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## Paycheck Protection Program – Loan Forgiveness

By the Business Practice Group

Borrowers fortunate enough to receive loans under the Paycheck Protection Program (“PPP”) are eligible for forgiveness of certain payroll costs, rent payments, utility payments, and mortgage interest payments. But with the good fortune of receiving a loan comes significant questions about how the rules on forgiveness will apply. The SBA has issued its Loan Forgiveness Application (“Application”), clarifying some of the ambiguities in the CARES Act regarding how to calculate a borrower’s PPP loan forgiveness. You can access the Application [here](#) (your lender may also make this application available electronically). **Borrowers should carefully review the Application as it applies to the borrower’s individual circumstances.**

Below is an overview of the current loan forgiveness rules and regulations under the PPP and general steps to determine anticipated loan forgiveness.<sup>1</sup> The steps below are intended to help borrowers understand the current law on loan forgiveness, understand the areas where questions remain, and offer suggestions to help maximize loan forgiveness.

That said, a number of bills are being introduced in Congress to expand the benefits afforded by the PPP and revise key portions of the legislation, including expansion of the current eight-week forgiveness period and extending the re-hiring deadline. We do not know whether any of the proposals will become law and if so, how they may impact the current PPP rules. We encourage borrowers to closely monitor new PPP developments and reach out to us with questions about their individual circumstances.

### Loan Forgiveness Steps:

- Step 1: Determine the Covered Period and the timing of costs incurred and paid.
- Step 2: Determine borrower’s eligible expenses.
- Step 3: Consider any reductions in the number of employees or employee salary/wages.
- Step 4: If a reduction applies, determine eligibility for the forgiveness reduction safe harbors.
- Step 5: Apply the 75% payroll cost requirement.
- Step 6: Be prepared to apply for forgiveness.

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<sup>1</sup> The Small Business Association (SBA) and the U.S. Treasury have issued guidance in the form of interim final rules and Frequently Asked Questions (“FAQs”) clarifying or expanding the CARES Act, which are available here: <https://home.treasury.gov/policy-issues/cares/assistance-for-small-businesses>. The FAQs do not carry the force of law but have provided details on how to interpret the CARES Act. In addition, on Friday, May 15, 2020, the SBA published a Loan Forgiveness Application and on Friday, May 22, 2020, the SBA issued an interim final rule containing significant additional guidance on calculating a borrower’s loan forgiveness. Like the FAQs, the guidance contained in the Loan Forgiveness Application likely does not carry the force of law.