing, or any other work-
12 er or customer safety requirement related to
13 COVID-19;

14 “(B) may include—

15 “(i) the purchase, maintenance, or
16 renovation of assets that create or ex-
17 pand—

18 “(I) a drive-through window fa-
19 cility;

20 “(II) an indoor, outdoor, or com-
21 bined air or air pressure ventilation or
22 filtration system;

23 “(III) a physical barrier such as
24 a sneeze guard;

1 “(IV) an indoor, outdoor, or com-
2 bined commercial real property;

3 “(V) an onsite or offsite health
4 screening capability; or

5 “(VI) other assets relating to the
6 compliance with the requirements or
7 guidance described in subparagraph
8 (A), as determined by the Adminis-
9 trator in consultation with the Sec-
10 retary of Health and Human Services
11 and the Secretary of Labor; and

12 “(ii) the purchase of—

13 “(I) covered materials described
14 in section 328.103(a) of title 44, Code
15 of Federal Regulations, or any suc-
16 cessor regulation;

17 “(II) particulate filtering face-
18 piece respirators approved by the Na-
19 tional Institute for Occupational Safe-
20 ty and Health, including those ap-
21 proved only for emergency use author-
22 ization; or

23 “(III) other kinds of personal
24 protective equipment, as determined
25 by the Administrator in consultation

1 with the Secretary of Health and
2 Human Services and the Secretary of
3 Labor; and

4 “(C) does not include residential real prop-
5 erty or intangible property;”; and

6 (ix) in paragraph (11), as so redesign-
7 nated—

8 (I) in subparagraph (C), by strik-
9 ing “and” at the end;

10 (II) in subparagraph (D), by
11 striking “and” at the end; and

12 (III) by adding at the end the
13 following:

14 “(E) covered operations expenditures;

15 “(F) covered property damage costs;

16 “(G) covered supplier costs; and

17 “(H) covered worker protection expendi-
18 tures; and”;

19 (B) in subsection (b), by adding at the end
20 the following:

21 “(5) Any covered operations expenditure.

22 “(6) Any covered property damage cost.

23 “(7) Any covered supplier cost.

24 “(8) Any covered worker protection expendi-
25 ture.”;

1 (C) in subsection (d)(8), by inserting “any
2 payment on any covered operations expenditure,
3 any payment on any covered property damage
4 cost, any payment on any covered supplier cost,
5 any payment on any covered worker protection
6 expenditure,” after “rent obligation,”; and

7 (D) in subsection (e)—

8 (i) in paragraph (2), by inserting
9 “payments on covered operations expendi-
10 tures, payments on covered property dam-
11 age costs, payments on covered supplier
12 costs, payments on covered worker protec-
13 tion expenditures,” after “lease obliga-
14 tions,”; and

15 (ii) in paragraph (3)(B), by inserting
16 “make payments on covered operations ex-
17 penditures, make payments on covered
18 property damage costs, make payments on
19 covered supplier costs, make payments on
20 covered worker protection expenditures,”
21 after “rent obligation,”.

22 (e) LENDER SAFE HARBOR.—Subsection (h) of sec-
23 tion 1106 of the CARES Act (15 U.S.C. 9005) is amended
24 to read as follows:

25 “(h) HOLD HARMLESS.—

1 “(1) IN GENERAL.—A lender may rely on any
2 certification or documentation submitted by an ap-
3 plicant for a covered loan or an eligible recipient of
4 a covered loan that—

5 “(A) is submitted pursuant to any statu-
6 tory requirement relating to covered loans or
7 any rule or guidance issued to carry out any ac-
8 tion relating to covered loans; and

9 “(B) attests that the applicant or eligible
10 recipient, as applicable, has accurately verified
11 any certification or documentation provided to
12 the lender.

13 “(2) NO ENFORCEMENT ACTION.—With respect
14 to a lender that relies on a certification or docu-
15 mentation described in paragraph (1)—

16 “(A) an enforcement action may not be
17 taken against the lender acting in good faith re-
18 lating to origination or forgiveness of a covered
19 loan based on such reliance; and

20 “(B) the lender acting in good faith shall
21 not be subject to any penalties relating to origi-
22 nation or forgiveness of a covered loan based on
23 such reliance.”.

1 (f) SELECTION OF COVERED PERIOD FOR FORGIVE-
2 NESS.—Section 1106 of the CARES Act (15 U.S.C. 9005)
3 is amended—

4 (1) by amending paragraph (4) of subsection
5 (a), as so redesignated by subsection (d) of this sec-
6 tion, to read as follows:

7 “(4) the term ‘covered period’ means the pe-
8 riod—

9 “(A) beginning on the date of the origina-
10 tion of a covered loan; and

11 “(B) ending on a date selected by the eligi-
12 ble recipient of the covered loan that occurs
13 during the period—

14 “(i) beginning on the date that is 8
15 weeks after such date of origination; and

16 “(ii) ending on December 31, 2020;”;
17 and

18 (2) by striking subsection (l).

19 (g) SIMPLIFIED APPLICATION.—Section 1106 of the
20 CARES Act (15 U.S.C. 9005), as amended by subsection
21 (f) of this section, is amended—

22 (1) in subsection (e), in the matter preceding
23 paragraph (1), by striking “An eligible” and insert-
24 ing “Except as provided in subsection (l), an eligi-
25 ble”;

1 (2) in subsection (f), by inserting “or the infor-
2 mation required under subsection (l), as applicable”
3 after “subsection (e)”; and

4 (3) by adding at the end the following:

5 “(1) SIMPLIFIED APPLICATION.—

6 “(1) COVERED LOANS UNDER \$150,000.—

7 “(A) IN GENERAL.—Notwithstanding sub-
8 section (e), with respect to a covered loan made
9 to an eligible recipient that is not more than
10 \$150,000, the covered loan amount shall be for-
11 given under this section if the eligible recipi-
12 ent—

13 “(i) signs and submits to the lender
14 an attestation that the eligible recipient
15 made a good faith effort to comply with
16 the requirements under section 7(a)(36) of
17 the Small Business Act (15 U.S.C.
18 636(a)(36)); and

19 “(ii) for the 1-year period following
20 submission of the attestation under clause
21 (i), retains records relevant to the attesta-
22 tion that prove compliance with those re-
23 quirements.

24 “(B) DEMOGRAPHIC INFORMATION.—An
25 eligible recipient of a covered loan described in

1 in paragraph (1) or (2) of subsection
2 (e) or the certification described in
3 subsection (e)(3)(A);

4 “(II) shall retain all relevant
5 schedules, worksheets, and supporting
6 documentation for the 3-year period
7 following submission of the applica-
8 tion for loan forgiveness; and

9 “(III) may complete and submit
10 any form related to borrower demo-
11 graphic information;

12 “(ii) review by the lender of an appli-
13 cation submitted by the eligible recipient
14 for loan forgiveness under this section shall
15 be limited to whether the lender received a
16 complete application, with all fields com-
17 pleted, initialed, or signed, as applicable;
18 and

19 “(iii) the lender shall—

20 “(I) accept the application sub-
21 mitted by the eligible recipient for
22 loan forgiveness under this section;
23 and

24 “(II) submit the application to
25 the Administrator.

1 “(B) AUDIT.—The Administrator may—
2 “(i) review and audit covered loans
3 described in subparagraph (A); and
4 “(ii) in the case of fraud, ineligibility,
5 or other material noncompliance with ap-
6 plicable loan or loan forgiveness require-
7 ments, modify—
8 “(I) the amount of a covered loan
9 described in subparagraph (A); or
10 “(II) the loan forgiveness amount
11 with respect to a covered loan de-
12 scribed in subparagraph (A).

13 “(3) AUDIT PLAN.—

14 “(A) IN GENERAL.—Not later than 30
15 days after the date of enactment of the Con-
16 tinuing Small Business Recovery and Paycheck
17 Protection Program Act, the Administrator
18 shall submit to the Committee on Small Busi-
19 ness and Entrepreneurship of the Senate and
20 the Committee on Small Business of the House
21 of Representatives an audit plan that details—

22 “(i) the policies and procedures of the
23 Administrator for conducting reviews and
24 audits of covered loans; and

1 “(ii) the metrics that the Adminis-
2 trator shall use to determine which covered
3 loans will be audited for each category of
4 covered loans described in paragraphs (1)
5 and (2).

6 “(B) REPORTS.—Not later than 30 days
7 after the date on which the Administrator sub-
8 mits the audit plan required under subpara-
9 graph (A), and each month thereafter, the Ad-
10 ministrator shall submit to the Committee on
11 Small Business and Entrepreneurship of the
12 Senate and the Committee on Small Business
13 of the House of Representatives a report on the
14 review and audit activities of the Administrator
15 under this subsection, which shall include—

16 “(i) the number of active reviews and
17 audits;

18 “(ii) the number of reviews and audits
19 that have been ongoing for more than 60
20 days; and

21 “(iii) any substantial changes made to
22 the audit plan submitted under subpara-
23 graph (A).”.

24 (h) GROUP INSURANCE PAYMENTS AS PAYROLL
25 COSTS.—Section 7(a)(36)(A)(viii)(I)(aa)(EE) of the

1 Small Business Act (15 U.S.C.
2 636(a)(36)(A)(viii)(I)(aa)(EE)) is amended by inserting
3 “and other group insurance” before “benefits”.

