

Summary of Paycheck Protection Program Flexibility Act of 2020

Enacted June 5, 2020 The legislation is available [here](#).

Borrowers who received loans prior to June 5 have the option to extend the 8-week period to 24 weeks

- Provides flexibility for borrowers that may make it easier to achieve full or near-full forgiveness if current conditions aren't conducive to bringing back employees.
- Election is made on the forgiveness application by indicating the covered period dates.

Borrowers who receive loans June 5 or later have a covered period of 24 weeks after the loan proceeds are received.

- The covered period cannot extend beyond December 31, 2020.
- This is based on the Loan Forgiveness Application Instructions for Borrowers

The deadline for PPP loan applications continues to be June 30, 2020.

The 75% payroll expenditure requirement is reduced to 60%

- Interim Final Rule 1 requires 75% of eligible costs to be used for payroll and if not, there was a reduction in loan forgiveness.
- This Act provides that borrowers shall use at least 60% of the covered loan amount for payroll costs.
- Because the loan amount is based on 10 weeks of payroll, borrowers may have a good chance of meeting the 60% requirement with the covered period extended to 24 weeks.

Opportunity to avoid FTE or Salary/Wage reduction penalties if headcount or salary/wages are restored by December 31 instead of June 30

- Borrowers have a longer period of time to restore workforce or salary/wages.

New exceptions for FTE reduction provided if borrower documents an inability to:

- Rehire individuals who were employees of the eligible recipient on February 15, 2020; and
- Hire similarly qualified employees for unfilled positions on or before December 31, 2020; or
- Return to the same level of business activity as before Feb. 15, 2020, due to compliance with requirements established or guidance issued ...related to COVID-19. (See language in the Act for full description)

Repayment period extended to five years for loans made on or after June 5

- Existing PPP loans can have maturity extended if lender and borrower agree
- Interest rate to remain at 1%

PPP Borrowers can now qualify for the deferral of employer's share of payroll taxes available under the CARES Act

- Deferral of Social Security payments (6.2%)
- 50% due in 2021, remainder due in 2022

Loan Payments are deferred until the SBA determines the amount of loan forgiveness and remits to the lender

- Had been a 6-month deferral
- However, if borrower doesn't apply for forgiveness within 10 months after the last day of the covered period, payments will be required at that 10th month.

This legislation does not address tax deductibility of expenses paid with a forgiven PPP loan.

Questions:

- Can a current borrower apply for forgiveness before December 31, 2020?
 - We expect that borrowers will be able to apply for forgiveness before Dec. 31 based on unofficial statements from Treasury officials. However, additional guidance is needed as to how safe harbors for FTE and Salary/Hourly wage reductions would be applied if applicable.
- Does the limit on cash compensation change to \$100,000 x 24/52 from \$100,000 x 8/52?
 - Based on the loan forgiveness application released June 16, 2020, eligible payroll costs per employee are
 - Capped at \$46,154 for 24-week covered period borrowers
 - Remains capped at \$15,385 for 8-week covered period borrowers
 - For owner-employees, self-employed individuals and general partners, eligible costs are
 - Capped at the lesser of \$20,833 or 2.5 months' worth of 2019 net profit for 24-week covered period borrowers
 - Remains capped at \$15,385 for 8-week covered period borrowers

Reviewed June 18, 2020