



COVID-19 Actionable Insights for Businesses Series:

**CARES Act: Paycheck Protection
Program Loan Forgiveness Update**
Including changes for the PPP Flexibility Act of 2020

June 4, 2020

Speakers



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Bert is the Managing Partner at Moore Colson. In his role, Bert sets the vision and mission of the Firm and works closely with the Firm's leadership to drive and implement strategies. Additionally, Bert continues to work with our clients providing succession planning advice as well as practical, tax-efficient structures and strategies to closely-held businesses, business owners and entrepreneurs, corporate executives, and private equity funds and investors.



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Chris is a Partner and the Group Leader for Moore Colson's Consulting Practice. Chris has over 32 years of experience in providing financial, operational and strategic management, analysis, and advice to domestic and international companies and their stakeholders. He serves as an advisor to companies or their creditors facing complex legal disputes, operational/financial issues, workouts, turnarounds/ reorganizations, and liquidations. Chris also has 14 years in the banking industry where he managed middle-market relationships for both public and private companies.



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Tyler is a Director in the firm's Consulting Practice. Drawing on 15 years of experience as an external auditor, internal auditor, and forensic accountant, Tyler provides accounting and financial advice in forensic investigations and commercial disputes. He leads engagements focusing on determining economic damages, supporting legal disputes and conducting independent investigations into fraud or questionable financial reporting.

Goals for this webinar

We will discuss:

- PPP Loan current issues, events and statistics (SBA website)
- Certification update – Over and Under \$2 million
- New SBA PPP Forgiveness Application - Form 3508 and instructions
- Forgiveness Calculation Latest Developments:
 - Forgiveness period defined
 - Ordering rules for various calculations
 - Incurred and Paid definitions
 - Salary and Hourly Wage Reduction calculation
 - Full time equivalent (FTE) reduction calculation
 - Application of the 60% (was 75%) payroll cost rule
- Qualifying Strategies
- Documentation necessary to maximize and verify your qualified expenses during the 24-week (electable 8-week) forgiveness period.
- EIDL and Main Street Loan program updates.

Paycheck Protection Program Status (through May 23rd, 2020)

- \$511 billion in PPP loans
- 4,426,118 PPP loans were approved
- Average PPP loan size – \$116,000
- 30,085 loans over \$2 million (additional SBA scrutiny)

Paycheck Protection Program (PPP) Loans

Updates

- The SBA has released the PPP loan forgiveness application (Form 3508).
- The SBA forgiveness application does not change the basic fundamentals of the PPP, as written:
 - The PPP loan is primarily intended to be used for employee retention on your payroll.
 - Up to 100% of the PPP loan principal and accrued interest may be forgiven.
 - The loan proceeds are to be used for payroll costs, rent/lease payments, interest payments and utility payments.
 - The 8-week forgiveness period has **been changed to 24-weeks (8-week electable)**.
 - The statutory 25% wage and FTE reduction calculations have not changed.
 - The SBA 75% payroll cost rule has **been changed to 60%**.
- The amount of the PPP loan forgiveness is not taxable at the federal level, but the IRS has ruled that expense are not deductible.

Paycheck Protection Program (PPP) Loans

Legislative Updates – The PPP Flexibility Act of 2020

- Both the House (May 27th, 2020) and the Senate (June 3rd, 2020) have passed the PPP Flexibility Act, enacting the following changes to the PPP loans:
 - Extend the covered period from 8-weeks to the earlier of 24-weeks after PPP funding or December 31st, 2020, but allows borrowers to elect to retain the original 8-week covered period.
 - Lowers the 75% payroll cost rule to 60%. But, we now believe the 60% requirement is a “cliff” and not a “cap”.
 - Any unforgiven PPP loan amount can now be repaid over a minimum term of 5 years (extended from 2 years).
 - Pushes the June 30th, 2020 deadline to rehire workers to December 31st, 2020.
 - Allows further exemptions from the statutory FTE reduction rule for:
 - An inability to rehire employees,
 - An inability to hire qualified employees for unfilled positions, or
 - Can document an inability to return to your February 15th, 2020 level of business activity due to governmental requirements and guidelines by December 31st, 2020.