4 (i) PAYCHECK PROTECTION PROGRAM SECOND
5 DRAW LOANS.—Section 7(a) of the Small Business Act
6 (15 U.S.C. 636(a)) is amended by adding at the end the
7 following:

8 “(37) PAYCHECK PROTECTION PROGRAM SEC-
9 OND DRAW LOANS.—

10 “(A) DEFINITIONS.—In this paragraph—

11 “(i) the terms ‘community financial
12 institutions’, ‘credit union’, ‘eligible self-
13 employed individual’, ‘insured depository
14 institution’, ‘nonprofit organization’, ‘pay-
15 roll costs’, ‘seasonal employer’, and ‘vet-
16 erans organization’ have the meanings
17 given those terms in paragraph (36), ex-
18 cept that ‘eligible entity’ shall be sub-
19 stituted for ‘eligible recipient’ each place it
20 appears in the definitions of those terms;

21 “(ii) the term ‘covered loan’ means a
22 loan made under this paragraph;

23 “(iii) the terms ‘covered mortgage ob-
24 ligation’, ‘covered operating expenditure’,
25 ‘covered property damage cost’, ‘covered

1 rent obligation’, ‘covered supplier cost’,
2 ‘covered utility payment’, and ‘covered
3 worker protection expenditure’ have the
4 meanings given those terms in section
5 1106(a) of the CARES Act (15 U.S.C.
6 9005(a));

7 “(iv) the term ‘covered period’ means
8 the period beginning on the date of the
9 origination of a covered loan and ending on
10 December 31, 2020;

11 “(v) the term ‘eligible entity’—

12 “(I) means any business concern,
13 nonprofit organization, veterans orga-
14 nization, Tribal business concern, eli-
15 gible self-employed individual, sole
16 proprietor, independent contractor, or
17 small agricultural cooperative that—

18 “(aa)(AA) with respect to a
19 business concern, would qualify
20 as a small business concern by
21 the annual receipts size standard
22 (if applicable) established by sec-
23 tion 121.201 of title 13, Code of
24 Federal Regulations, or any suc-
25 cessor regulation; or

1 “(BB) if the entity does not
2 qualify as a small business con-
3 cern, meets the alternative size
4 standard established under sec-
5 tion 3(a)(5);

6 “(bb) employs not more
7 than 300 employees; and

8 “(cc)(AA) except as provided
9 in subitems (BB), (CC), and
10 (DD), had gross receipts during
11 the first or second quarter in
12 2020 that are not less than 35
13 percent less than the gross re-
14 ceipts of the entity during the
15 same quarter in 2019;

16 “(BB) if the entity was not
17 in business during the first or
18 second quarter of 2019, but was
19 in business during the third and
20 fourth quarter of 2019, had gross
21 receipts during the first or sec-
22 ond quarter of 2020 that are less
23 than 35 percent of the amount of
24 the gross receipts of the entity

1 during the third or fourth quar-
2 ter of 2019;

3 “(CC) if the entity was not
4 in business during the first, sec-
5 ond, or third quarter of 2019,
6 but was in business during the
7 fourth quarter of 2019, had gross
8 receipts during the first or sec-
9 ond quarter of 2020 that are less
10 than 35 percent of the amount of
11 the gross receipts of the entity
12 during the fourth quarter of
13 2019; or

14 “(DD) if the entity was not
15 in business during 2019, but was
16 in operation on February 15,
17 2020, had gross receipts during
18 the second quarter of 2020 that
19 are less than 35 percent of the
20 amount of the gross receipts of
21 the entity during the first quar-
22 ter of 2020;

23 “(II) includes an organization de-
24 scribed in subparagraph (D)(vii) of
25 paragraph (36) that is eligible to re-

1 ceive a loan under that paragraph and
2 that meets the requirements described
3 in items (aa) and (cc) of subclause
4 (I); and

5 “(III) does not include—

6 “(aa) an issuer, the securi-
7 ties of which are listed on an ex-
8 change registered a national se-
9 curities exchange under section 6
10 of the Securities Exchange Act of
11 1934 (15 U.S.C. 78f);

12 “(bb) any entity that—

13 “(AA) is a type of busi-
14 ness concern described in
15 subsection (b), (c), (d), (e),
16 (f), (h), (l) (m), (p), (q), (r),
17 or (s) of section 120.110 of
18 title 13, Code of Federal
19 Regulations, or any suc-
20 cessor regulation;

21 “(BB) is a type of busi-
22 ness concern described in
23 section 120.110(g) of title
24 13, Code of Federal Regula-
25 tions, or any successor regu-

1 lation, except as otherwise
2 provided in the interim final
3 rule of the Administration
4 entitled ‘Business Loan Pro-
5 gram Temporary Changes;
6 Paycheck Protection Pro-
7 gram—Additional Eligibility
8 Criteria and Requirements
9 for Certain Pledges of
10 Loans’ (85 Fed. Reg. 21747
11 (April 20, 2020));

12 “(CC) is a type of busi-
13 ness concern described in
14 section 120.110(i) of title
15 13, Code of Federal Regula-
16 tions, or any successor regu-
17 lation, except if the business
18 concern is an organization
19 described in paragraph
20 (36)(D)(vii);

21 “(DD) is a type of
22 business concern described
23 in section 120.110(j) of title
24 13, Code of Federal Regula-
25 tions, or any successor regu-

1 lation, except as otherwise
2 provided in the interim final
3 rules of the Administration
4 entitled ‘Business Loan Pro-
5 gram Temporary Changes;
6 Paycheck Protection Pro-
7 gram—Eligibility of Certain
8 Electric Cooperatives’ (85
9 Fed. Reg. 29847 (May 19,
10 2020)) and ‘Business Loan
11 Program Temporary
12 Changes; Paycheck Protec-
13 tion Program—Eligibility of
14 Certain Telephone Coopera-
15 tives’ (85 Fed. Reg. 35550
16 (June 11, 2020)) or any
17 other guidance or rule
18 issued or that may be issued
19 by the Administrator;

20 “(EE) is a type of busi-
21 ness concern described in
22 section 120.110(n) of title
23 13, Code of Federal Regula-
24 tions, or any successor regu-
25 lation, except as otherwise

1 provided in the interim final
2 rule of the Administration
3 entitled ‘Business Loan Pro-
4 gram Temporary Changes;
5 Paycheck Protection Pro-
6 gram—Additional Eligibility
7 Revisions to First Interim
8 Final Rule’ (85 Fed. Reg.
9 38301 (June 26, 2020)) or
10 any other guidance or rule
11 issued or that may be issued
12 by the Administrator;

13 “(FF) is a type of busi-
14 ness concern described in
15 section 120.110(o) of title
16 13, Code of Federal Regula-
17 tions, or any successor regu-
18 lation, except as otherwise
19 provided in any guidance or
20 rule issued or that may be
21 issued by the Administrator;
22 or

23 “(GG) is an entity that
24 is organized for research or
25 for engaging in advocacy in

1 areas such as public policy
2 or political strategy or other-
3 wise describes itself as a
4 think tank in any public
5 documents;

6 “(HH) is an entity that
7 would be described in the
8 subsections listed in
9 subitems (AA) through (GG)
10 if the entity were a business
11 concern; or

12 “(II) is assigned, or
13 was approved for a loan
14 under paragraph (36) with,
15 a North American Industry
16 Classification System code
17 beginning with 52;

18 “(cc) any business concern
19 or entity primarily engaged in
20 political or lobbying activities,
21 which shall include any entity
22 that is organized for research or
23 for engaging in advocacy in areas
24 such as public policy or political
25 strategy or otherwise describes

1 itself as a think tank in any pub-
2 lic documents; or

3 “*(dd)* any business concern
4 or entity—

5 “*(AA)* for which an en-
6 tity created in or organized
7 under the laws of the Peo-
8 ple’s Republic of China or
9 the Special Administrative
10 Region of Hong Kong, or
11 that has significant oper-
12 ations in the People’s Re-
13 public of China or the Spe-
14 cial Administrative Region
15 of Hong Kong, owns or
16 holds, directly or indirectly,
17 not less than 20 percent of
18 the economic interest of the
19 business concern or entity,
20 including as equity shares or
21 a capital or profit interest in
22 a limited liability company
23 or partnership; or

24 “*(BB)* that retains, as
25 a member of the board of di-

1 rectors of the business con-
2 cern, a person who is a resi-
3 dent of the People’s Repub-
4 lic of China;

5 “(vi) the terms ‘exchange’, ‘issuer’,
6 and ‘security’ have the meanings given
7 those terms in section 3(a) of the Securi-
8 ties Exchange Act of 1934 (15 U.S.C.
9 78c(a)); and

10 “(vii) the term ‘Tribal business con-
11 cern’ means a Tribal business concern de-
12 scribed in section 31(b)(2)(C).

13 “(B) LOANS.—Except as otherwise pro-
14 vided in this paragraph, the Administrator may
15 guarantee covered loans to eligible entities
16 under the same terms, conditions, and processes
17 as a loan made under paragraph (36).

18 “(C) MAXIMUM LOAN AMOUNT.—

19 “(i) IN GENERAL.—Except as other-
20 wise provided in this subparagraph, the
21 maximum amount of a covered loan made
22 to an eligible entity is the lesser of—

23 “(I) the product obtained by mul-
24 tiplying—

1 “(aa) at the election of the
2 eligible entity, the average total
3 monthly payment for payroll
4 costs incurred or paid by the eli-
5 gible entity during—

6 “(AA) the 1-year period
7 before the date on which the
8 loan is made; or

9 “(BB) calendar year
10 2019; by

11 “(bb) 2.5; or

12 “(II) \$2,000,000.

13 “(ii) SEASONAL EMPLOYERS.—The
14 maximum amount of a covered loan made
15 to an eligible entity that is a seasonal em-
16 ployer is the lesser of—

17 “(I) the product obtained by mul-
18 tiplying—

19 “(aa) at the election of the
20 eligible entity, the average total
21 monthly payments for payroll
22 costs incurred or paid by the eli-
23 gible entity—

24 “(AA) for a 12-week
25 period beginning February

1 15, 2019 or March 1, 2019
2 and ending June 30, 2019;
3 or

4 “(BB) for a consecutive
5 12-week period between May
6 1, 2019 and September 15,
7 2019; by

8 “(bb) 2.5; or

9 “(II) \$2,000,000.

10 “(iii) NEW ENTITIES.—The maximum
11 amount of a covered loan made to an eligi-
12 ble entity that did not exist during the 1-
13 year period preceding February 15, 2020
14 is the lesser of—

15 “(I) the product obtained by mul-
16 tiplying—

17 “(aa) the quotient obtained
18 by dividing—

19 “(AA) the sum of the
20 total monthly payments by
21 the eligible entity for payroll
22 costs paid or incurred by the
23 eligible entity as of the date
24 on which the eligible entity

1 applies for the covered loan;

2 by

3 “(BB) the number of

4 months in which those pay-

5 roll costs were paid or in-

6 curred; by

7 “(bb) 2.5; or

8 “(II) \$2,000,000.

9 “(iv) LIMIT FOR MULTIPLE LOCA-
10 TIONS.—With respect to an eligible entity
11 with more than 1 physical location, the
12 total amount of all covered loans shall be
13 not more than \$2,000,000.

14 “(v) LOAN NUMBER LIMITATION.—An
15 eligible entity may only receive 1 covered
16 loan.

17 “(vi) 90 DAY RULE FOR MAXIMUM
18 LOAN AMOUNT.—The maximum aggregate
19 loan amount of loans guaranteed under
20 this subsection that are approved for an el-
21 igible entity (including any affiliates) with-
22 in 90 days of approval of another loan
23 under this subsection for the eligible entity
24 (including any affiliates) shall not exceed
25 \$10,000,000.

