

PPP Loan Forgiveness Updates

While further guidance and clarification from the SBA and Treasury is likely, here is a summary of the provisions that appear in the Paycheck Protection Program Flexibility Act.

Specifically, the law:

- Extends the covered period during which the loan may be used for forgivable expenses from 8 weeks following disbursement of the loan to 24 weeks from loan disbursement or Dec. 31, 2020, whichever is earlier. Borrowers who received loans before June 5, 2020 may elect to continue using the eight-week covered period.
- Lowers the amount that must be spent on payroll costs from 75% to 60%. The new 60% threshold is now a cliff, meaning that borrowers must spend at least 60 percent on payroll or none of the loan will be forgiven.
- Extends the period in which employers may rehire or eliminate a reduction in employment, salary, or wages that would otherwise reduce the forgivable amount of a PPP loan to Dec. 31, 2020. However, the forgivable amount will be determined without regard to a reduction in the number of employees (compared to Feb. 15, 2020) if the recipient is (1) unable to rehire former employees and is unable to hire similarly qualified employees by Dec. 31, 2020 or (2) unable by Dec. 31, 2020 to return to the same level of business activity that existed before Feb. 15, 2020, due to compliance with federal requirements or guidance related to COVID-19.
- Replaces the 6 month deferral of payments due under PPP loans with deferral until the date SBA pays the lender the amount of loan forgiveness. If a borrower fails to apply for loan forgiveness within 10 months after the last day of the covered period for forgiveness, the borrower must begin to make payments of principal, interest, and fees on its PPP loan.
- Establishes a minimum maturity of five years for new PPP loans as opposed to the current 2 year maturity date. The 5 year maturity takes effect on the date of enactment and will apply to any PPP loan made on or after June 5. Lenders and borrowers, however, may mutually agree to modify the maturity terms of prior-disbursed PPP loans.
- Eliminates a provision that makes PPP loan recipients who have PPP debt forgiven ineligible to defer payroll tax payments.

The final date to obtain a PPP loan remains June 30, 2020.

This law will likely be subject to additional guidance by SBA and Treasury. Small-business borrowers should have a firm understanding of the provisions above and any related guidance to ensure they meet the criteria for loan forgiveness.