Paycheck Protection Program (PPP) Loans

Legislative Updates – The PPP Flexibility Act of 2020 (Continued)

- Both the House (May 27th, 2020) and the Senate (June 3rd, 2020) have passed the PPP Flexibility Act, enacting the following changes to the PPP loans:
 - Changes the 6 month PPP loan payment deferral period to the date that the loan forgiveness amount is remitted to the lender.
 - Adds a provision that requires borrowers to make PPP loan payments if they fail to apply for loan forgiveness within 10 months after the last day of their covered period.
 - Allow companies that get loan forgiveness to defer the employer portion of their payroll taxes through December 31st, 2020.
 - 50% of the deferral must be paid by December 31st, 2021
 - 50% of the deferral must be paid by December 31st, 2022
 - Effective date for these provisions is the date of the original CARES Act enactment (March 27th, 2020).

PPP Loan Initial Good Faith Certification Treatment by the SBA

- Upon submission of your PPP application, all borrowers were required to certify in good faith that “*current economic uncertainty makes this loan request necessary to support the ongoing operations of the business.*”
- Due to concern surrounding the potential government treatment of these good faith certifications, some companies were considering repayment of their PPP loan by the May 18th, 2020 repayment safe harbor date.
- On May 13th, 2020, the Treasury issued the following guidance:
 - PPP loans under \$2 million good faith certification **safe harbor** – the SBA will deem any company with under \$2 million of PPP loan funding to have made the required certification concerning the necessity of the loan request in good faith.
 - PPP loans greater than \$2 million - the SBA will review those loans and consider individual circumstances to determine if the company had an adequate basis for making the good-faith certification related to the necessity of the PPP loan. If your good faith certification is deemed unacceptable, you will simply need to repay the loan (presumably immediately).
- This was good news for all PPP loan recipients, as there will be no administrative enforcement action taken.
- Make your case through a written narrative, cash flow projections, key performance indicators and any specific examples of business issues now and in the future.

How do I receive CARES PPP Loan Forgiveness?

- Complete SBA Form 3508.
- Complete SBA Form 3508 PPP Schedule A (payroll cost total).
- Complete SBA Form 3508 PPP Schedule A Worksheet (detailed payroll cost calculations).
- Optional – Complete the Demographic schedule (entity ownership information).
- Verifying documents and FTE/25% reduction calculations are required.
- You must submit your completed SBA Form 3508 along with Schedule A to the lender that is servicing your PPP loan. While not required, we recommend also submitting the Schedule A worksheet.
- The lender has a 60-day period to render a decision on the forgiveness application from the date it is submitted, and the SBA has an additional 90-day period to review.

When should I apply for PPP Loan Forgiveness?

- Your **24-week/electable 8-week** Covered Period begins on the day you receive your PPP funding and ends **168 days/56 days** later.
- The forgiveness application should be filed:
 - As soon as possible after your **24-week/8-week** Covered Period ends,
 - After all payments of forgivable expenses have been made (including next payroll and next billing cycle payments), and
 - All required documentation has been gathered (your application will be rejected without including proper supporting documentation).
 - If you are taking advantage of the safe harbors for either the 25% wage/hourly rate reduction or the FTE reduction, you will need to wait to apply for forgiveness until you have met the safe harbor requirements.
 - **You must apply by the date that is 10 months after the end of your covered period.**