1 “(D) EXCEPTION FROM CERTAIN CERTIFI-
2 CATION REQUIREMENTS.—An eligible entity ap-
3 plying for a covered loan shall not be required
4 to make the certification described in subclause
5 (III) or (IV) of paragraph (36)(G)(i).

6 “(E) FEE WAIVER.—With respect to a cov-
7 ered loan—

8 “(i) in lieu of the fee otherwise appli-
9 cable under paragraph (23)(A), the Ad-
10 ministrators shall collect no fee; and

11 “(ii) in lieu of the fee otherwise appli-
12 cable under paragraph (18)(A), the Ad-
13 ministrators shall collect no fee.

14 “(F) ELIGIBLE CHURCHES AND RELIGIOUS
15 ORGANIZATIONS.—

16 “(i) SENSE OF CONGRESS.—It is the
17 sense of Congress that the interim final
18 rule of the Administration entitled ‘Busi-
19 ness Loan Program Temporary Changes;
20 Paycheck Protection Program’ (85 Fed.
21 Reg. 20817 (April 15, 2020)) properly
22 clarified the eligibility of churches and reli-
23 gious organizations for loans made under
24 paragraph (36).

1 “(ii) APPLICABILITY OF PROHIBI-
2 TION.—The prohibition on eligibility estab-
3 lished by section 120.110(k) of title 13,
4 Code of Federal Regulations, or any suc-
5 cessor regulation, shall not apply to a cov-
6 ered loan.

7 “(G) GROSS RECEIPTS FOR NONPROFIT
8 AND VETERANS ORGANIZATIONS.—For purposes
9 of calculating gross receipts under subpara-
10 graph (A)(v)(I)(cc) for an eligible entity that is
11 a nonprofit organization, a veterans organiza-
12 tion, or an organization described in subpara-
13 graph (A)(v)(II), gross receipts—

14 “(i) shall include proceeds from fund-
15 raising events, federated campaigns, gifts,
16 donor-advised funds, and funds from simi-
17 lar sources; and

18 “(ii) shall not include—

19 “(I) Federal grants (excluding
20 any loan forgiveness on loans received
21 under paragraph (36) or this para-
22 graph);

23 “(II) revenues from a supporting
24 organization;

1 costs incurred or expenditures made during
2 the covered period:

3 “(I) Payroll costs.

4 “(II) Any payment of interest on
5 any covered mortgage obligation
6 (which shall not include any prepay-
7 ment of or payment of principal on a
8 covered mortgage obligation).

9 “(III) Any covered operations ex-
10 penditure.

11 “(IV) Any covered property dam-
12 age cost.

13 “(V) Any payment on any cov-
14 ered rent obligation.

15 “(VI) Any covered utility pay-
16 ment.

17 “(VII) Any covered supplier cost.

18 “(VIII) Any covered worker pro-
19 tection expenditure.

20 “(iii) LIMITATION ON FORGIVENESS
21 FOR ALL ELIGIBLE ENTITIES.—The for-
22 giveness amount under this subparagraph
23 shall be equal to the lesser of—

24 “(I) the amount described in
25 clause (ii); and

1 “(II) the amount equal to the
2 quotient obtained by dividing—

3 “(aa) the amount of the cov-
4 ered loan used for payroll costs
5 during the covered period; and

6 “(bb) 0.60.

7 “(I) LENDER ELIGIBILITY.—Except as
8 otherwise provided in this paragraph, a lender
9 approved to make loans under paragraph (36)
10 may make covered loans under the same terms
11 and conditions as in paragraph (36).

12 “(J) REIMBURSEMENT FOR LOAN PROC-
13 ESSING AND SERVICING.—The Administrator
14 shall reimburse a lender authorized to make a
15 covered loan in an amount that is—

16 “(i) 3 percent of the principal amount
17 of the financing of the covered loan up to
18 \$350,000; and

19 “(ii) 1 percent of the principal
20 amount of the financing of the covered
21 loan above \$350,000, if applicable.

22 “(K) SET ASIDE FOR SMALL ENTITIES.—
23 Not less than \$25,000,000,000 of the total
24 amount of covered loans guaranteed by the Ad-
25 ministrator shall be made to eligible entities

1 with not more than 10 employees as of Feb-
2 ruary 15, 2020.

3 “(L) SET ASIDE FOR COMMUNITY FINAN-
4 CIAL INSTITUTIONS, SMALL INSURED DEPOSI-
5 TORY INSTITUTIONS, CREDIT UNIONS, AND
6 FARM CREDIT SYSTEM INSTITUTIONS.—Not less
7 than \$10,000,000,000 of the total amount of
8 covered loans guaranteed by the Administrator
9 shall be made by—

10 “(i) community financial institutions;

11 “(ii) insured depository institutions
12 with consolidated assets of less than
13 \$10,000,000,000;

14 “(iii) credit unions with consolidated
15 assets of less than \$10,000,000,000; and

16 “(iv) institutions of the Farm Credit
17 System chartered under the Farm Credit
18 Act of 1971 (12 U.S.C. 2001 et seq.) with
19 consolidated assets of less than
20 \$10,000,000,000 (not including the Fed-
21 eral Agricultural Mortgage Corporation).

22 “(M) PUBLICATION OF GUIDANCE.—Not
23 later than 10 days after the date of enactment
24 of this paragraph, the Administrator shall issue
25 guidance addressing barriers to accessing cap-

1 ital for minority, underserved, veteran, and
2 women-owned business concerns for the purpose
3 of ensuring equitable access to covered loans.

4 “(N) STANDARD OPERATING PROCEDURE.—The Administrator shall, to the maximum extent practicable, allow a lender approved to make covered loans to use existing program guidance and standard operating procedures for loans made under this subsection.

10 “(O) PROHIBITION ON USE OF PROCEEDS FOR LOBBYING ACTIVITIES.—None of the proceeds of a covered loan may be used for—

13 “(i) lobbying activities, as defined in
14 section 3 of the Lobbying Disclosure Act of
15 1995 (2 U.S.C. 1602);

16 “(ii) lobbying expenditures related to
17 a State or local election; or

18 “(iii) expenditures designed to influence the enactment of legislation, appropriations, regulation, administrative action, or Executive order proposed or pending before Congress or any State government, State legislature, or local legislature or legislative body.”.

1 (j) CONTINUED ACCESS TO THE PAYCHECK PROTEC-
2 TION PROGRAM.—

3 (1) IN GENERAL.—Section 7(a)(36)(E)(ii) of
4 the Small Business Act (15 U.S.C.
5 636(a)(36)(E)(ii)) is amended by striking
6 “\$10,000,000” and inserting “\$2,000,000”.

7 (2) APPLICABILITY OF MAXIMUM LOAN AMOUNT
8 CALCULATION.—

9 (A) DEFINITIONS.—In this paragraph, the
10 terms “covered loan” and “eligible recipient”
11 have the meanings given those terms in section
12 7(a)(36) of the Small Business Act (15 U.S.C.
13 636(a)(36)).

14 (B) APPLICABILITY.—The amendment
15 made by paragraph (1) shall apply only with re-
16 spect to a covered loan applied for by an eligible
17 recipient on or after the date of enactment of
18 this Act.

19 (k) INCREASED ABILITY FOR PAYCHECK PROTEC-
20 TION PROGRAM BORROWERS TO REQUEST AN INCREASE
21 IN LOAN AMOUNT DUE TO UPDATED REGULATIONS.—

22 (1) DEFINITIONS.—In this subsection, the
23 terms “covered loan” and “eligible recipient” have
24 the meanings given those terms in section 7(a)(36)
25 of the Small Business Act (15 U.S.C. 636(a)(36)).

1 (2) INCREASED AMOUNT.—Notwithstanding the
2 interim final rule issued by the Administration enti-
3 tled “Business Loan Program Temporary Changes;
4 Paycheck Protection Program—Loan Increases” (85
5 Fed. Reg. 29842 (May 19, 2020)), an eligible recipi-
6 ent of a covered loan that is eligible for an increased
7 covered loan amount as a result of any interim final
8 rule that allows for covered loan increases may sub-
9 mit a request for an increase in the covered loan
10 amount even if—

11 (A) the initial covered loan amount has
12 been fully disbursed; or

13 (B) the lender of the initial covered loan
14 has submitted to the Administration a Form
15 1502 report related to the covered loan.

16 (l) CALCULATION OF MAXIMUM LOAN AMOUNT FOR
17 FARMERS AND RANCHERS UNDER THE PAYCHECK PRO-
18 TECTION PROGRAM.—

19 (1) IN GENERAL.—Section 7(a)(36) of the
20 Small Business Act (15 U.S.C. 636(a)(36)), as
21 amended by subsection (j) of this section, is amend-
22 ed—

23 (A) in subparagraph (E), in the matter
24 preceding clause (i), by striking “During” and

1 inserting “Except as provided in subparagraph
2 (T), during”; and

3 (B) by adding at the end the following:

4 “(T) CALCULATION OF MAXIMUM LOAN
5 AMOUNT FOR FARMERS AND RANCHERS.—

6 “(i) DEFINITION.—In this subpara-
7 graph, the term ‘covered recipient’ means
8 an eligible recipient that—

9 “(I) operates as a sole propri-
10 etorship or as an independent con-
11 tractor, or is an eligible self-employed
12 individual;

13 “(II) reports farm income or ex-
14 penses on a Schedule F (or any equiv-
15 alent successor schedule); and

16 “(III) was in business during the
17 period beginning on February 15,
18 2019 and ending on June 30, 2019.

19 “(ii) NO EMPLOYEES.—With respect
20 to covered recipient without employees, the
21 maximum covered loan amount shall be the
22 lesser of—

23 “(I) the sum of—

24 “(aa) the product obtained
25 by multiplying—

1 “(AA) the gross income
2 of the covered recipient in
3 2019, as reported on a
4 Schedule F (or any equiva-
5 lent successor schedule),
6 that is not more than
7 \$100,000, divided by 12;
8 and

9 “(BB) 2.5; and
10 “(bb) the outstanding
11 amount of a loan under sub-
12 section (b)(2) that was made
13 during the period beginning on
14 January 31, 2020 and ending on
15 April 3, 2020 that the borrower
16 intends to refinance under the
17 covered loan, not including any
18 amount of any advance under the
19 loan that is not required to be re-
20 paid; or

21 “(II) \$2,000,000.

