



March 8, 2021

VIA Electronic Submission: www.regulations.gov

The Honorable Tami Perriello
Acting Administrator
U.S. Small Business Administration
409 3rd Street, SW
Washington, D.C. 20416

RE: RIN 1505-AC75 and RIN 3245-AH65, Interim Rule, 13 CFR Part 120; Paycheck Protection Program; Docket No. SBA-2021-02314

Dear Acting Administrator Perriello:

On behalf of the Distilled Spirits Council of the United States (DISCUS) and its members, I appreciate the efforts of the Small Business Administration (SBA) to quickly and efficiently provide economic relief through the Paycheck Protection Program (PPP) during the COVID-19 pandemic.

DISCUS is the leading trade association representing the distilled spirits industry, including producers, importers, and marketers. There are over 2000 distilleries across the country. In 2018, the distilled spirits industry proudly supported over 1.6 million jobs across the country. We are proud of the more than 800 distilleries across the nation who produced hand sanitizer in 2020 to meet needs in their community – with many donating it to first responders, law enforcement, and nursing homes.

However, a year into the pandemic, craft distilleries continue to face similar challenges to other businesses in the hospitality and tourism industries. As fewer Americans dine or enjoy a cocktail outside of their homes, gather for events, or travel, distilleries have seen dramatic revenue declines. Craft distillers reported in a DISCUS/American Distilling Institute (ADI) survey a 41% decline in revenue and having furloughed or laid off 31% of employees late last summer. Early in 2021, new DISCUS/ADI survey data revealed that 36% of craft distilleries reported a total revenue decline of 25% or more in 2020. This data points to the enduring nature of the pandemic's economic impacts on distilleries and the long road forward for many distilleries.

Now, as the SBA reviews the provisions of the PPP through this interim final rule, we urge maximum flexibility with regards to eligibility for second-draw PPP loans and eligible nonpayroll expenses for forgiveness:

Eligibility for second-draw PPP loans. Businesses must show a 25% reduction in receipts during the 1st, 2nd, or 3rd quarter of 2020 to be eligible for a second PPP. However, some distillers who produced and sold hand sanitizer are



ineligible for a PPP on the basis that revenue from a one-time business activity masks significant revenue loss from their primary business activity. With very few distilleries planning to continue producing hand sanitizer, this puts these distilleries who are ineligible for a second PPP on the basis of revenue from a short-term business activity in a difficult position. Moreover, many distilleries do not have access to the higher second-draw PPP loan amounts afforded to North American Industry Classification System (NAICS) code 72 businesses, like other cocktail lounges and drinking places (722410). NAICS code 72 businesses were given the ability to access second-draw PPP loans at 350% monthly payroll in P.L. 116-260, whereas other industries are capped at 250% monthly payroll. Many distilleries, because they both produce and serve a product, are classified under NAICS code 312140. We urge the SBA to consider distilleries classified under NAICS code 312140 that depend on revenue from their tasting room and in-person sales be treated like those under NAICS code 722140 for the purposes of second-draw PPP loans.

Nonpayroll costs eligible for forgiveness. Distilleries in many states have struggled to reopen their tasting rooms. Many distilleries have spent the past year mired in a pattern of closing and reopening depending on local orders and then went to great lengths to provide safe conditions for their guests and employees. Regarding covered supplier costs as part of nonpayroll costs, we request the SBA consider the particulars of our industry in assessing loan forgiveness. Many distilleries that have suspended production in 2020 cancelled orders of grains or other ingredients that impact their ability to sell aged spirits in the years ahead or purchased oak barrels for aging spirits that expired before they could be filled. We urge the SBA to provide maximum flexibility in considering nonpayroll costs eligible for loan forgiveness.

We appreciate the opportunity to comment on the Administration's interim final rule. As the PPP has served as an invaluable part of our industry and our nation's recovery, we urge you to strengthen the PPP program by providing flexibility in eligibility for second-draw PPPs and covered uses.

Sincerely,

Christine LoCascio
Chief, Public Policy
Distilled Spirits Council of the United States