

# Summary of Paycheck Protection Program Flexibility Act

Passed by House and Senate - [Click here](#) to view the bill.

Awaiting President's signature to enact into law (as of 11:00 AM June 4, 2020)

## Current borrowers 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. However, the 60% payroll requirement discussed below is important to consider when planning for forgiveness.

## New borrowers have a covered period of 24 weeks after the loan proceeds are received or December 31, 2020, whichever is earlier.

- The deadline for PPP loan applications continues to be June 30, 2020.
- Based on "[Congressional Intent for H. R. 7010](#)" letter.

## The 75% payroll expenditure requirement is reduced to 60% but becomes a cliff.

- In the original CARES Act, 75% of eligible costs are to be used for payroll and if not, there is a reduction in loan forgiveness.
- This Act provides that borrowers shall use at least 60% of the covered loan amount for payroll costs. The word "shall" indicates this is a minimum threshold and if not met, none of the loan is eligible for forgiveness.
- 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 Reduction penalties if headcount is restored by December 31 instead of June 30

- Borrowers have a longer period of time to restore workforce
- It is unclear if the safe harbor date is as of Dec. 31 or if the borrower can claim the safe harbor was met prior to Dec. 31. Additional guidance is needed.

## New exceptions for FTE reduction provided if borrower in good faith is able to document an inability to:

- Rehire individuals who were employees of the eligible recipient on February 15, 2020;
- Hire similarly qualified employees for unfilled positions on or before December 31, 2020;
- 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.

## Repayment period extended to five years for new loans

- 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 use the June 30, 2020 FTE Reduction safe harbor instead of December 31, 2020?
  - Additional guidance is needed.
- Does anything change with the Salary and Hourly Wage Reduction calculation and Safe Harbor?
  - Additional guidance is needed.
- Does the limit on cash compensation change to \$100,000 x 24/52 from \$100,000 x 8/52?
  - Additional guidance is needed.

*Reviewed June 4, 2020*



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