22 “(iii) WITH EMPLOYEES.—With re-
23 spect to a covered recipient with employ-
24 ees, the maximum covered loan amount
25 shall be calculated using the formula de-

1 scribed in subparagraph (E), except that
2 the gross income of the covered recipient
3 described in clause (ii)(I)(aa)(AA) of this
4 subparagraph, as divided by 12, shall be
5 added to the sum calculated under sub-
6 paragraph (E)(i)(I).

7 “(iv) RECALCULATION.—A lender that
8 made a covered loan to a covered recipient
9 before the date of enactment of this sub-
10 paragraph may, at the request of the cov-
11 ered recipient—

12 “(I) recalculate the maximum
13 loan amount applicable to that cov-
14 ered loan based on the formula de-
15 scribed in clause (ii) or (iii), as appli-
16 cable, if doing so would result in a
17 larger covered loan amount; and

18 “(II) provide the covered recipi-
19 ent with additional covered loan
20 amounts based on that recalcula-
21 tion.”.

22 (m) FARM CREDIT SYSTEM INSTITUTIONS.—

23 (1) DEFINITION OF FARM CREDIT SYSTEM IN-
24 STITUTION.—In this subsection, the term “Farm
25 Credit System institution”—

1 (A) means an institution of the Farm
2 Credit System chartered under the Farm Credit
3 Act of 1971 (12 U.S.C. 2001 et seq.); and

4 (B) does not include the Federal Agricultural
5 Mortgage Corporation.

6 (2) FACILITATION OF PARTICIPATION IN PPP
7 AND SECOND DRAW LOANS.—

8 (A) APPLICABLE RULES.—Solely with re-
9 spect to loans under paragraphs (36) and (37)
10 of section 7(a) of the Small Business Act (15
11 U.S.C. 636(a)), Farm Credit Administration
12 regulations and guidance issued as of July 14,
13 2020, and compliance with such regulations and
14 guidance, shall be deemed functionally equiva-
15 lent to requirements referenced in section
16 3(a)(iii)(II) of the interim final rule of the Ad-
17 ministration entitled “Business Loan Program
18 Temporary Changes; Paycheck Protection Pro-
19 gram” (85 Fed. Reg. 20811 (April 15, 2020))
20 or any similar requirement referenced in that
21 interim final rule in implementing such para-
22 graph (37).

23 (B) APPLICABILITY OF CERTAIN LOAN RE-
24 QUIREMENTS.—For purposes of making loans
25 under paragraph (36) or (37) of section 7(a) of

1 the Small Business Act (15 U.S.C. 636(a)) or
2 forgiving those loans in accordance with section
3 1106 of the CARES Act (15 U.S.C. 9005) and
4 subparagraph (H) of such paragraph (37), sec-
5 tions 4.13, 4.14, and 4.14A of the Farm Credit
6 Act of 1971 (12 U.S.C. 2199, 2202, 2202a)
7 (including regulations issued under those sec-
8 tions) shall not apply.

9 (C) RISK WEIGHT.—

10 (i) IN GENERAL.—With respect to the
11 application of Farm Credit Administration
12 capital requirements, a loan described in
13 clause (ii)—

14 (I) shall receive a risk weight of
15 zero percent; and

16 (II) shall not be included in the
17 calculation of any applicable leverage
18 ratio or other applicable capital ratio
19 or calculation.

20 (ii) LOANS DESCRIBED.—A loan re-
21 ferred to in clause (i) is—

22 (I) a loan made by a Farm Cred-
23 it Bank described in section 1.2(a) of
24 the Farm Credit Act of 1971 (12
25 U.S.C. 2002(a)) to a Federal Land

1 Bank Association, a Production Credit
2 Association, or an agricultural credit
3 association described in that section
4 to make loans under paragraph (36)
5 or (37) of section 7(a) of the Small
6 Business Act (15 U.S.C. 636(a)) or
7 forgive those loans in accordance with
8 section 1106 of the CARES Act (15
9 U.S.C. 9005) and subparagraph (H)
10 of such paragraph (37); or

11 (II) a loan made by a Federal
12 Land Bank Association, a Production
13 Credit Association, an agricultural
14 credit association, or the bank for co-
15 operatives described in section 1.2(a)
16 of the Farm Credit Act of 1971 (12
17 U.S.C. 2002(a)) under paragraph
18 (36) or (37) of section 7(a) of the
19 Small Business Act (15 U.S.C.
20 636(a)).

21 (D) RESERVATION OF LOAN GUARAN-
22 TEES.—Section 7(a)(36)(S) of the Small Busi-
23 ness Act (15 U.S.C. 636(a)(36)(S)) is amend-
24 ed—

25 (i) in clause (i)—

1 (I) in subclause (I), by striking
2 “and” at the end;

3 (II) in subclause (II), by striking
4 the period at the end and inserting “;
5 and”; and

6 (III) by adding at the end the
7 following:

8 “(III) institutions of the Farm
9 Credit System chartered under the
10 Farm Credit Act of 1971 (12 U.S.C.
11 2001 et seq.) with consolidated assets
12 of not less than \$10,000,000,000 and
13 less than \$50,000,000,000.”; and

14 (ii) in clause (ii)—

15 (I) in subclause (II), by striking
16 “and” at the end;

17 (II) in subclause (III), by strik-
18 ing the period at the end and insert-
19 ing “; and”; and

20 (III) by adding at the end the
21 following:

22 “(IV) institutions of the Farm
23 Credit System chartered under the
24 Farm Credit Act of 1971 (12 U.S.C.

1 2001 et seq.) with consolidated assets
2 of less than \$10,000,000,000.”.

3 (n) DEFINITION OF SEASONAL EMPLOYER.—

4 (1) PPP LOANS.—Section 7(a)(36)(A) of the
5 Small Business Act (15 U.S.C. 636(a)(36)(A)) is
6 amended—

7 (A) in clause (xi), by striking “and” at the
8 end;

9 (B) in clause (xii), by striking the period
10 at the end and inserting “; and”; and

11 (C) by adding at the end the following:

12 “(xiii) the term ‘seasonal employer’
13 means an eligible recipient that—

14 “(I) does not operate for more
15 than 7 months in any calendar year;
16 or

17 “(II) during the preceding cal-
18 endar year, had gross receipts for any
19 6 months of that year that were not
20 more than 33.33 percent of the gross
21 receipts of the employer for the other
22 6 months of that year.”.

23 (2) LOAN FORGIVENESS.—Paragraph (12) of
24 section 1106(a) of the CARES Act (15 U.S.C.

1 9005(a)), as so redesignated by subsection (d)(2) of
2 this section, is amended to read as follows:

3 “(12) the terms ‘payroll costs’ and ‘seasonal
4 employer’ have the meanings given those terms in
5 section 7(a)(36) of the Small Business Act (15
6 U.S.C. 636(a)(36)).”.

7 (o) CHANGES TO THE 7(A) LOAN GUARANTY PRO-
8 GRAM FOR RECOVERY SECTOR BUSINESS CONCERNS.—
9 Section 7(a) of the Small Business Act (15 U.S.C.
10 636(a)), as amended by subsection (i) of this section, is
11 amended by adding at the end the following:

12 “(38) RECOVERY SECTOR LOANS.—

13 “(A) DEFINITIONS.—In this paragraph—

14 “(i) the term ‘covered loan’ means a
15 loan made under this paragraph;

16 “(ii) the term ‘covered population cen-
17 sus tract’ means a population census tract
18 for which—

19 “(I) in the case of a tract that is
20 not located within a metropolitan
21 area, the median income does not ex-
22 ceed 80 percent of the statewide (or,
23 with respect to a possession or terri-
24 tory of the United States, the

1 possession- or territory-wide) median
2 family income; or

3 “(II) in the case of a tract that
4 is located within a metropolitan area,
5 the median family income does not ex-
6 ceed 80 percent of the greater of the
7 statewide (or, with respect to a pos-
8 session or territory of the United
9 States, the possession- or territory-
10 wide) median family income and the
11 metropolitan area median family in-
12 come;

13 “(iii) the term ‘covered seasonal em-
14 ployer’ means a small business concern
15 that—

16 “(I) is a seasonal employer, as
17 defined in paragraph (36); and

18 “(II) during the preceding cal-
19 endar year—

20 “(aa) had gross receipts as
21 described in paragraph
22 (36)(A)(xiii)(II); and

23 “(bb) employed not more
24 than 250 employees during not

1 fewer than 5 months out of that
2 year;

3 “(iv) the term ‘eligible entity’—

4 “(I) means any small business
5 concern that—

6 “(aa) except with respect to
7 a covered seasonal employer, em-
8 ploys not more than 500 employ-
9 ees;

10 “(bb)(AA) except as pro-
11 vided in subitems (BB), (CC),
12 and (DD), had gross receipts
13 during the first or second quarter
14 in 2020 that are less than 50
15 percent of the gross receipts of
16 the business concern during the
17 same quarter in 2019;

18 “(BB) if the small business
19 concern was not in business dur-
20 ing the first or second quarter of
21 2019, but was in business during
22 the third and fourth quarter of
23 2019, had gross receipts during
24 the first or second quarter of
25 2020 that are less than 50 per-

1 cent of the amount of the gross
2 receipts of the small business
3 concern during the third or
4 fourth quarter of 2019;

5 “(CC) if the small business
6 concern was not in business dur-
7 ing the first, second, or third
8 quarter of 2019, but was in busi-
9 ness during the fourth quarter of
10 2019, had gross receipts during
11 the first or second quarter of
12 2020 that are less than 50 per-
13 cent of the amount of the gross
14 receipts of the small business
15 concern during the fourth quar-
16 ter of 2019; or

17 “(DD) if the small business
18 concern was not in business dur-
19 ing the first or second quarter of
20 2020, had gross receipts during
21 any 2-month period during 2020
22 that are less than 50 percent of
23 the amount of the gross receipts
24 of the small business concern

1 during any other 2-month period
2 during 2020; and

3 “(cc)(AA) is a covered sea-
4 sonal employer seeking a covered
5 loan of not more than
6 \$2,000,000; or

7 “(BB) is a small business
8 concern the principal place of
9 business of which is in, and not
10 less than 50 percent of the total
11 gross income of which is derived
12 from the active conduct of the
13 business concern within, a small
14 business low-income census tract;
15 and

16 “(II) does not include—

17 “(aa) an entity described in
18 paragraph (37)(A)(v)(II);

19 “(bb) any entity that re-
20 ceived a loan under paragraph
21 (37); or

22 “(cc) any entity that re-
23 ceived a loan under paragraph
24 (36) after the date of enactment
25 of this paragraph; and

1 “(v) the term ‘small business low-in-
2 come census tract’—

3 “(I) means—

4 “(aa) a covered population
5 census tract for which the pov-
6 erty rate is not less than 20 per-
7 cent; or

8 “(bb) an area—

9 “(AA) that is not
10 tracted as a population cen-
11 sus tract;

12 “(BB) for which the
13 poverty rate in the equiva-
14 lent county division (as de-
15 fined by the Bureau of the
16 Census) is not less than 20
17 percent; and

18 “(CC) for which the
19 median income in the equiv-
20 alent county division (as de-
21 fined by the Bureau of the
22 Census) does not exceed 80
23 percent of the statewide (or,
24 with respect to a possession
25 or territory of the United

1 States, the possession- or
2 territory-wide) median in-
3 come; and

4 “(II) does not include any area
5 or population census tract with a me-
6 dian family income that is not less
7 than 120 percent of the median family
8 income in the United States, accord-
9 ing to the most recent American Com-
10 munities Survey data from the Bu-
11 reau of the Census.

