

Client Alert

SBA Releases Loan Forgiveness and Other Guidance

Please note that this alert updates prior publications made by our firm pertaining to the subject matter discussed below.

The SBA recently released a [form of application](#) for borrowers seeking loan forgiveness under the Paycheck Protection Program (PPP).

In addition, the SBA followed up the application by releasing additional guidance in the form of two new Interim Final Rules (IFRs).

One of the IFRs relates primarily to [loan forgiveness](#). The other relates primarily to [loan review procedures](#).

Some of the highlights of these recent releases include the following (each of which is qualified in its entirety by the full text of the IFRs referred to above):

- Borrowers may seek loan forgiveness for payroll costs for the eight-week covered period beginning on either (a) the date of disbursement of the PPP loan or (b) the first day of the first payroll cycle in the covered period (the “alternative payroll covered period”).
- Whether or not the borrower chooses to use the alternative payroll covered period to align with its next payroll date, non-payroll costs will still be measured during the original eight-week covered period.
- For purposes of calculating loan forgiveness, “full-time equivalent employee” means an employee who works forty hours or more, on average, each week.
- To ensure that borrowers are not doubly penalized, the salary/wage reduction applies only to the portion of the decline in employee salary and wages that is *not* attributable to the reduction in full-time equivalent employees.

May 28
2020

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Client Alert

- Salary, wages, or commission payments made to furloughed employees during the covered period along with bonuses and hazard pay paid during covered period constitute “payroll costs” that are eligible for loan forgiveness (subject to the \$100,000 annualized cap, as pro rated for the covered period).
- A borrower’s loan forgiveness amount will not be reduced if the borrower laid-off or reduced the hours of an employee, then offered in writing to rehire the same employee for the same salary and same number of hours, or restore the reduction in hours, but the employee declined the offer (provided that the borrower meets certain requirements, including notifying the applicable state unemployment insurance office of the rejected offer within thirty days).
- Forgiveness eligibility will be evaluated based on the rules and guidance available at the time of the borrower’s PPP loan application.

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