Notable Items on the SBA Form 3508 and Completion Tips

- Additional certifications are required as part of the Form 3508 related to PPP loan usage, eligible cost verification, tax document certifications, and an acknowledgment that the SBA may ask for additional information.
- For PPP loans in excess of \$2 million, the lender will be evaluating your original “need” certification.
- For companies with biweekly or more frequent payroll periods, you may elect an Alternative Payroll Covered Period, if desired (*see page 10*).
- You may elect a simplified Full Time Equivalent (FTE) calculation method for determining any reduction in your forgiveness amount associated with a decrease in FTEs.
- Complete the Schedule A Worksheet first; then complete Schedule A; and finally complete the actual Form 3508.
- Form 3508, Schedule A Worksheet separates employees you paid during your Covered Period into the following:
 - Table 1: employees making less than \$100,000 on an annualized basis and were employed all of 2019 by you, or employees not employed at any time by you in 2019.
 - Table 2: employees making more than \$100,000 on an annualized basis for any pay period in 2019.
 - Owner-employees, self employed individuals and/or partners should not be included in Table 1 or Table 2. They are to be separately included on Line 9 of Schedule A.

Ordering of PPP Loan Forgiveness Calculation

- **Step 1:** Calculate the total amount of expenses eligible for forgiveness.
- **Step 2:** Calculate the 60% (was 75%) payroll cost requirement by multiplying your PPP loan amount by 0.60. The result is the amount that must be paid or incurred for payroll costs to receive any loan forgiveness.
- **Step 3:** Calculate the 25% or more salary/hourly wage reduction and subtract that dollar amount from your total eligible forgiveness amount.
- **Step 4:** Calculate the FTE Reduction Quotient (it will be 1.0 or less) and multiply that quotient by the reduced forgiveness amount calculated in Step 3. This will be the “Modified Total.”
- **Step 5:** After verifying you meet the 60% payroll cost requirement, compare your total PPP loan amount and your Modified Total. The smallest amount of these two numbers is your PPP loan forgiveness amount.

How is the forgiveness period defined?

- There are now **three** potential forgiveness periods – the **24-week Covered Period (“CP”)**, the **electable 8-week covered period (also referred to as “CP”)**, and the **Alternative Payroll Covered Period (“APCP”)**.
- The forgiveness CP is now defined as **168/56 calendar days** beginning **ON** the date you received the PPP loan disbursement, **but can not end later than December 31st, 2020.**
- For employers with bi-weekly or more frequent payroll periods, an APCP may be elected that begins on the first day of the first payroll period following your PPP loan disbursement date. **Presumably, this will also be the case for the new 24-week CP.**
- You should consider making the APCP election if:
 - It is administratively convenient for your payroll period to coincide with your CP, or
 - A shift in CP for payroll costs will allow for inclusion of a higher amount in your total eligible payroll costs.
- The APCP only applies to payroll costs. You will need to use the CP (beginning with your funding date) as your forgiveness period for qualifying rent, utilities and interest.
- **The BIG Question: If I don’t elect the 8-week CP/APCP, assuming I meet all the requirements and have properly utilized the PPP funds, can I cut-off my CP/APCP before the 24-week period and apply for forgiveness? We need urgent guidance on this. As it stands, it seems you must select either an 8- or 24-week CP.**

How are “Incurred and Paid” Costs Defined?

- Significant clarification for eligible Payroll Costs:
 - Payroll costs incurred during your CP/APCP **and** payroll costs paid during your CP/APCP are both eligible for forgiveness.
 - Payroll Costs are considered “incurred” on the day that the employee’s pay is earned.
 - Payroll costs are considered “paid” on the day paychecks are distributed or an ACH credit transaction is originated.
 - Payroll costs incurred but not paid during the last pay period of the CP/APCP are eligible for forgiveness if paid on or before the next regular payroll date, even if that next payroll date is after the CP/APCP. Otherwise, payroll costs must be paid during the CP or the APCP.
- To qualify for forgiveness, all eligible non-payroll costs (rent, utilities and interest) must either be:
 - Paid during the CP, or
 - Incurred during the CP and paid on or before the next regular billing date, even if the billing date is after the CP.
- Non-payroll costs both paid **and** incurred during your CP will qualify for forgiveness.

