



ARF FINANCIAL

Businesses Bank on Us.™

UPDATES TO THE PAYCHECK PROTECTION PROGRAM



MEET OUR PRESENTER



Robert Lapidus

Senior Vice President/ General Counsel

- Bob has over 30 years experience navigating regulatory changes in the financial services industry
- He is also responsible for all legal affairs and licensing for ARF Financial
- Manages ARF's bank servicing platform, bank credit facilities, investor relations and special credits.
- Heads Business development for all affinity partnerships and ARF's customer services platform.
- Serves as Senior Vice President and General Counsel for the HSP Group LLC, which controls ARF.

ABOUT TODAY'S WEBINAR

- Today's webinar is scheduled for 45 minutes which includes a 30-minute presentation and 15 minutes for Q&A at the end.
- Please hold all questions till the Q & A portion at the end. All participants will be muted during the duration of the webinar.
- If you wish to ask a question during the Q&A portion at the end, please use the "Raise Hand" icon in your webinar task bar. This will allow you to be unmuted and ask your question.
- Alternatively, you can type your question using the Q&A feature in the Zoom taskbar and we will answer those in the order received at the end of the presentation.
- This presentation will be recorded. A link to the recording will be emailed to all participants after the webinar has ended. It may take up to 24 hours before you receive the recorded version.
- You can also access the recorded version via this web page, www.arffinancial.com/ppp-review-webinar-library after the email has been sent out.

WHAT WE WILL COVER

Updates to the Payroll Protection Program

- Evolution of the PPP
- New Alternate “Covered Period”
- Lower Requirement for PPP Money Spent on Payroll Costs
- Extended Period for Deferral Of Payments and for Repayment of “Un-Forgiven” Portion
- Flexibility on Timing of Staffing Up, Exceptions and Safe Harbor
- Loan Term Changes
- Forgiveness Application Process and Timing
- Main Street Lending Program

Disclaimer: The information provided in this webinar is for general information purposes only and does not constitute, legal, accounting, tax or financial advice. Participants are urged to seek the advice of their own professional advisors concerning their individual circumstances. The information provided is as of the date of this presentation and is subject to change.

EVOLUTION OF THE PPP

The Payroll Protection Program Key Events

- Adoption of Cares Act including the PPP (March 27)
- PPP and Healthcare Enhancement Act (April 24)
- Forgiveness Application (May 15)
- PPP Flexibility Act (June 5)
- SBA Interim and Final Rules (FAQs) last updated (June 11)
- SBA Additional Rules on Flexibility Act? (pending)
- New PPP Loan Forgiveness EZ Application (June 16)
- Remaining PPP Availability and Deadline for Application (June 30)

PPP FORGIVENESS RULES

Requirements for Full Forgiveness:

- Retain, rehire and restore compensation to employees during an 8-week covered period
- Not reduce pay rate more than 25%
- Spend not less than 75% of PPP funds on eligible payroll costs

Problems for Hospitality:

- 8 weeks
- 75% too high
- 2-year loan term
- Failed to account for mandated closures and slower ramp up

CHANGES IN THE “COVERED PERIOD”

Two “different” types of “Covered Period”

- Covered period for purposes of eligibility and use of loan proceeds was June 30 and is now extended to December 31, 2020
- Covered period for loan forgiveness:
 - Original 8-week covered period (56 days)
 - New 24-week (168 Days) covered period (or lesser of 12/31/20)

ALTERNATE “COVERED PERIOD”

Alternate Covered Period (Pay Roll Costs and Other Costs)

- **Administrative Flexibility for Payroll Start Date: Applies to Weekly or Bi-Weekly Only**
- Start of payroll “covered period” is first day of payroll period starting after receive Loan
- Does NOT apply if payroll periods are less frequent (i.e. bi-monthly)
- **“Paid or Incurred”**
- Option of using “Incurred” meaning accrual method or “Paid” meaning cash method
- Rent, utilities, interest expense, interest on mortgage payments paid in normal course.
 - Example: May 15-July 12 (8 Weeks) rent paid on June 1 and July 1. You can include all of June and July rent **paid** during the “covered period” (small time bonus, i.e. 2 full months vs. 56 days)
- Use of 24-week covered period option should allow for sufficient time to reach full loan forgiveness potential

LOWER REQUIREMENT FOR PAYROLL COSTS

- **Old requirement:** 75% of the requested forgiveness amount must be based upon eligible payroll costs incurred during the covered period. 25% for other expenses.
- **New requirement:** 60% of the requested forgiveness amount based upon eligible payroll costs incurred during the covered period. 40% on the other eligible costs.
- Is the 60% a cliff (minimum)? SBA says no. You prorate and cap the total forgiveness so that what is spent on payroll is not less than 60% of forgiveness amount.
- Example: \$100K PPP loan (spend \$54K on payroll and \$46K on other expenses. Reduces forgiveness so that the payroll spend is not less than 60% of the total forgiveness.
- Divide \$54K in payroll costs incurred by .60 (\$90,000 of forgiveness allowed): \$54K in payroll but only \$36K in other expenses allowed.
- 24 Week covered period: Getting to 60% of payroll costs paid should be less of an issue.

