

## Client Alert: SBA Allows Early Loan Forgiveness Application and Issues EZ Forgiveness Application

On June 22 and June 24, 2020, the Small Business Administration (SBA) issued new Interim Final Rules that provide additional guidance regarding the Paycheck Protection Program (PPP). Importantly, the new Interim Final Rules allow borrowers to apply early for loan forgiveness. The full texts of the June 22 and June 24 Interim Final Rules can be found [here](#) and [here](#). Additionally, on June 17, 2020, SBA issued a new simplified PPP loan forgiveness application form (the EZ application) that is available to certain borrowers with small and straightforward PPP loans. The form of EZ application can be found [here](#).

### Key Takeaways

Below is a summary of the key takeaways from SBA's June 22 and June 24 Interim Final Rules, as well as the new EZ application for PPP loan forgiveness:

- **Borrowers Can Apply for Forgiveness Before the End of their Covered Period.** The June 22 Interim Final Rule states that a borrower may apply for loan forgiveness before the end of its applicable covered period if the borrower has used all of the loan proceeds for which it is requesting forgiveness. However, if a borrower applies for forgiveness before the end of its covered period and has reduced any employee's compensation by more than 25%, the borrower must account for the excess salary reduction for the full 8-week or 24-week covered period, as applicable.

To illustrate this interpretation, the June 22 Interim Final Rule presented the following example of a borrower using a 24-week covered period: the borrower reduced a full-time employee's weekly salary from \$1,000 per week during the reference period to \$700 per week during the covered period. The employee continued to work on a full-time basis during the covered period, with an FTE of 1.0. In this case, the first \$250 (25 percent of \$1,000) is exempted from the loan forgiveness reduction. The borrower seeking forgiveness would list \$1,200 as the salary/hourly wage reduction for that employee (the extra \$50 weekly reduction multiplied by 24 weeks). If the borrower applies for forgiveness before the end of the covered period, it must account for the salary reduction for the full 24-week covered period (totaling \$1,200).

The June 22 Interim Final Rule also confirms that a borrower may apply for loan forgiveness any time on or before the maturity date of the loan (5 years); however, if the borrower does not apply for loan forgiveness within 10 months after the last day of its covered period, or if SBA determines that the loan is not eligible for forgiveness, the PPP loan is no longer deferred and the borrower must begin paying principal and interest.

**New EZ Loan Forgiveness Application Available for Certain Borrowers.** SBA issued a new EZ application for PPP loan forgiveness. The EZ application requires fewer calculations and less documentation than the full application. The EZ application is available to borrowers that meet any of the following criteria:

- Borrower is self-employed with no employees.
  - Borrower did not reduce employee compensation by more than 25% and did not reduce workforce.
  - Borrower did not reduce employee compensation by more than 25% and qualifies for the new exemption for businesses unable to return to full operations due to COVID-19 guidelines/restrictions.
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- **Even Greater Flexibility for PPP Loan Applicants with Criminal Records.** The June 24 Interim Final Rule creates two changes that relax the eligibility restrictions for PPP loan applicants with criminal records. Under SBA's earlier implementing regulations, PPP loans were not available to an applicant if an owner of 20% or more of the equity of the applicant is presently subject to a criminal proceeding. The June 24 Interim Final Rule limits that restriction to pending criminal charges for felony offenses. Second, under SBA's earlier implementing regulations, an applicant was ineligible for a PPP loan if an owner of 20 percent or more of the equity of the applicant is on probation or on parole. The June 24 Interim Final Rule limits this restriction to individuals whose probation or parole commenced within the last five years for any felony involving fraud, bribery, embezzlement, or a false statement in a loan application or an application for federal financial assistance, and within the last one

year for other felonies.

The June 22 Interim Final Rules made additional conforming revisions to previous SBA guidance to reflect the Paycheck Protection Program Flexibility Act (PPPFA), which became law on June 5 and made significant changes to the PPP (see our June 17 Client Alert regarding the PPPFA [here](#)). Similarly, SBA issued a new version of the regular loan forgiveness application to reflect the PPPFA changes. A copy of that application can be found [here](#).

### **Additional Resources**

For additional background on small business loans available under the Coronavirus Aid, Relief, and Economic Security (CARES) Act, including PPP loans, please see our Client Alert on Small Business Loans under the CARES Act, available [here](#). For additional background on SBA's guidance with respect to PPP loans, please see our Client Alerts on updates to PPP loans [here](#). Due to the recent adoption of the CARES Act and the PPPFA, interpretation of some of their respective provisions is uncertain, and it is subject to additional clarification and interpretation by Treasury, IRS, SBA and other federal regulatory agencies.