12 “(B) LOANS.—Except as otherwise pro-
13 vided in this paragraph, the Administrator may
14 guarantee covered loans made to eligible enti-
15 ties—

16 “(i) under the same terms, conditions,
17 and processes as a loan made under this
18 subsection; and

19 “(ii) to meet working capital needs,
20 acquire fixed assets, or refinance existing
21 indebtedness while recovering from the
22 COVID–19 pandemic.

23 “(C) MAXIMUM LOAN AMOUNT.—The max-
24 imum amount of a covered loan made to an eli-
25 gible entity shall be the lesser of—

1 “(i) \$10,000,000; or

2 “(ii) the amount equal to 200 percent
3 of the average annual receipts of the eligi-
4 ble entity.

5 “(D) LOAN NUMBER LIMITATION.—An eli-
6 gible entity may only receive 1 covered loan.

7 “(E) 90 DAY RULE FOR MAXIMUM LOAN
8 AMOUNT.—The maximum aggregate loan
9 amount of loans guaranteed under this sub-
10 section that are approved for an eligible entity
11 (including any affiliates) within 90 days of ap-
12 proval of another loan under this subsection for
13 the eligible entity (including any affiliates) shall
14 not exceed \$10,000,000.

15 “(F) APPLICATION DEADLINE.—An eligi-
16 ble entity desiring a covered loan shall submit
17 an application not later than December 31,
18 2020.

19 “(G) FEE WAIVER.—With respect to a cov-
20 ered loan—

21 “(i) in lieu of the fee otherwise appli-
22 cable under paragraph (23)(A), the Ad-
23 ministrator shall collect no fee; and

1 “(ii) in lieu of the fee otherwise appli-
2 cable under paragraph (18)(A), the Ad-
3 ministrator shall collect no fee.

4 “(H) LOAN TERMS.—

5 “(i) IN GENERAL.—In order to receive
6 a covered loan, an eligible entity shall not
7 be required to show that the eligible entity
8 is unable to obtain credit elsewhere.

9 “(ii) MATURITY AND INTEREST
10 RATE.—A covered loan shall—

11 “(I) have a maturity of 20 years;
12 and

13 “(II) bear an interest rate of
14 equal to the sum of—

15 “(aa) the Secured Overnight
16 Financing Rate in effect for each
17 of the days in the relevant quar-
18 ter that interest is charged, as
19 compiled and released by the
20 Federal Reserve Bank of New
21 York; and

22 “(bb) 300 basis points.

23 “(iii) GUARANTEE.—In an agreement
24 to participate in a covered loan on a de-
25 ferred basis, the participation by the Ad-

1 ministration shall be 100 percent of the
2 covered loan.

3 “(iv) SUBSIDY FOR INTEREST PAY-
4 MENTS.—

5 “(I) IN GENERAL.—The Admin-
6 istrator shall pay the amount of inter-
7 est that is owed on a covered loan in
8 regular servicing status for the matu-
9 rity of the loan such that the interest
10 rate paid by the eligible entity is, at
11 all times, equal to a rate of 1 percent.

12 “(II) TIMING OF PAYMENT.—The
13 Administrator shall—

14 “(aa) begin making pay-
15 ments under subclause (I) not
16 later than 30 days after the date
17 on which the first such payment
18 is due; and

19 “(bb) make payments with-
20 out regard to the payment defer-
21 ral described in clause (iv).

22 “(III) APPLICATION OF PAY-
23 MENT.—Any payment made by the
24 Administrator under subclause (I)
25 shall be applied to the covered loan

1 such that the eligible entity is relieved
2 of the obligation to pay that amount.

3 “(v) PAYMENT DEFERRAL.—

4 “(I) IN GENERAL.—No payment
5 of principal or interest shall be due on
6 a covered loan for the first 2 years of
7 the covered loan.

8 “(II) ADDITIONAL DEFERRAL.—

9 After the 2-year deferral period under
10 subclause (I), the Administrator may
11 grant not more than an additional 2
12 years of principal deferral to the eligi-
13 ble entity if the eligible entity is cer-
14 tified by the Administrator and the
15 Secretary as economically distressed
16 based on publicly available criteria es-
17 tablished by the Administrator.

18 “(vi) LIMITATION ON CHANGES IN
19 TERMS.—Notwithstanding any other provi-
20 sion of this subsection, for a covered loan,
21 the Administrator shall not approve any
22 increase in loan amount or change in guar-
23 anty percentage, interest rate, interest ac-
24 crual method, or maturity, except for such
25 changes as may be necessary for prepay-

1 ment and the deferment of payment under
2 clause (v).

3 “(I) PROHIBITION ON USE OF PROCEEDS
4 FOR DISASTER LOANS.—An eligible entity shall
5 not use the proceeds of a covered loan to refi-
6 nance any loan made under subsection (b).

7 “(J) SECONDARY MARKET.—In order to
8 increase the liquidity of the secondary market
9 for covered loans, the Administrator shall, not
10 later than 60 days after the date of enactment
11 of this paragraph, substantially reduce barriers
12 to the sale of covered loans on the secondary
13 market.

14 “(K) LENDER ELIGIBILITY.—In order to
15 increase access to and the equitable distribution
16 of covered loans, the Administrator shall estab-
17 lish a process by which a lender approved to
18 make loans under paragraph (36) may make
19 covered loans.

20 “(L) REIMBURSEMENT FOR LOAN PROC-
21 ESSING AND SERVICING.—The Administrator
22 shall reimburse a lender authorized to make a
23 covered loan in an amount that is—

1 “(I) IN GENERAL.—Except as
2 provided in subclause (II), any organi-
3 zation that is described in section
4 501(c)(6) of the Internal Revenue
5 Code and that is exempt from tax-
6 ation under section 501(a) of such
7 Code (excluding professional sports
8 leagues and organizations with the
9 purpose of promoting or participating
10 in a political campaign or other activ-
11 ity) shall be eligible to receive a cov-
12 ered loan if—

13 “(aa) the organization does
14 not receive more than 10 percent
15 of its receipts from lobbying ac-
16 tivities;

17 “(bb) the lobbying activities
18 of the organization do not com-
19 prise more than 10 percent of the
20 total activities of the organiza-
21 tion; and

22 “(cc) the organization em-
23 ploys not more than 150 employ-
24 ees.

1 “(II) DESTINATION MARKETING
2 ORGANIZATIONS.—Notwithstanding
3 subclause (I), during the covered pe-
4 riod, any destination marketing orga-
5 nization shall be eligible to receive a
6 covered loan if—

7 “(aa) the destination mar-
8 keting organization does not re-
9 ceive more than 10 percent of its
10 receipts from lobbying activities;

11 “(bb) the lobbying activities
12 of the destination marketing or-
13 ganization do not comprise more
14 than 10 percent of the total ac-
15 tivities of the organization;

16 “(cc) the destination mar-
17 keting organization employs not
18 more than 150 employees; and

19 “(dd) the destination mar-
20 keting organization—

21 “(AA) is described in
22 section 501(c) of the Inter-
23 nal Revenue Code and is ex-
24 empt from taxation under

1 section 501(a) of such Code;

2 or

3 “(BB) is a quasi-gov-
4 ernmental entity or is a po-
5 litical subdivision of a State
6 or local government, includ-
7 ing any instrumentality of
8 those entities.”.

9 (q) PROHIBITION ON USE OF LOAN PROCEEDS FOR
10 LOBBYING ACTIVITIES.—Section 7(a)(36)(F) of the Small
11 Business Act (15 U.S.C. 636(a)(36)(F)) is amended by
12 adding at the end the following:

13 “(vi) PROHIBITION.—None of the pro-
14 ceeds of a covered loan may be used for—

15 “(I) lobbying activities, as de-
16 fined in section 3 of the Lobbying
17 Disclosure Act of 1995 (2 U.S.C.
18 1602);

19 “(II) lobbying expenditures re-
20 lated to a State or local election; or

21 “(III) expenditures designed to
22 influence the enactment of legislation,
23 appropriations, regulation, adminis-
24 trative action, or Executive order pro-
25 posed or pending before Congress or

1 any State government, State legisla-
2 ture, or local legislature or legislative
3 body.”.

4 (r) EFFECTIVE DATE; APPLICABILITY.—The amend-
5 ments made to paragraph (36) of section 7(a) of the Small
6 Business Act (15 U.S.C. 636(a)) and title I of the CARES
7 Act (Public Law 116–136) under this section shall be ef-
8 fective as if included in the CARES Act and shall apply
9 to any loan made pursuant to section 7(a)(36) of the
10 Small Business Act (15 U.S.C. 636(a)(36)).

11 (s) BANKRUPTCY PROVISIONS.—

12 (1) IN GENERAL.—Section 364 of title 11,
13 United States Code, is amended by adding at the
14 end the following:

15 “(g)(1) The court, after notice and a hearing, may
16 authorize a debtor in possession or a trustee that is au-
17 thorized to operate the business of the debtor under sec-
18 tion 1183, 1184, 1203, 1204, or 1304 of this title to ob-
19 tain a loan under paragraph (36) or (37) of section 7(a)
20 of the Small Business Act (15 U.S.C. 636(a)), and such
21 loan shall be treated as a debt to the extent the loan is
22 not forgiven in accordance with section 1106 of the
23 CARES Act (15 U.S.C. 9005) or subparagraph (H) of
24 such paragraph (37), as applicable, with priority equal to

1 a claim of the kind specified in subsection (c)(1) of this
2 section.