PAYROLL REDUCTION LIMITS

Not Greater than 25% (Reduces Forgiveness Amount)

- **Salaried employees**, (i.e. \$1,000 per week can be reduced to \$750 per week) without reduction of forgiveness amount
- **Hourly**, it goes by **pay rate**, not the actual total pay received.
- Example: \$15 per hour employee working 40 hours pre-Feb 15 and paid \$15 per hour when they return but only working 30 hours, is not considered a payroll reduction.
- **Tipped employees** (take the total hourly rate plus average tips per hour).

AVERAGE FTE CALCULATION

FTE Calculations

- Required to maintain your staffing levels in order to get 100% forgiveness for payroll costs or the forgiveness is ratably reduced.
- **40 hour (not 30) is the definition of an FTE.**
- Example: 30 hours worked by an FTE 30/40 equals: .75 of an FTE. rounded to nearest .1 = .8 FTE.
- No single FTE can be greater than 1
- **Alternate simplified method:** If over 40 hours 1.0, if under 40 hours: .5 FTE
- Which is better?



NEW SAFE HARBOR FOR AVERAGE FTEs

- **Compare** average FTEs during **"FTE average for covered period"** to the average FTEs (**"pre-COVID average FTE"**)
 - FY 2019
 - Q2 2019 thru Q1 2020
 - Jan. 1, 2020 - Feb. 29, 2020
- If the **pre-COVID average FTE period is greater than** the **FTE average for covered period**, you have the potential to take advantage of the **SAFE HARBOR**
- **THE SAFE HARBOR:** You have until December 31, 2020 in order to return to the **pre-COVID average FTEs** during any payroll period.

ADDITIONAL EXCEPTIONS TO RETURN TO PRE-COVID STAFFING

Two Exceptions

1. Qualified Employee Exception

- Good faith offer to rehire (and rejected)
- Termination due to cause, voluntary resignation or voluntary reduction of hours
- And positions can't be filled with similarly qualified employees
- Document, Document, Document.

ADDITIONAL EXCEPTIONS TO RETURN TO PRE-COVID STAFFING

2. Health and Safety Exception:

- If due to directives or recommendations of the **HHS, CDC, or OSHA (Federal Agencies)** on social distancing, employee safety and public health requirements and you are **unable to restore your business to pre-COVID levels** by end of the covered period you have an exception from having to achieve pre-COVID level staffing.
- Note: Does not say state or municipality mandated closure or capacity reduction rules.
- You still must restore the staff you have to not less than 75% of compensation under the compensation reduction rule.
- CDC guidance on “spacing” which will likely require limiting capacity:
- <https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/business-employers/bars-restaurants.html>
- Document, Document, Document.

LOAN TERM CHANGES

- Loan received after June 5, term of loan is now 5 years
- Loan received before June 5, term of loan remains at 2 years or as mutually agreed with lender
- Payment deferment: Originally minimum 6 months and up to 1 year (based upon 8-week covered period)
- You have 10 months to apply for forgiveness after end of the covered period. If you fail to make application within 10 months after end of covered period, loan payments start 10 months thereafter.
- What about loans with 2-year terms? What if you apply for forgiveness and are denied or only receive forgiveness in part.
- Expecting more guidance. Discuss with your lender.

PAYROLL CONTRIBUTION DEFERRAL

- **Payroll Contribution Deferral:** Now allows businesses to defer the payment of the employer share of payroll tax contributions incurred through 12/31/20 until 12/31/21 and 12/31/22.
- Proceed with Caution! **Payroll taxes are non-dischargeable.**

FORGIVENESS APPLICATION

Loan Forgiveness Application was released in mid May (Long Form).

- Required detailed calculations, tabulations and worksheets for all employees

New PPP Loan Forgiveness Application EZ Form released on June 16 requires one of the following:

- Self employed and no employees, or
- Did not reduce compensation by more than 25% and did not reduce number of FTEs (subject to the safe harbor and exceptions).
- Experienced reduction of business activity due to health directives and did not reduce compensation by more than 25%.

Consult with your accountant or financial advisor for assistance with completing the forgiveness application

MAIN STREET LENDING PROGRAM

- Federal Reserve through the Fed Reserve Bank of Boston is offering the MSLP
- **You can** receive a PPP loan and be eligible for a MSLP loan
- Federal Reserve (through a special purpose vehicle) will purchase up to a **95%** participation in the MSLP loans.
- New minimum loan size of **\$250,000** up to \$35M.
- **Five-year** terms with principal payment deferral for the first 2 years.
- Loans are **not forgivable**.
- Loans are subject to **traditional bank underwriting** such as financial and credit review, may require collateral and personal guarantees.
- The business must have a “pass” (loan performance regulatory review) for any prior or existing loans
- All FDIC Banks, Credit Unions and Depository Institutions are eligible to participate
- Bank registrations for participation in the program recently opened
- **Where to apply?** Start with your PPP lender or your traditional bank.

QUESTIONS AND ANSWERS

Q & A

To ask a question, please type your question in the “chat box” or click the “Raise Hand” icon at the bottom of the webinar task bar. This will allow you to be unmuted and ask your question.

