

DIVE BRIEF

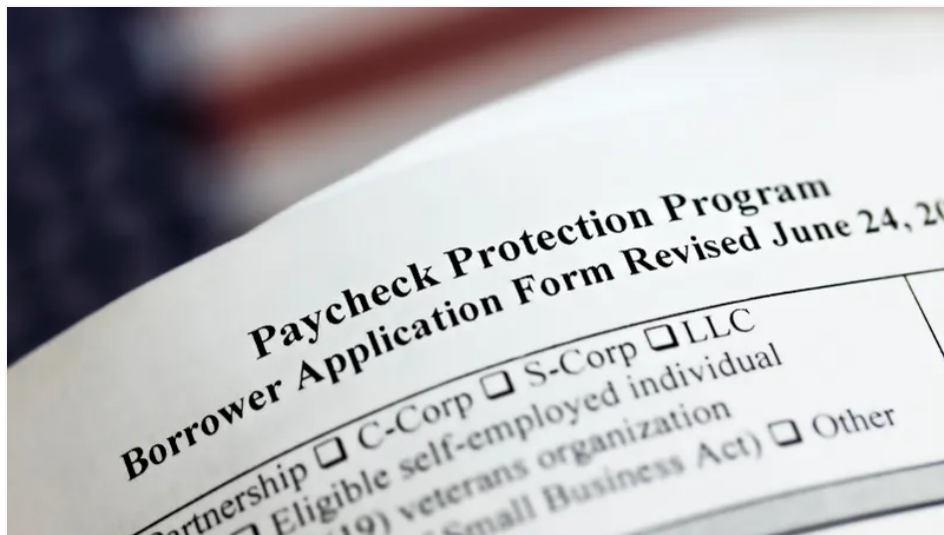
Kabbage to pay \$120M in PPP fraud settlements with DOJ

The second-largest PPP lender in the nation by application volume “knowingly submitted thousands of false claims” and employed lax fraud controls, the Justice Department said.

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and processing fees to the U.S. Small Business Administration” as part of PPP, government-backed COVID-19 relief program, in violation of the False Claims Act, the DOJ said. The company also employed lax fraud controls, investigators said.

- The resolution comes three years after reports that the DOJ was investigating whether Kabbage and other online lenders miscalculated how much PPP aid borrowers were entitled to. KServicing didn’t immediately respond to a request for comment.

Dive Insight:

In 2020, Kabbage processed about \$7 billion in PPP loans for more than 300,000 borrowers; it was the second-largest PPP lender in the nation by application volume. The company received about \$190 million in processing fees on the loans, according to one of the settlement agreements.

Through the PPP — created in March 2020 as part of the federal government’s pandemic aid response — private lenders were authorized to approve loans for eligible borrowers who could pursue forgiveness as long as funds were used for employee payroll and other specific expenses. Lenders were required to confirm borrowers’ average monthly payroll costs by reviewing payroll documentation submitted with applications, and follow applicable Bank Secrecy Act/anti-money laundering requirements.

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investigating PPP fraud allegations, and the company filed for bankruptcy in October 2022.

The first settlement, providing the government with a recovery claim of up to \$63.2 million, dealt with allegations that Kabbage “systemically inflated tens of thousands of PPP loans, causing the SBA to guarantee and forgive loans in amounts that exceeded what borrowers were eligible to receive under program rules,” the release said.

KServicing Wind Down Corp. admitted that Kabbage double-counted state and local taxes employees paid as gross wages were calculated; failed to exclude yearly compensation over \$100,000 per employee; and miscalculated payments made by employers for leave and severance. As early as April 2020, Kabbage was aware of its errors, U.S. attorneys said, but the company failed to address incorrect loans already disbursed and kept approving added loans with miscalculations.

That settlement also allows Kabbage to receive a \$12.5 million credit for payments it had already returned to the SBA during the investigation, the DOJ said.

The second settlement, with a recovery claim of up to \$56.7 million, involves allegations that Kabbage knowingly failed to put in place appropriate fraud controls designed to comply with PPP, BSA and AML obligations.

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The firm also had “insufficient personnel” conduct fraud reviews and discouraged employees from asking borrowers for more information to support loan requests. It also submitted to the SBA thousands of PPP applications that were either fraudulent or highly suspicious for fraud, investigators alleged.

“Kabbage received tens of millions of dollars through the PPP to help lend taxpayer funds to businesses in need. Instead of safeguarding those funds, Kabbage doled out inflated and fraudulent loans, in an effort to maximize its profits,” Joshua S. Levy, acting U.S. Attorney for the District of Massachusetts, said in Monday’s release. “Then, Kabbage sold its assets and left the remaining company so low on cash that it ultimately went bankrupt, leaving taxpayers exposed to the risk of loss caused by Kabbage’s conduct. This office will continue pursuing any company or individual, like Kabbage, that took advantage of the PPP.”

The Kabbage cases are not the only PPP-related settlements to arise this year. Fintechs Biz2Credit and Womply agreed in March to pay a collective \$59 million to settle Federal Trade Commission allegations they deceived small businesses seeking PPP loans during the pandemic. KServicing, in its bankruptcy filing, said it was forced to turn to Biz2Credit to process PPP loan forgiveness applications due to lack of cooperation from Kabbage’s acquirer, American Express.

The civil settlement also includes the resolution of two qui tam

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