**Paycheck Protection Program– Update on Loan Forgiveness**

**SkarlatosZonarich LLC**

**July 31, 2020**

The Paycheck Protection Program Flexibility Act of 2020 (the “Flexibility Act”) amended certain provisions of the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”). Since the Flexibility Act was signed into law, the Small Business Administration (“SBA”) has issued additional guidance regarding PPP loans and loan forgiveness.

1. Highlights of the Flexibility Act. The period for which businesses are able to claim forgiveness for expenditures on allowable uses of loan funds was increased from eight weeks following the origination date of the loan to the earlier of 24 weeks following the origination date of the loan or December 31, 2020. Businesses that obtained a loan prior to June 5, 2020 are permitted to elect an 8-week forgiveness period as originally prescribed in the CARES Act. Furthermore, the percentage of the PPP loan proceeds that a business must expend on Payroll Costs (as defined in the CARES Act) in order to receive loan forgiveness was reduced from 75% to 60%. This reduction is especially beneficial for businesses with higher fixed costs, such as mortgage, rent, and utility payments.

2. Highly Compensated Individuals. There is a cap on PPP loan forgiveness for payments made to individuals with salaries in excess of $100,000 per year. For each employee, other than owners of the business, the salary eligible for loan forgiveness is capped at $15,385 if the 8-week loan forgiveness period is elected or $46,154 if the 24-week loan forgiveness period is elected. For each owner of the business, the amount of salary eligible for loan forgiveness is capped at $15,385 if the 8-week loan forgiveness period is elected or $20,833 if the 24-week loan forgiveness period is elected.

3. Application for Loan Forgiveness. Businesses are permitted to apply for loan forgiveness upon the earlier of the end of the covered period (the 8-week or 24-week period) or the expenditure of all of the funds obtained through the PPP loan. Any business seeking loan forgiveness should complete and submit either the [Standard Loan Forgiveness Application](https://www.sba.gov/sites/default/files/2020-06/PPP%20Loan%20Forgiveness%20Application%20%28Revised%206.16.2020%29-fillable_0-508.pdf) or the [EZ Loan Forgiveness Application](https://www.sba.gov/sites/default/files/2020-06/PPP%20Forgiveness%20Application%203508EZ%20%28%20Revised%2006.16.2020%29%20Fillable-508.pdf), along with the required supporting documentation, to its lender. The EZ Loan Forgiveness Application may be utilized by businesses that meet one of the three criteria listed [here](https://www.sba.gov/sites/default/files/2020-06/PPP%20Loan%20Forgiveness%20Application%20Form%20EZ%20Instructions%20%28Revised%2006.16.2020%29-508.pdf). After receiving the loan forgiveness application, the lender has up to 60 days to review the application and submit the application and the lender’s loan forgiveness determination to the SBA. The SBA then has 90 days, after receiving the loan forgiveness application and determination from the lender, to complete its review and make a final determination regarding loan forgiveness eligibility. The SBA is scheduled to begin accepting loan forgiveness applications on August 10, 2020, but lenders may accept loan forgiveness applications before that date.

4. Proposed Legislation. Recently proposed legislation, namely the Prioritized Paycheck Protection Program Act (P4) and The Health, Economic Assistance, Liability Protection, and Schools Act (HEALS Act), is currently pending before Congress. Both of the proposed Acts would allow businesses that sustained a reduction in gross revenue of at least 50% due to the COVID-19 pandemic to apply for and obtain an additional PPP loan.

We anticipate that the SBA will continue to provide further guidance and issue additional interim final rules in the coming weeks. If you have questions regarding the selection of the 8-week or the 24-week covered period, the loan forgiveness application, or any other aspects of the PPP loan, please feel free to contact us.

This article as well as further updates in regard to other legal implications related to the Coronavirus pandemic can be found on our COVID-19 Response [webpage](https://www.skarlatoszonarich.com/covid-19).

**If you have any questions, please contact a member of the Business Team at SkarlatosZonarich LLC:**

|  |  |
| --- | --- |
| Nathan D. Berry  nberry@skarlatoszonarich.com | Gregory S. Chelap  gchelap@skarlatoszonarich.com |
| Robert Freedenberg  rfreedenberg@skarlatoszonarich.com | Kathy Speaker MacNett  ksm@skarlatoszonarich.com |
| Connie Wilson  cwilson@skarlatoszonarich.com | John B. Zonarich  jbz@skarlatoszonarich.com |
| John R. Zonarich  jrz@skarlatoszonarich.com |  |