



Highlights: Two New Interim Final Rules on the Paycheck Protection Program

On May 22, 2020, the Small Business Administration (SBA) issued two new Interim Final Rules related to the Paycheck Protection Program (PPP). The first rule concerned [Loan Forgiveness Requirements](#) and the second rule concerned [SBA Loan Review Procedures and Related Borrower and Lender Responsibilities](#). Beyond the highlights below, FMA is providing daily clinics for nonprofits who want to learn more about managing their loans and this new guidance. [Sign up today!](#) We are also updating the [PPP Toolbox](#) with more comprehensive guidance, FAQs, and an updated Forgiveness Estimator.

Loan Forgiveness Requirements

The new Interim Final Rule on Loan Forgiveness mirrors the new rules and procedures described in the [Loan Forgiveness Application](#) and related instructions issued on May 15, 2020, including calculation of workforce and wage reduction, standards for full-time equivalent employee (based on a 40-hour week) and exemptions. See [FMA's Highlights: Newly Issued SBA Paycheck Protection Program Loan Forgiveness Application](#) for more on this.

Additionally, the new Interim Final Rule on Loan Forgiveness clarified and made explicit the following guidance of interest to nonprofits. *Given these clarifications, this means then, for some organizations based on the timing of their loan and payroll and bill cycles, they will end up being allowed to include more than 8 weeks of expenses.*

- **Allowable payroll expenses (as defined in the interim final rules):**
 - *Timing:* Borrowers may include 1) expenses paid during the 8-week forgiveness period **and also** 2) expenses incurred during the 8-week period + paid on or before the next regular payroll date thereafter (incurred amount is limited to the days occurring during the 8-week period)
 - *Types:* now explicitly also includes furlough, bonuses and hazard pay
- **Allowable nonpayroll expenses (as defined in the interim final rules):**
 - *Timing:* Includes 1) expenses paid during the 8-week forgiveness period **and also** 2) expenses incurred during the 8-week period, which are paid on or before their next regular billing date, even if the billing date is after the 8-week period
- **Forgiveness reductions**
 - *Workforce Reduction/FTE rules:* In the case of the exemption from the FTE reduction for employees who reject an offer to return to work, the SBA added a new condition that borrowers must notify the relevant state unemployment office that the offer to return to work was rejected within 30 days of the rejection.

SBA Loan Review Procedures and Related Borrower and Lender Responsibilities

Among other things, the [Interim Final Rule](#) in this area provides that:

- The SBA **may review any loan** made under the PPP program, regardless of size, as to eligibility of the borrower, loan amount and loan forgiveness amount, noting that borrowers are required to maintain records for six years.
- If the SBA finds the borrower is ineligible, the SBA will instruct the lender to deny forgiveness and may also require the borrower to **repay the outstanding loan amount** and pursue other remedies. A separate interim final rule will be issued to establish an appeal process.

See the full [Interim Final Rule](#) for a full description of all areas covered, including processes to be followed, borrower and lender responsibilities and consequences of non-compliance.

This information is provided for general informational and educational purposes only and does not constitute legal, accounting or financial advice. Please note guidance is changing regularly. We encourage you to check with the SBA and your lender for updated guidance and check our FMA toolkit for updated materials.