3 “(2) The trustee may incur debt described in para-
4 graph (1) notwithstanding any provision in a contract,
5 prior order authorizing the trustee to incur debt under this
6 section, prior order authorizing the trustee to use cash col-
7 lateral under section 363, or applicable law that prohibits
8 the debtor from incurring additional debt.

9 “(3) The court shall hold a hearing within 7 days
10 after the filing and service of the motion to obtain a loan
11 described in paragraph (1).”.

12 (2) ALLOWANCE OF ADMINISTRATIVE EX-
13 PENSES.—Section 503(b) of title 11, United States
14 Code, is amended—

15 (A) in paragraph (8)(B), by striking “and”
16 at the end;

17 (B) in paragraph (9), by striking the pe-
18 riod at the end and inserting “; and”; and

19 (C) by adding at the end the following:

20 “(10) any debt incurred under section
21 364(g)(1) of this title.”.

22 (3) CONFIRMATION OF PLAN FOR REORGANIZA-
23 TION.—Section 1191 of title 11, United States Code,
24 is amended by adding at the end the following:

1 “(f) SPECIAL PROVISION RELATED TO COVID–19
2 PANDEMIC.—Notwithstanding section 1129(a)(9)(A) of
3 this title and subsection (e) of this section, a plan that
4 provides for payment of a claim of a kind specified in sec-
5 tion 503(b)(10) of this title may be confirmed under sub-
6 section (b) of this section if the plan proposes to make
7 payments on account of such claim when due under the
8 terms of the loan giving rise to such claim.”.

9 (4) CONFIRMATION OF PLAN FOR FAMILY
10 FARMERS AND FISHERMEN.—Section 1225 of title
11 11, United States Code, is amended by adding at
12 the end the following:

13 “(d) Notwithstanding section 1222(a)(2) of this title
14 and subsection (b)(1) of this section, a plan that provides
15 for payment of a claim of a kind specified in section
16 503(b)(10) of this title may be confirmed if the plan pro-
17 poses to make payments on account of such claim when
18 due under the terms of the loan giving rise to such
19 claim.”.

20 (5) CONFIRMATION OF PLAN FOR INDIVID-
21 UALS.—Section 1325 of title 11, United States
22 Code, is amended by adding at the end the fol-
23 lowing:

24 “(d) Notwithstanding section 1322(a)(2) of this title
25 and subsection (b)(1) of this section, a plan that provides

1 for payment of a claim of a kind specified in section
2 503(b)(10) of this title may be confirmed if the plan pro-
3 poses to make payments on account of such claim when
4 due under the terms of the loan giving rise to such
5 claim.”.

6 (6) EFFECTIVE DATE; SUNSET.—

7 (A) EFFECTIVE DATE.—The amendments
8 made by paragraphs (1) through (5) shall—

9 (i) take effect on the date on which
10 the Administrator submits to the Director
11 of the Executive Office for United States
12 Trustees a written determination that, sub-
13 ject to satisfying any other eligibility re-
14 quirements, any debtor in possession or
15 trustee that is authorized to operate the
16 business of the debtor under section 1183,
17 1184, 1203, 1204, or 1304 of title 11,
18 United States Code, would be eligible for a
19 loan under paragraphs (36) and (37) of
20 section 7(a) of the Small Business Act (15
21 U.S.C. 636(a)); and

22 (ii) apply to any case pending on or
23 commenced on or after the date described
24 in clause (i).

25 (B) SUNSET.—

1 (i) IN GENERAL.—If the amendments
2 made by this subsection take effect under
3 subparagraph (A), effective on the date
4 that is 2 years after the date of enactment
5 of this Act—

6 (I) section 364 of title 11, United
7 States Code, is amended by striking
8 subsection (g);

9 (II) section 503(b) of title 11,
10 United States Code, is amended—

11 (aa) in paragraph (8)(B), by
12 adding “and” at the end;

13 (bb) in paragraph (9), by
14 striking “; and” at the end and
15 inserting a period; and

16 (cc) by striking paragraph
17 (10);

18 (III) section 1191 of title 11,
19 United States Code, is amended by
20 striking subsection (f);

21 (IV) section 1225 of title 11,
22 United States Code, is amended by
23 striking subsection (d); and

1 (V) section 1325 of title 11,
2 United States Code, is amended by
3 striking subsection (d).

4 (ii) APPLICABILITY.—Notwithstanding
5 the amendments made by clause (i) of this
6 subparagraph, if the amendments made by
7 paragraphs (1), (2), (3), (4), and (5) take
8 effect under subparagraph (A) of this
9 paragraph, such amendments shall apply
10 to any case under title 11, United States
11 Code, commenced before the date that is 2
12 years after the date of enactment of this
13 Act.

14 (t) OVERSIGHT.—

15 (1) COMPLIANCE WITH OVERSIGHT REQUIRE-
16 MENTS.—

17 (A) IN GENERAL.—Except as provided in
18 subparagraph (B), on and after the date of en-
19 actment of this Act, the Administrator shall
20 comply with any data or information requests
21 or inquiries made by the Comptroller General of
22 the United States not later than 30 days (or
23 such later date as the Comptroller General may
24 specify) after receiving the request or inquiry.

1 (B) EXCEPTION.—If the Administrator is
2 unable to comply with a request or inquiry de-
3 scribed in subparagraph (A) within the 30-day
4 period or, if applicable, later period described in
5 that clause, the Administrator shall, during
6 that 30-day (or later) period, submit to the
7 Committee on Small Business and Entrepre-
8 neurship of the Senate and the Committee on
9 Small Business of the House of Representatives
10 a notification that includes a detailed justifica-
11 tion for the inability of the Administrator to
12 comply with the request or inquiry.

13 (2) TESTIMONY.—Not later than the date that
14 is 30 days after the date of enactment of this Act,
15 and every quarter thereafter until the date that is 2
16 years after the date of enactment of this Act, the
17 Administrator and the Secretary of the Treasury
18 shall testify before the Committee on Small Business
19 and Entrepreneurship of the Senate and the Com-
20 mittee on Small Business of the House of Rep-
21 resentatives regarding implementation of this section
22 and the amendments made by this section.

23 (u) CONFLICTS OF INTEREST.—

24 (1) DEFINITIONS.—In this subsection:

1 (A) CONTROLLING INTEREST.—The term
2 “controlling interest” means owning, control-
3 ling, or holding not less than 20 percent, by
4 vote or value, of the outstanding amount of any
5 class of equity interest in an entity.

6 (B) COVERED ENTITY.—

7 (i) DEFINITION.—The term “covered
8 entity” means an entity in which a covered
9 individual directly or indirectly holds a
10 controlling interest.

11 (ii) TREATMENT OF SECURITIES.—
12 For the purpose of determining whether an
13 entity is a covered entity, the securities
14 owned, controlled, or held by 2 or more in-
15 dividuals who are related as described in
16 subparagraph (C)(ii) shall be aggregated.

17 (C) COVERED INDIVIDUAL.—The term
18 “covered individual” means—

19 (i) the President, the Vice President,
20 the head of an Executive department, or a
21 Member of Congress; and

22 (ii) the spouse, child, son-in-law, or
23 daughter-in-law, as determined under ap-
24 plicable common law, of an individual de-
25 scribed in clause (i).

1 (D) EXECUTIVE DEPARTMENT.—The term
2 “Executive department” has the meaning given
3 the term in section 101 of title 5, United States
4 Code.

5 (E) MEMBER OF CONGRESS.—The term
6 “Member of Congress” means a Member of the
7 Senate or House of Representatives, a Delegate
8 to the House of Representatives, and the Resi-
9 dent Commissioner from Puerto Rico.

10 (F) EQUITY INTEREST.—The term “equity
11 interest” means—

12 (i) a share in an entity, without re-
13 gard to whether the share is—

14 (I) transferable; or

15 (II) classified as stock or any-
16 thing similar;

17 (ii) a capital or profit interest in a
18 limited liability company or partnership; or

19 (iii) a warrant or right, other than a
20 right to convert, to purchase, sell, or sub-
21 scribe to a share or interest described in
22 clause (i) or (ii), respectively.

23 (2) REQUIREMENT.—The principal executive of-
24 ficer and the principal financial officer, or individ-
25 uals performing similar functions, of an entity seek-

1 ing to enter a transaction made under paragraph
2 (36), (37), or (38) of section 7(a) of the Small Busi-
3 ness Act (15 U.S.C. 636(a)), as added and amended
4 by this section, shall, before that transaction is ap-
5 proved, disclose to the Administrator whether the
6 entity is a covered entity.

7 (3) APPLICABILITY.—The requirement under
8 paragraph (2)—

9 (A) shall apply with respect to any trans-
10 action made under paragraph (36), (37), or
11 (38) of section 7(a) of the Small Business Act
12 (15 U.S.C. 636(a)), as added and amended by
13 this section, on or after the date of enactment
14 of this Act; and

15 (B) shall not apply with respect to—

16 (i) any transaction described in sub-
17 paragraph (A) that was made before the
18 date of enactment of this Act; or

19 (ii) forgiveness under section 1106 of
20 the CARES Act (15 U.S.C. 9005) or any
21 other provision of law of any loan associ-
22 ated with any transaction described in sub-
23 paragraph (A) that was made before the
24 date of enactment of this Act.

1 (v) SMALL BUSINESS INVESTMENT COMPANY PRO-
2 GRAM.—

3 (1) IN GENERAL.—Part A of title III of the
4 Small Business Investment Act of 1958 (15 U.S.C.
5 681 et seq.) is amended—

6 (A) in section 302(a) (15 U.S.C. 682(a))—

7 (i) in paragraph (1)—

8 (I) in subparagraph (A), by strik-
9 ing “or” at the end;

10 (II) in subparagraph (B), by
11 striking the period at the end and in-
12 serting “; or”; and

13 (III) by adding at the end the
14 following:

15 “(C) \$20,000,000, adjusted every 5 years
16 for inflation, with respect to each licensee au-
17 thorized or seeking authority to sell bonds to
18 Administration as a participating investment
19 company under section 321.”; and

20 (B) by adding at the end the following:

21 **“SEC. 321. SMALL BUSINESS AND DOMESTIC PRODUCTION**

22 **RECOVERY INVESTMENT FACILITY.**

23 “(a) DEFINITIONS.—In this section:

24 “(1) ELIGIBLE SMALL BUSINESS CONCERN.—

25 The term ‘eligible small business concern’—

1 “(A) means a small business concern
2 that—

3 “(i) meets the revenue reduction re-
4 quirements established by paragraph
5 (37)(A)(v)(I)(cc) of section 7(a) of the
6 Small Business Act (15 U.S.C. 636(a));

7 “(ii) is a manufacturing business that
8 is assigned a North American Industry
9 Classification System code beginning with
10 31, 32, or 33 at the time at which the
11 small business concern receives an invest-
12 ment from a participating investment com-
13 pany under the facility; or

14 “(iii) is located in a small business
15 low-income census tract; and

16 “(B) does not include an entity described
17 in paragraph (37)(A)(v)(II) of such section
18 7(a).