How to calculate the Statutory 25% Salary and Hourly Wage Loan Forgiveness Reduction

- The result of the calculation is a dollar amount reduction to the total eligible forgiveness amount.
- It is now clear that, for the 25% salary/hourly wage reduction calculation, you only include employees that you paid during your CP/APCP.
 - All employees terminated for any reason prior to your CP/APCP will be accounted for in the FTE reduction calculation. Excluding them from the 25% salary/hourly wage reduction calculation avoids those employees being double-counted in both reduction calculations.
 - For employees terminated during your CP/APCP, you should only calculate any salary/hourly wage reduction for the time they were employed during your CP/APCP.
- The calculation is set forth in the instructions to the PPP Schedule A Worksheet.
 - **Step 1:** For each employee paid during your CP/APCP, divide:
 - The average annual salary or hourly wage during the CP/APCP, by
 - The average annual salary or hourly wage during from January 1, 2020 to March 31, 2020.
 - **Step 2:** If the result in Step 1 is 0.75 or more, there is no reduction for this employee.
 - **Step 3:** If the result in Step 1 is below 0.75, then you must:
 - Determine if the employee qualifies for the [December 31st, 2020 \(was June 30th, 2020\)](#) salary/wage reinstatement safe harbor, or
 - Calculate the reduction amount.

Example: 25% Salary and Hourly Wage Reduction Calculation

- A salaried employee makes an annualized \$50,000 from January 1, 2020 through March 31, 2020, so salary on February 15th, 2020 (*possible safe harbor applicability*) was an annualized \$50,000.
- The salaried employee makes an annualized \$35,000 during the CP/APCP (*salary was reduced to \$35,000 on April 1st, before PPP funding*).
- During the period February 15th through April 26th, the employee makes an annualized salary of \$44,690 (45 days/71 days x \$50,000 plus 26 days/71 days x \$35,000). So, the salary reduction, as compared to the February 15th salary, occurred before April 26th, potentially qualifying the employee for the safe harbor rule.
- The employee is paid 70% of their February 15th salary (\$35,000/\$50,000), and has therefore had a salary reduction greater than 25%.
- Since the salary reduction occurred before April 26th, 2020, if the employee's salary is restored to \$50,000 by **December 31st, 2020 (was June 30, 2020)**, there is no statutory reduction.
- If the employee's salary is not restored (*i.e., no safe harbor*), there is a reduction in loan forgiveness for this employee of **\$385**, calculated as follows:
 - \$2,500 (\$50,000 1st quarter salary x 75% less \$35,000 CP/APCP salary), which represents the annualized salary reduction
 - Scale down the \$2,500 annualized amount by dividing by 52 weeks and then multiplying by 8 weeks = \$385.
- For an hourly worker, the same calculation would apply, but using the hourly rate (*i.e., \$12/hour*) to determine any reduction, and then multiplying the hourly rate reduction by the 8 weeks of reduced hours. So, if you reduced a 40 hour per week hourly worker from \$12/hour to \$8/hour, unless the employee qualifies for the **December 31st (was June 30th)** restoration safe harbor, your loan forgiveness is reduced by **\$320** (\$12 x 75% minus \$8 = \$1 x 40 hours/week x 8 weeks).

How to calculate your Statutory Average Full Time Equivalent (FTE)

- The SBA has defined an FTE as 40 hours per week for purposes of this calculation.
- For each employee, determine the average number of hours paid per week during the CP/APCP and divide by 40 hours. The result is capped at 1.0.
- For this calculation you must include employees terminated for any reason during your CP/APCP (but see exceptions below).
- Exceptions: Include as a 1.0 in the Average FTE column on the Schedule A Worksheet Tables 1 and 2 any employee that:
 - You made a good-faith, written offer to rehire an employee during your CP/APCP which was rejected (documented) by the employee,
 - An employee that was fired for cause, resigned, or asked for an hours reduction,
 - You were unable to hire qualified employees for unfilled positions, or
 - You can document an inability to return to your February 15th, 2020 level of business activity due to governmental requirements and guidelines by December 31st, 2020.
 - If you replaced these employees, do not include them on the Schedule A Worksheet as your FTE calculation would be overstated since the new employee would be included.
 - If you did not replace these employees, they need to be included on the Schedule A Worksheet since the total FTE will be compared to your selected prior FTE reference period.

