

On June 3, the U.S. Senate passed by unanimous consent the Paycheck Protection Program Flexibility Act, which had been approved by the U.S. House of Representatives a week earlier. President Trump signed the bill into law on June 5. The PPPFA significantly modifies the original Paycheck Protection Program in ways that benefit borrowers. It gives them more time to spend loan funds, more discretion in how they spend the money, and greater opportunities to qualify for loan forgiveness. Here are some Frequently Asked Questions about the changes.

Q: Are banks still accepting new applications for loans under the Paycheck Protection Program?

A: Yes. But June 30 is still the last day that new loans can be approved.

Q: Must loans still be repaid in two years?

A: New loans granted after enactment of the Paycheck Protection Program Flexibility Act will not be due for five years. Existing loans are still due in two years, although that time can be extended to five years if the lender and borrower agree. The interest rate is still 1 percent.

Q: Originally, loan funds had to be used during an eight-week period following receipt of the money. How has that changed?

A: Congress has extended that time to 24 weeks or until Dec. 31, 2020, whichever is sooner.

Q: But may I still use loan funds during the original eight weeks and then apply for loan forgiveness?

A: Yes, you may.

Q: How can this help me? I've already spent most of my loan!

A: You probably will derive less benefit than a business in an earlier stage of managing PPP loan funds. But you may be able to re-calculate loan forgiveness in favorable ways or, if you must repay portions of your loan, to do so over a longer period of time at little cost.

Q: What is the new schedule for applying for loan forgiveness?

A: The deadline for applying is 10 months after the last day of the covered period. Potentially, that is as late as Oct. 31, 2021. If an application for loan forgiveness is not made by then, the borrower will be subject to paying principal, interest and fees.

Q: Initially, to qualify for full loan forgiveness, at least 75 percent of loan funds had to be used for payroll costs and no more than 25 percent for utilities and rent or mortgage interest. Has that changed?

A: Yes. The new ratio is 60/40.

Q: Is there a catch?

A: Unfortunately, yes. Because of an apparent drafting error, the PPPFA treats the 60 percent threshold as a bar that must be reached to qualify for *any* loan forgiveness. Under the original PPP, failing to reach the 75 percent mark for payroll would only *reduce* the amount of forgiveness available.

Q: What if I can't get to 60 percent for payroll?

A: You probably can if you make sure to reduce the amount of non-payroll expenses you claim to no more than 40 percent of your loan amount.

Q: Is there a chance that this “drafting error” will be corrected?

A: Yes. Congress can address it in future legislation, or the administration can choose to “interpret” the provision in the way that Congress meant rather than the way Congress wrote it. We must wait and see.

Q: The PPP required me to restore my employee headcount and payroll to earlier levels at the end of the eight-week period or by June 30 to earn loan forgiveness. Is that June 30 date still a factor?

A: No. It has been extended to Dec. 31.

Q: Are there exceptions to the requirement to return to a full employee headcount?

A: Yes. It won't be held against your loan forgiveness eligibility if you document an inability to rehire employees you had before the coronavirus crisis or to hire similarly qualified employees; or if you document an inability to resume business operations at previous levels as a result of compliance with requirements or guidance issued by government agencies. For example, if social-distancing protocols prohibit full employment in your workplace.

Q: What else is notable?

A: Borrowers now will be able to defer 50 percent of the employer share of payroll taxes until Dec. 31, 2021, and the other half until Dec. 31, 2022. The payroll tax deferral was allowed under the CARES Act – but not for PPP participants.

Q: Where can I get more information?

A: We are waiting for further guidance from the Small Business Administration. In the meantime, you can discuss these changes with your lender or call us at 800-422-3778.