



# GALLAGHER, FLYNN & COMPANY, LLP

◆ Legislative Alert: H.R. 7010 – Paycheck Protection Program Flexibility Act of 2020 ◆

June 5, 2020

On Wednesday evening, the U.S. Senate passed the U.S. House of Representatives' version of H.R. 7010 - the Paycheck Protection Program Flexibility Act of 2020 ([here](#)) ("the bill"). Today, President Trump signed the bill into law. This long-anticipated legislation has been designed to provide Paycheck Protection Program ("PPP") participants more flexibility to use their loan funds, an effort to enable more borrowers reach full, or almost full, forgiveness. While not formal guidance, the *Journal of Accountancy* has issued a summary of PPP loan forgiveness changes included in the bill ([here](#)).

Some highlights of important changes to the PPP follows:

- The **time period** that borrowers must use their PPP loan funds **has increased to 24 weeks**, up from 8 weeks. Borrowers can elect to keep the original 8-week period or use the extended 24-week deadline.
- The portion of funds borrowers must spend on payroll costs to qualify for loan forgiveness has been **reduced to 60%**, down from the prior 75% requirement. However, **borrowers must now spend at least 60% on payroll or none of the loan will be forgiven**. This is a substantive change. At present, a borrower is required to reduce the amount eligible for forgiveness if less than 75% of eligible funds are used for payroll costs, but forgiveness isn't eliminated if the threshold is not met.
- **Loan maturity is extended**. New borrowers now have five years to repay the loan, instead of two. Existing PPP loans can be extended up to five years if the lender and borrower agree. The interest rate remains at 1%.
- The **deadline to restore employee levels** has moved from 6/30/20 to **12/31/20**.
- The bill provides a **new exception for borrowers who do not fully restore their workforce to achieve full loan forgiveness**. The bill now allows participants to adjust because they were unable to find qualified employees or were unable to restore operations to February 15<sup>th</sup> levels due to COVID-19 related operating restrictions. Previous guidance that allows borrowers to exclude from calculations the employees who turned down good faith offers (to be rehired at their original hours and wages pre-pandemic) remains in effect.

- PPP borrowers can now defer the employer's share of FICA payroll taxes for two years. Half of the payroll taxes will be due in 2021, with the rest due in 2022.

We will continue to keep you updated as changes to legislation become available.

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