

Paycheck Protection Program Flexibility Act Extends Loan Forgiveness Period and Additional Benefits

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By voice vote on June 3, 2020, the United States Senate passed H.R. 7010, the Paycheck Protection Program (PPP) Flexibility Act of 2020 (the Act) which had been approved by the House of Representatives last week. On June 5, the Act was signed into law, effecting the following key changes, including:

- The covered period during which loan proceeds must be spent if they are to be eligible for forgiveness is extended from 8 weeks to 24 weeks, but borrowers whose loans were funded before the enactment of the Act may elect to keep the original 8 week period.
- The forgiveness requirement that 75% of the forgivable proceeds be spent on payroll expenses is reduced to 60%, and 40% may be spent on non-payroll expenses.
- The proportional reduction in loan forgiveness for reduction of full time employees (FTEs) is relaxed to exclude former employees as of February 15, 2020 who cannot be rehired and to exclude positions that cannot be filled by similarly qualified employees on or before December 31, 2020, so long as the employer can document its inability in good faith.
- The proportional reduction in loan forgiveness for reduction of FTEs is further relaxed by the inability of the borrower to attain the level of business activity it had on February 15, 2020 due to compliance with government regulations to protect customers from COVID-19 between March 1, 2020 and December 31, 2020, so long as the employer can document its inability in good faith.
- Application for forgiveness must be made within ten months after the last day of the covered period.
- The date by which PPP loan proceeds must be spent is extended from June 30, 2020 to December 31, 2020.
- For loans or portions of loans that are to be repaid, the Act permits lenders to agree to minimum loan maturities of five years, rather than the present two years.
- The payment deferral period is extended from 6 months to that date on which the forgiveness of the loan is determined and transmitted to the lender.
- The exception to the deferral of payroll taxes for PPP borrowers is removed.

Implementation of these changes will be subject to further guidance from the Small Business Association and the Department of the Treasury.

Borrowers who are preparing their loan forgiveness applications should continue to do so, but should be aware that the Act may solve difficulties with their loan forgiveness applications.

If you are a borrower of PPP loan proceeds and have a question, contact [Douglas Lubic](#) or [Peter Greenbaum](#) or any member of the Wilentz [Business Law team](#).

Attorney

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Practice

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