How to calculate your Statutory Average Full Time Equivalent (FTE)

(Continued)

- Owner-employees, self-employed individuals and partners are not included in the FTE calculation (the FTE calculation is based on the Schedule A Worksheet which specifically excludes owner-employees, self-employed individuals and partners).

The Simplified Method for Calculating Average FTEs

- There is a simplified method that can be elected, assigning the following quotients:
 - 1.0 for employees who worked 40 hours or more per week, and
 - 0.5 for employees who worked less than 40 hours per week.
- Who should elect?
 - Our advice is to calculate your average FTEs using both the prescribed method and the simplified method, selecting the higher result of the two methods.
 - If the majority of your part-time employees work less than 20 hours per week, then the simplified method may be beneficial as those employees will be assigned a quotient of 0.5 rather than perhaps a lower quotient.

How to Calculate Your FTE Loan Forgiveness Reduction Quotient

- **Step 1:** You must select your FTE Reference Period to compare to your CP/APCP FTE calculation. You should follow the same 40 hour per week methodology, capped at 1.0, in calculating your FTEs for your elected Reference Period, which is either:
 - February 15, 2019 through June 30, 2019, or
 - January 1, 2020 through February 29th, 2020.
 - We recommend calculating both periods and choosing the period with the lowest result.
- **Step 2:** To determine your FTE Reduction Quotient, divide your FTEs calculated for your CP/APCP (Schedule A Worksheet, Tables 1 and 2) by the FTEs calculated for your elected Reference Period. The result is your FTE Reduction Quotient, and if less than 1.0, will reduce your loan forgiveness. The FTE Reduction Quotient cannot be greater than 1.0.
- **Step 3:** You will multiply your FTE Reduction Quotient by your total qualified expenditures after the 25% salary/hourly wage reduction to derive the forgivable loan “Modified Total.”

How to Determine if the FTE Safe Harbor Rule Applies to You

- For the FTE safe harbor:
 - **Step 1:** Calculate your average FTE for the period February 15th, 2020 through April 26th, 2020 using the same 40 hour per week methodology.
 - **Step 2:** Calculate your average FTE for the pay period that includes February 15th, 2020 using the same 40 hour per week methodology.
 - If the resulting FTE in Step 1 is less than the FTE in Step 2, and by **December 31st, 2020 (was June 30th, 2020)** your FTE is restored to the Step 2 level, then you qualify for the FTE safe harbor and there is no statutory FTE loan forgiveness reduction, and you enter 1.0 as your FTE Reduction Quotient.
- There seems to be a second safe harbor that was added on the PPP Schedule A that allows you to compare your FTEs for January 1st, 2020 to your FTEs on the last day of your CP. If the FTEs for the last day of your CP are equal to or greater than your FTEs on January 1st, 2020, then you qualify for this second safe harbor with no FTE reduction in your forgiveness amount. Additionally, you may be able to avoid the Reference Period FTE calculation set forth on the previous slide as well as the February 15th – April 26th FTE safe harbor calculation set forth on this slide.

Payroll Cost 60% (was 75%) Requirement

- You must now use at least 60% (was 75%) of your PPP loan proceeds for payroll costs, and we believe this is now a **required threshold** for you to receive any loan forgiveness.
- Simply multiply your PPP loan amount by 0.60.
- The result will be the amount of your PPP loan that you must spend on payroll costs to receive any loan forgiveness.
- For example:
 - Under the original 75% rule, assume your PPP funding is \$230,000. If your total payroll costs during your CP/APCP are \$150,000, then the maximum forgivable amount will be \$200,000 ($\$150,000 / .75$). The remaining \$30,000 would have been repayable over 2 years at 1% interest.
 - Under the PPP Flexibility Act 60% rule, assume the same \$230,000 PPP funding. During your CP/APCP, you must spend at least \$138,000 ($\$230,000 \times 60\%$) on payroll costs to receive any loan forgiveness. If the 60% threshold is met, and if you have \$92,000 of other non-payroll qualifying expenses, you will receive 100% loan forgiveness. Any non-forgiven loan will be repayable over 5 years at 1% interest.