19 “(2) FACILITY.—The term ‘facility’ means the
20 facility established under subsection (b).

21 “(3) FUND.—The term ‘Fund’ means the fund
22 established under subsection (h).

23 “(4) PARTICIPATING INVESTMENT COMPANY.—
24 The term ‘participating investment company’ means

1 a small business investment company approved
2 under subsection (d) to participate in the facility

3 “(5) PROTÉGÉ INVESTMENT COMPANY.—The
4 term ‘protégé investment company’ means a small
5 business investment company that—

6 “(A) is majority managed by new, inexperi-
7 enced, or otherwise underrepresented fund man-
8 agers; and

9 “(B) elects and is selected by the Adminis-
10 tration to participate in the pathway-protégé
11 program under subsection (g).

12 “(6) SMALL BUSINESS CONCERN.—The term
13 ‘small business concern’ has the meaning given the
14 term in section 3(a) of the Small Business Act (15
15 U.S.C. 632(a)).

16 “(7) SMALL BUSINESS LOW-INCOME CENSUS
17 TRACT.—The term ‘small business low-income cen-
18 sus tract’ has the meaning given the term in section
19 7(a)(38)(A) of the Small Business Act.

20 “(b) ESTABLISHMENT.—

21 “(1) FACILITY.—The Administrator shall estab-
22 lish and carry out a facility to improve the recovery
23 of eligible small business concerns from the COVID-
24 19 pandemic, increase resiliency in the manufac-
25 turing supply chain of eligible small business con-

1 cerns, and increase the economic development of
2 small business low-income census tracts by providing
3 financial assistance to participating investment com-
4 panies that facilitate equity financings to eligible
5 small business concerns in accordance with this sec-
6 tion.

7 “(2) ADMINISTRATION OF FACILITY.—The fa-
8 cility shall be administered by the Administrator act-
9 ing through the Associate Administrator described in
10 section 201.

11 “(c) APPLICATIONS.—

12 “(1) IN GENERAL.—Any small business invest-
13 ment company may submit to the Administrator an
14 application to participate in the facility.

15 “(2) REQUIREMENTS FOR APPLICATION.—An
16 application to participate in the facility shall include
17 the following:

18 “(A) A business plan describing how the
19 applicant intends to make successful equity in-
20 vestments in eligible small business concerns.

21 “(B) Information regarding the relevant
22 investment qualifications and backgrounds of
23 the individuals responsible for the management
24 of the applicant.

1 “(C) A description of the extent to which
2 the applicant meets the selection criteria under
3 subsection (d)(2).

4 “(3) EXCEPTIONS TO APPLICATION FOR NEW
5 LICENSEES.—Not later than 90 days after the date
6 of enactment of this section, the Administrator shall
7 reduce requirements for applicants applying to oper-
8 ate as a participating investment company under
9 this section in order to encourage the participation
10 of new small business investment companies in the
11 facility under this section, which may include the re-
12 quirements established under part 107 of title 13,
13 Code of Federal Regulations, or any successor regu-
14 lation, relating to—

15 “(A) the approval of initial management
16 expenses;

17 “(B) the management ownership diversity
18 requirement;

19 “(C) the disclosure of general compen-
20 satory practices and fee structures; or

21 “(D) any other requirement that the Ad-
22 ministrator determines to be an obstacle to
23 achieving the purposes described in this para-
24 graph.

1 “(d) SELECTION OF PARTICIPATING INVESTMENT
2 COMPANIES.—

3 “(1) DETERMINATION.—

4 “(A) IN GENERAL.—Except as provided in
5 paragraph (3), not later than 60 days after the
6 date on which the Administrator receives an ap-
7 plication under subsection (c), the Adminis-
8 trator shall—

9 “(i) make a final determination to ap-
10 prove or disapprove such applicant to par-
11 ticipate in the facility; and

12 “(ii) transmit the determination to the
13 applicant in writing.

14 “(B) COMMITMENT AMOUNT.—Except as
15 provided in paragraph (3), at the time of ap-
16 proval of an applicant, the Administrator shall
17 make a determination of the amount of the
18 commitment that may be awarded to the appli-
19 cant under this section.

20 “(2) SELECTION CRITERIA.—In making a de-
21 termination under paragraph (1), the Administrator
22 shall consider—

23 “(A) the probability that the investment
24 strategy of the applicant will successfully repay
25 any financial assistance provided by the Admin-

1 istration, including the probability of a return
2 significantly in excess thereof;

3 “(B) the probability that the investments
4 made by the applicant will—

5 “(i) provide capital to eligible small
6 business concerns; or

7 “(ii) create or preserve jobs in the
8 United States;

9 “(C) the probability that the applicant will
10 meet the objectives in the business plan of the
11 applicant, including the financial goals, and, if
12 applicable, the pathway-protégé program in ac-
13 cordance with subsection (g); and

14 “(D) the probability that the applicant will
15 assist eligible small business concerns in achiev-
16 ing profitability.

17 “(3) APPROVAL OF PARTICIPATING INVEST-
18 MENT COMPANIES.—

19 “(A) PROVISIONAL APPROVAL.—

20 “(i) IN GENERAL.—Notwithstanding
21 paragraph (1), with respect to an applica-
22 tion submitted by an applicant to operate
23 as a participating investment company
24 under this section, the Administrator may
25 provide provisional approval for the appli-

1 cant in lieu of a final determination of ap-
2 proval and determination of the amount of
3 the commitment under that paragraph.

4 “(ii) PURPOSE.—The purpose of a
5 provisional approval under clause (i) is
6 to—

7 “(I) encourage applications from
8 investment companies with an invest-
9 ment mandate from the committed
10 private market capital of the invest-
11 ment company that does not conform
12 to the requirements described in this
13 section at the time of application;

14 “(II) allow the applicant to more
15 effectively raise capital commitments
16 in the private markets by referencing
17 the intent of the Administrator to
18 award the applicant a commitment;
19 and

20 “(III) allow the applicant to more
21 precisely request the desired amount
22 of commitment pending the securing
23 of capital from private market inves-
24 tors.

1 “(iii) LIMIT ON PERIOD OF THE
2 TIME.—The period between a provisional
3 approval under clause (i) and the final de-
4 termination of approval under paragraph
5 (1) shall not exceed 12 months.

6 “(e) COMMITMENTS AND SBIC BONDS.—

7 “(1) IN GENERAL.—The Administrator may,
8 out of amounts available in the Fund, purchase or
9 commit to purchase from a participating investment
10 company 1 or more accruing bonds that include eq-
11 uity features as described in this subsection.

12 “(2) BOND TERMS.—A bond purchased by the
13 Administrator from a participating investment com-
14 pany under this subsection shall have the following
15 terms and conditions:

16 “(A) TERM AND INTEREST.—

17 “(i) IN GENERAL.—The bond shall be
18 issued for a term of not less than 15 years
19 and shall bear interest at a rate deter-
20 mined by the Administrator of not more
21 than 2 percent.

22 “(ii) ACCRUAL OF INTEREST.—Inter-
23 est on the bond shall accrue and shall be
24 payable in accordance with subparagraph
25 (D).

1 “(iii) PREPAYMENT.—The bond shall
2 be prepayable without penalty after the
3 end of the 1-year period beginning on the
4 date on which the bond was purchased.

5 “(B) PROFITS.—

6 “(i) IN GENERAL.—The Administra-
7 tion shall be entitled to receive a share of
8 the profits net of any profit sharing per-
9 formance compensation of the participating
10 investment company equal to the quotient
11 obtained by dividing—

12 “(I) one-third of the commitment
13 that the participating investment com-
14 pany is approved for under subsection
15 (d); by

16 “(II) the commitment approved
17 under subsection (d) plus the regu-
18 latory capital of the participating in-
19 vestment company at the time of ap-
20 proval under that subsection.

21 “(ii) DETERMINATION OF PERCENT-
22 AGE.—The share to which the Administra-
23 tion is entitled under clause (i)—

1 “(I) shall be determined at the
2 time of approval under subsection (d);
3 and

4 “(II) without the approval of the
5 Administration, shall not be revised,
6 including to reflect subsequent dis-
7 tributions of profits, returns of cap-
8 ital, or repayments of bonds, or other-
9 wise.

10 “(C) PROFIT SHARING PERFORMANCE
11 COMPENSATION.—

12 “(i) RECEIPT BY ADMINISTRATION.—
13 The Administration shall receive a share of
14 profits of not more than 2 percent, which
15 shall be deposited into the Fund and be
16 available to make commitments under this
17 subsection.

18 “(ii) RECEIPT BY MANAGERS.—The
19 managers of the participating investment
20 company may receive a maximum profit
21 sharing performance compensation of 25
22 percent minus the share of profits paid to
23 the Administration under clause (i).

24 “(D) PROHIBITION ON DISTRIBUTIONS.—
25 No distributions on capital, including profit dis-

1 tributions, shall be made by the participating
2 investment company to the investors or man-
3 agers of the participating investment company
4 until the Administration has received payment
5 of all accrued interest on the bond committed
6 under this section.

7 “(E) REPAYMENT OF PRINCIPAL.—Except
8 as described in subparagraph (F), repayments
9 of principal of the bond of a participating in-
10 vestment company shall be—

11 “(i) made at the same time as returns
12 of private capital; and

13 “(ii) in amounts equal to the pro rata
14 share of the Administration of the total
15 amount being repaid or returned at such
16 time.

17 “(F) LIQUIDATION OR DEFAULT.—Upon
18 any liquidation event or default, as defined by
19 the Administration, any unpaid principal or ac-
20 crued interest on the bond shall—

21 “(i) have a priority over all equity of
22 the participating investment company; and

23 “(ii) be paid before any return of eq-
24 uity or any other distributions to the inves-

1 tors or managers of the participating in-
2 vestment company.

