

CLIENT ALERT

SBA and Treasury Release New Forgiveness Applications and Revise Interim Final Rules to Conform to New PPP Flexibility Act Requirements

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On Wednesday June 17th, SBA and Treasury issued a revised Paycheck Protection Program (PPP) loan forgiveness application implementing the extended 24-week “covered period” and the reduction in payroll cost limitation on forgiveness from 75% to 60% of costs, per the PPP Flexibility Act of 2020 enacted June 5, 2020. In addition to revising the [full forgiveness application](#) (and issuing [revised instructions](#)), SBA also published a new “EZ” version of the [forgiveness application](#) (and associated [instructions](#)) intended for borrowers that meet one of three requirements: 1) are self-employed and have no employees; 2) did not reduce the salaries or wages of their employees by more than 25%, and did not reduce the number or hours of their employees; or 3) experienced reductions in business activity as a result of health directives related to COVID-19, and did not reduce the salaries or wages of their employees by more than 25%. While the “EZ version” of the application requires fewer calculations and less documentation for applicants seeking forgiveness, it still maintains numerous certification requirements and includes additional certifications for the borrower to attest to their eligibility to use the EZ application form. Both applications give borrowers the option of using either the original 8-week covered period (if their loan was made before June 5, 2020) or the extended 24-week covered period.

To further conform the rules to the new PPP Flexibility Act, on Thursday June 18th, SBA and Treasury issued another new [interim final rule](#) revising two prior interim final rules related to the use of loan proceeds and loan forgiveness. Collectively, these revisions effectuate the new statutory requirements by:

- Replacing references to the “the eight week period following the first disbursement of the loan” to the “covered period” to ensure that the covered period governing forgiveness can apply to both the newly extended 24-week period, or alternatively, the original 8-week period, for those borrowers who received their loans prior to June 5th;
- Replacing language pertaining to the loan maturity period to ensure that a 5-year maturity period applies for borrowers of PPP loans made on or after June 5, and that borrowers whose loans were made before June 5 have a two-year PPP maturity period “unless the borrower and lender mutually agree to extend the maturity of such loans to five years.”

In addition, the revised rules and new application forms clarify that payroll costs are limited to a maximum of \$46,154 per individual under the 24-week covered period, or a maximum of \$15,385 per individual under the 8-week covered period, and that owner-compensation replacement (for any owner-employee or self-employed individual/general partner) for the 24-week covered period will be capped at \$20,833 based on 2.5 months’ worth (2.5/12) of 2019 net profit.

Crowell & Moring is standing by to assist with the intricacies of forgiveness eligibility and will continue to monitor for further developments.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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