Your Final PPP Loan Forgiveness Amount

- You now have calculated the following amounts:
 - Your original PPP loan amount,
 - The “Modified Total” forgiveness amount calculated after all statutory reductions, and
 - Apply the 60% (was 75%) Payroll Cost Requirement.
- The lower of your original PPP loan or your Modified Total, assuming you meet the 60% payroll cost requirement, will be your PPP loan forgiveness amount.

Specifically, what records will I need to SUBMIT with my PPP loan forgiveness application for payroll costs?

- Payroll documentation verifying the eligible cash compensation and non-cash benefits payments from the CP/APCP, including the following:
 - Bank account statements or third-party payroll service provider reports.
 - Tax forms or equivalent third-party service provided reports:
 - Payroll tax filings (e.g. Form 941), and
 - State wage reporting and unemployment insurance tax filings.
 - Payment receipts, cancelled checks, or account statements documenting the amount of employer contributions to the following:
 - Employee health insurance, or
 - Retirement plans.
- FTE documentation showing the following (at your election):
 - The average monthly FTEs for the period February 15, 2019 through June 30, 2019, or
 - The average monthly FTEs for the period January 1, 2020 through February 29, 2020, or
 - In the case of a seasonal employee, the average monthly FTE at one of the above or any consecutive twelve week period between May 1, 2019 and September 15, 2019.
 - Documents may include the following:
 - Payroll tax filings (e.g. Form 941), and
 - State wage reporting and unemployment insurance tax filings.

Specifically, what records will I need to SUBMIT with my PPP loan forgiveness application for non-payroll costs?

- Non-payroll documentation verifying the existence of the obligations/services prior to February 15, 2020, including the following:
 - Business mortgage interest payments – copy of lender amortization schedule or lender account statements and receipts or cancelled checks verifying payments.
 - Business rent or lease payments – copy of current lease agreement or lessor account statements and receipts or cancelled checks verifying payments.
 - Business utility payments – copy of invoices from February 2020 and those paid during the covered period and receipts or cancelled checks verifying payments.

Specifically, what records will I need to MAINTAIN, but not submit with my PPP loan forgiveness application?

- Documentation supporting the listing of each individual employee included in your forgiveness application to support the following calculations during your CP/APCP:
 - Cash compensation
 - Average FTE
 - Salary/Hourly Wage Reduction
- Documentation regarding any of the following exceptions to the FTE calculations:
 - Employee job offers and refusals
 - Firings for cause,
 - Voluntary resignations, and
 - Written requests by any employee for reductions in work schedule
- Documents supporting FTE Safe Harbor calculations;
 - Payroll tax filings (e.g. Form 941), and
 - State wage reporting and unemployment insurance tax filings.

Qualifying “Payroll Cost” Strategies

- Ensure you are including ALL eligible costs in your total payroll costs.
 - Gross payroll, gross tips, gross commissions, paid leave, separation pay, etc.
 - Bonuses paid during the CP/APCP.
 - Include all contributions retirement contributions (excluding employee portion withheld from their gross payroll).
 - Include as health insurance all group health, dental, vision, etc. payments.
- Consider limitations:
 - Remember the \$100K annualized limitation
 - For owner-employees, self-employed individuals and partners, you are capped at the lower of \$15,385 or your 8-week equivalent 2019 compensation (so any CP/APCP owner compensation increase will not be eligible for forgiveness).
- For owner-employees, self-employed individuals and partners, include on Line 9 of PPP Schedule A your CP/APCP paid compensation as limited to \$15,385. While the original FAQ stated that retirement plan payments and health insurance premiums would be included as a forgivable expense, the new PPP Schedule A indicates those items are no longer considered forgivable and should not be included on Line 9.
- S corporation shareholders with 2% or less ownership interest should be considered employees for payroll cost purposes.
- Follow the payroll cost incurred and paid guidelines.
- Consider electing the APCP to maximize payroll costs.
- Remember, the higher your payroll costs, the higher the 60% (was 75%) payroll cost cap will be.