3 “(3) AMOUNT OF COMMITMENTS AND PUR-
4 CHASES.—

5 “(A) MAXIMUM AMOUNT.—The maximum
6 amount of outstanding bonds and commitments
7 to purchase bonds for any participating invest-
8 ment company under the facility shall be the
9 lesser of—

10 “(i) twice the amount of the regu-
11 latory capital of the participating invest-
12 ment company; or

13 “(ii) \$200,000,000.

14 “(4) COMMITMENT PROCESS.—Commitments by
15 the Administration to purchase bonds under the fa-
16 cility shall remain available to be sold by a partici-
17 pating investment company until the end of the
18 fourth fiscal year following the year in which the
19 commitment is made, subject to review and approval
20 by the Administration based on regulatory compli-
21 ance, financial status, change in management, devi-
22 ation from business plan, and such other limitations
23 as may be determined by the Administration by reg-
24 ulation or otherwise.

25 “(5) COMMITMENT CONDITIONS.—

1 “(A) IN GENERAL.—As a condition of re-
2 ceiving a commitment under the facility, not
3 less than 50 percent of amounts invested by the
4 participating investment company shall be in-
5 vested in eligible small business concerns.

6 “(B) EXAMINATIONS.—In addition to the
7 matters set forth in section 310(c), the Admin-
8 istration shall examine each participating in-
9 vestment company in such detail so as to deter-
10 mine whether the participating investment com-
11 pany has complied with the requirements under
12 this subsection.

13 “(f) DISTRIBUTIONS AND FEES.—

14 “(1) DISTRIBUTION REQUIREMENTS.—

15 “(A) DISTRIBUTIONS.—As a condition of
16 receiving a commitment under the facility, a
17 participating investment company shall make
18 all distributions to the Administrator in the
19 same form and in a manner as are made to in-
20 vestors, or otherwise at a time and in a manner
21 consistent with regulations or policies of the
22 Administration.

23 “(B) ALLOCATIONS.—A participating in-
24 vestment company shall make allocations of in-
25 come, gain, loss, deduction, and credit to the

1 Administrator with respect to any outstanding
2 bonds as if the Administrator were an investor.

3 “(2) FEES.—The Administrator may not
4 charge fees for participating investment companies
5 other than examination fees that are consistent with
6 the license of the participating investment company.

7 “(3) BIFURCATION.—Losses on bonds issued by
8 participating investment companies shall not be off-
9 set by fees or any other charges on debenture small
10 business investment companies.

11 “(g) PROTÉGÉ PROGRAM.—The Administrator shall
12 establish a pathway-protégé program in which a protégé
13 investment company may receive technical assistance and
14 program support from a participating investment company
15 on a voluntary basis and without penalty for non-partici-
16 pation.

17 “(h) LOSS LIMITING FUND.—

18 “(1) IN GENERAL.—There is established in the
19 Treasury a fund for making commitments and pur-
20 chasing bonds with equity features under the facility
21 and receiving capital returned by participating in-
22 vestment companies.

23 “(2) USE OF FUNDS.—Amounts appropriated
24 to the Fund or deposited in the Fund under para-
25 graph (3) shall be available to the Administrator,

1 without further appropriation, for making commit-
2 ments and purchasing bonds under the facility and
3 expenses and payments, excluding administrative ex-
4 penses, relating to the operations of the Adminis-
5 trator under the facility.

6 “(3) DEPOSITING OF AMOUNTS.—

7 “(A) IN GENERAL.—All amounts received
8 by the Administrator from a participating in-
9 vestment company relating to the facility, in-
10 cluding any moneys, property, or assets derived
11 by the Administrator from operations in con-
12 nection with the facility, shall be deposited in
13 the Fund.

14 “(B) PERIOD OF AVAILABILITY.—Amounts
15 deposited under subparagraph (A) shall remain
16 available until expended.

17 “(i) APPLICATION OF OTHER SECTIONS.—To the ex-
18 tent not inconsistent with requirements under this section,
19 the Administrator may apply sections 309, 311, 312, 313,
20 and 314 to activities under this section and an officer, di-
21 rector, employee, agent, or other participant in a partici-
22 pating investment company shall be subject to the require-
23 ments under such sections.

24 “(j) AUTHORIZATION OF APPROPRIATIONS.—There
25 is authorized to be appropriated for the first fiscal year

1 beginning after the date of enactment of this part
2 \$10,000,000,000 to carry out the facility. Amounts appro-
3 priated pursuant to this subsection shall remain available
4 until the end of the second fiscal year beginning after the
5 date of enactment of this section.”.

6 (2) APPROVAL OF BANK-OWNED, NON-LEVER-
7 AGED APPLICANTS.—Section 301(c)(2) of the Small
8 Business Investment Act of 1958 (15 U.S.C.
9 681(c)(2)) is amended—

10 (A) in subparagraph (B), in the matter
11 preceding clause (i), by striking “Within” and
12 inserting “Except as provided in subparagraph
13 (C), within”; and

14 (B) by adding at the end the following:

15 “(C) EXCEPTION FOR BANK-OWNED, NON-
16 LEVERAGED APPLICANTS.—Notwithstanding
17 subparagraph (B), not later than 45 days after
18 the date on which the Administrator receives a
19 completed application submitted by a bank-
20 owned, non-leveraged applicant in accordance
21 with this subsection and in accordance with
22 such requirements as the Administrator may
23 prescribe by regulation, the Administrator
24 shall—

1 “(i) review the application in its en-
2 tirety; and

3 “(ii)(I) approve the application and
4 issue a license for such operation to the
5 applicant if the requirements of this sec-
6 tion are satisfied; or

7 “(II) disapprove the application and
8 notify the applicant in writing of the dis-
9 approval.”.

10 (3) ELECTRONIC SUBMISSIONS.—Part A of title
11 III of the Small Business Investment Act of 1958
12 (15 U.S.C. 681 et seq.), as amended by paragraph
13 (1) of this subsection, is amended by adding at the
14 end the following:

15 **“SEC. 322. ELECTRONIC SUBMISSIONS.**

16 “‘The Administration shall permit any document sub-
17 mitted under this title, or pursuant to a regulation car-
18 rying out this title, to be submitted electronically, includ-
19 ing by permitting an electronic signature for any signature
20 that is required on such a document.”.

21 (w) COMMITMENT AUTHORITY AND APPROPRIA-
22 TIONS.—

23 (1) COMMITMENT AUTHORITY.—

1 (A) CARES ACT AMENDMENTS.—Section
2 1102(b) of the CARES Act (Public Law 116–
3 136) is amended—

4 (i) in paragraph (1)—

5 (I) in the paragraph heading, by
6 inserting “AND SECOND DRAW” after
7 “PPP”;

8 (II) by striking “August 8,
9 2020” and inserting “December 31,
10 2020”;

11 (III) by striking “paragraph
12 (36)” and inserting “paragraphs (36)
13 and (37)”; and

14 (IV) by striking
15 “\$659,000,000,000” and inserting
16 “\$748,990,000,000”; and

17 (ii) by amending paragraph (2) to
18 read as follows:

19 “(B) OTHER 7(A) LOANS.—During fiscal
20 year 2020, the amount authorized for commit-
21 ments for section 7(a) of the Small Business
22 Act (15 U.S.C. 636(a)) under the heading
23 ‘Small Business Administration—Business
24 Loans Program Account’ in the Financial Serv-
25 ices and General Government Appropriations

1 Act, 2020 (division C of Public Law 116–193)
2 shall apply with respect to any commitments
3 under such section 7(a) other than under para-
4 graphs (36), (37), and (38) of such section
5 7(a).”.

6 (B) RECOVERY SECTOR LOANS.—During
7 the period beginning on the date of enactment
8 of this Act and ending on December 31, 2020,
9 the amount authorized for commitments under
10 paragraph (38) of section 7(a) of the Small
11 Business Act (15 U.S.C. 636(a)), as added by
12 this section, shall be \$100,000,000,000.

13 (2) DIRECT APPROPRIATIONS.—

14 (A) RESCISSION.—With respect to unobli-
15 gated balances under the heading ““Small Busi-
16 ness Administration—Business Loans Program
17 Account, CARES Act” as of the day before the
18 date of enactment of this Act,
19 \$100,000,000,000 shall be rescinded and depos-
20 ited into the general fund of the Treasury.

21 (B) NEW DIRECT APPROPRIATIONS.—
22 There is appropriated, out of amounts in the
23 Treasury not otherwise appropriated, for the
24 fiscal year ending September 30, 2020—

1 (i) to remain available until Sep-
2 tember 30, 2021, for additional amounts—
3 (I) \$189,990,000,000 under the
4 heading “Small Business Administra-
5 tion—Business Loans Program Ac-
6 count, CARES Act” for the cost of
7 guaranteed loans as authorized under
8 paragraph (36) and (37) of section
9 7(a) of the Small Business Act (15
10 U.S.C. 636(a)), as amended and
11 added by this section;
12 (II) \$57,700,000,000 under the
13 heading “Small Business Administra-
14 tion—Recovery Sector Loans” for the
15 cost of guaranteed loans as authorized
16 under paragraph (38) of section 7(a)
17 of the Small Business Act (15 U.S.C.
18 636(a)), as added by this section; and
19 (III) \$10,000,000 under the
20 heading under the heading “Depart-
21 ment of Commerce—Minority Busi-
22 ness Development Agency” for minor-
23 ity business centers of the Minority
24 Business Development Agency to pro-

1 vide technical assistance to small busi-
2 ness concerns; and

3 (ii) to remain available until Sep-
4 tember 30, 2023, \$10,000,000,000 under
5 the heading “Small Business Administra-
6 tion—SBIC” to carry out part D of title
7 III of the Small Business Investment Act
8 of 1958 (15 U.S.C. 681 et seq.), as added
9 by this section.

10 (C) AVAILABILITY OF AMOUNTS APPRO-
11 PRIATED FOR THE OFFICE OF INSPECTOR GEN-
12 ERAL.—Section 1107(a)(3) of the CARES Act
13 (15 U.S.C. 9006(a)(3)) is amended by striking
14 “September 20, 2024” and inserting “ex-
15 pended”.

16 (x) EMERGENCY DESIGNATION.—

17 (1) IN GENERAL.—The amounts provided under
18 this section are designated as an emergency require-
19 ment pursuant to section 4(g) of the Statutory Pay-
20 As-You-Go Act of 2010 (2 U.S.C. 933(g)).

21 (2) DESIGNATION IN SENATE.—In the Senate,
22 this section is designated as an emergency require-
23 ment pursuant to section 4112(a) of H. Con. Res.
24 71 (115th Congress), the concurrent resolution on
25 the budget for fiscal year 2018.