



REGULATORY UPDATE:
Paycheck Protection Program Flexibility
Act Signed into Law;
Additional Guidance Necessary

June 5, 2020

On June 5, 2020, the President signed into law H.R. 7010, the "Paycheck Protection Program Flexibility Act." TechServe Alliance's previous Legislative & Regulatory Updates and webinars have discussed expected and necessary changes to the PPP and Small Business Administration guidance and interim rules. The new legislation addresses many of those issues, but some additional tweaks and guidance will be necessary.

Notably, the PPP Flexibility Act is effective on the date enactment and applies to all loans originated on or after that date, which is June 5, 2020. The Act is not retroactive; instead the law states that it shall not be construed to prohibit lenders and provider from mutually agreeing to modify the terms of a covered loan. In addition, the Act allows for 100 percent forgiveness when 60% or more of the loan proceeds are spent on payroll. The SBA in its guidance required that 75% be spent on payroll for forgiveness and the remainder was on a sliding scale. However, in the rush to pass the bill, the new law on its face mandates 60% or no forgiveness. Congress and the SBA are in communication to ensure that the SBA guidance can allow forgiveness on a sliding scale going forward. If not, a technical correction will be required.

Here is a [summary of the changes to the PPP program](#) which was created by the CARES Act:

Loan Forgiveness: extends the 8-week base period for repayment to 24 weeks or December 31, 2020 whichever comes first.

Payroll Percentage: lowers the SBA requirement that at least 75% of loan proceeds must be spent on payroll to 60%. However, the sliding scale for forgiveness was eliminated and further changes are expected. The CARES Act did not mandate any percentage.

Deadline to Rehire/Restore Wages: extended from June 30, 2020 to December 31, 2020.

Time to Spend Loan: extended from 8 weeks to 24 weeks.

Payroll Tax Deferral: repeals the CARES Act provision that banned borrowers that obtained PPP loan forgiveness from deferring payroll taxes.

Loan Repayment: extends the time to repay the loan set by the SBA from 2 years to 5 years. The CARES Act provided up to 10 years.

Flexibility for Rehiring Workers: includes provisions to address challenges of rehiring workers or hiring substantially qualified workers, addressing mostly concerns of the hospitality industry.

As of June 5, 2020, about \$130 billion is available for new PPP loans and all new loans must be originated by June 30, 2020.

The Senate is also considering additional legislation sponsored by Senators John Cornyn (R-TX) and Ron Wyden (D-OR) that would allow businesses to deduct expenses paid for with PPP loans.

The SBA will now be required to issue new interim rules and update the loan forgiveness application form. We will continue to monitor developments and keep members informed about changes.