



SBA Issues New Interim Rule on Changes in the Paycheck Protection Flexibility Act

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The Small Business Administration (“SBA”) has issued an Interim Final Rule that amends the first Interim Final Rule released April 2, 2020 (the “First IFR”) to incorporate several changes to the Paycheck Protection Program (“PPP”) made by the Paycheck Protection Program Flexibility Act that became effective on June 5, 2020.

Revisions Affecting all Existing and New PPP Loans

- **Covered Period** – The covered period for the loan program is extended from June 30, 2020 until December 31, 2020 (revising Part III.2.g.iii. of the First IFR). Borrowers will be able to use PPP loan proceeds through the end of the year. New PPP loans will still only be issued through June 30, 2020.
- **Payment Deferral** (revising Part III.2.n. of the First IFR):
 - If a borrower submits their loan forgiveness application within 10 months of the end of their loan forgiveness covered period, loan payments are deferred until after the SBA makes its determination on the forgiveness of the loan and pays funds to the lender (revising Part III.2.n. of the First IFR). The loan forgiveness period will be 24 weeks from the date the loan proceeds were disbursed (unless a borrower with a loan made before June 5, 2020 elects to use the original 8-week forgiveness period).
 - Borrowers who do not apply for forgiveness within 10 months from the end of the borrower’s forgiveness covered period must begin making payments on the date that is 10 months from the last day of their forgiveness covered period.

- **Note:** Borrowers may want to take advantage of the potential control this amendment gives to them in setting when they must begin payments based on when they file their forgiveness application.
- **Payroll Cost Percentage Required for Forgiveness** – The percentage of PPP funds that is required to be applied towards payroll costs in determining the forgiveness amount has been reduced from 75% to 60% (revising Part III.2.o., and Part III.2.r., and Parts III.2.t.iii–v. of the First IFR). The amendments make clear that this percentage is not a threshold that must be met to receive any forgiveness. Borrowers using less than 60% of their loan proceeds on payroll will be eligible for partial forgiveness.

Revisions For New PPP Loans Made on or After June 5, 2020

- The minimum maturity date for the remaining balance on PPP loans after forgiveness is five years, instead of two years (revising Part III.2.j. of the First IFR). A loan is considered “made” on the date the SBA assigns a loan number.

Additional rules and guidance, including a new form of the forgiveness application, are expected to be issued soon by the SBA. Please see our article, [“Congress Revises Paycheck Protection Program”](#) for information concerning these and additional changes to the PPP included in the Flexibility Act.

For more information, contact [Shannon Kuhl](#), [Rebecca Moore](#), or any attorney in Frost Brown Todd’s [Financial Services](#) Industry Team.

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