Qualifying Interest Expense on “Covered Mortgage Obligations” Strategies

- Only interest expense paid during your CP or interest expense incurred during your CP but paid after your CP on the next billing cycle will qualify.
- Qualifying debt should be:
 - Any secured debt obligation,
 - On real or personal property,
 - Incurred before February 15th, 2020.
- Debt that is **secured** by assets, stock, intangibles, etc. should qualify.
- Prepayments of interest expense do not qualify for forgiveness.
- CP for this purpose cannot be the APCP.

Qualifying “Covered Rent” and Lease Payment Strategies

- Only payments of rent or lease payments made during your CP or rent/lease expenses incurred during your CP but paid after your CP on the next billing cycle will qualify.
- Interestingly, the SBA definition does not exclude (or specifically include) prepayments of rent/lease. Keep an eye on this.
- Rent or lease payments can be for both real and personal property.
- Rent and lease agreements must have been in place before February 15, 2020.
- CP for this purpose cannot be the APCP.

Qualifying “Covered Utility” Payment Strategies

- Only qualifying utility payments made during your CP or utility expenses incurred during your CP but paid after your CP on the next billing cycle will qualify.
- “Covered utility payments” are defined as payments for services for the distribution of electricity, gas, water, transportation (may include fuel costs), telephone, or internet access.
- Utility service contracts must have been in place before February 15th, 2020.
- CP for this purpose cannot be the APCP.

Other Forgiveness Strategies

- Maximize your payroll costs. Consider paying bonuses during your CP/APCP to avoid salary reduction provisions.
- Make sure you understand when your 168/56 day CP/APCP begins and ends. Do not forget to pay as many expenses as possible during your CP/APCP, using the exceptions for forgivable expense payments made outside the CP/APCP only as necessary.
- Document your good faith need certification and your forgiveness calculation.
- Remember, if your loan amount exceeds your forgiveness amount, you repay the unforgiven loan amount at 1% over 5 years (was 2 years).
- There are no restrictions on making staffing changes or restructuring employee pay after December 31st, 2020, or after your CP/APCP ends.
- Assess need to make corporate income tax payments and/or distributions to owners for income taxes during the CP/APCP.

EIDL Loan update

- The SBA website includes the following regarding new EIDL applications: “At this time, only agricultural business applications will be accepted due to limitations in funding availability and the unprecedented submission of applications already received. Applicants who have already submitted their applications will continue to be processed on a first-come, first-served basis.”

Main Street Loan update

- Loans for small and mid-sized businesses with less than 15,000 employees or 2019 revenues up to \$5 billion
- Interest Rate: LIBOR (1 or 3 month) + 3%
- Minimum loan size of \$500 thousand
- 4 year loan term with principal and interest payments deferred for one year
- Banks can originate new Main Street loans or increase the size of existing loans
 - Main Street New Loan Facility (“MSNLF”) – New Loans
 - Main Street Prior Loan Facility (“MSPLF”) – Refinance of Existing Loans from a lender that is not an Eligible Lender
 - Main Street Expanded Loan Facility (“MSELF”) – Expanding existing loans
- Banks retain 5% - 15% of loan (depending on facility), selling the remainder to the Main Street Facility, which will purchase up to \$600 billion of loans.
- Companies that take advantage of the PPP program may also take out Main Street loans.
- Main Street Loans carry certain restrictions on salaries, distributions, and stock buybacks. However, note that “restrictions on dividends and other capital distributions will not apply to distributions made by an S corporation or other tax pass-through entity to the extent reasonably required to cover its owners’ tax obligations in respect of the entity’s earnings.”
- The program is expected to start at the end of May or beginning of June.

More to follow.....

- SBA will be issuing additional guidance on the changes made by the [PPP Flexibility Act](#) shortly.
- Be prepared for more changes and interpretations.

Questions?



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