

# BANKING & FINANCE LAW ALERT

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## PPP borrowers can apply for forgiveness early

In a [recent interim final rule](#), the Department of the Treasury and the SBA clarified that PPP borrowers could apply early for loan forgiveness, including before the end of their chosen covered period. The rule provides, “a borrower may submit a loan forgiveness application any time on or before the maturity date of the loan – *including before the end of the covered period* – if the borrower has used all of the loan proceeds for which the borrower is requesting forgiveness.”

This is good news for many borrowers that may have been unable to use all their PPP loan proceeds within the original eight-week period, but also did not want to wait until the end of the full 24-week extended period created by the [PPP Flexibility Act](#). Prior to this interim final rule allowing PPP borrowers to apply for forgiveness before the end of the covered period, PPP guidance suggested that a borrower would either have to choose an 8-week period or a 24-week period in which to expend its PPP funds. This interim final rule clarifies that a borrower who uses all of its PPP loan proceeds before the end of its covered period can apply for forgiveness early. For example, a borrower who uses its PPP loan in 12 weeks can apply for forgiveness at the end of that period and not have to wait another 12 weeks to apply for forgiveness. Now, borrowers have more flexibility to use their PPP funds for a length of time in between eight and 24 weeks.

However, borrowers should be wary of some potential pitfalls of electing to apply for forgiveness before the end of the covered period. If a borrower applies for forgiveness before its chosen covered period ends but has reduced any employee’s salary or wages more than 25 percent, then the borrower will have its forgiveness amount reduced in an amount equal to the excess salary reduction for the full eight-week or 24-week covered period despite applying prior to the end of such period.



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LAW ALERT

Applying early would also affect the safe harbor for re-hiring employees to eliminate any FTE reduction. According to the [Standard Forgiveness Application](#), in order to meet the re-hiring safe harbor, borrowers who have an FTE reduction would have to restore employee levels by the earlier of (i) Dec. 31, 2020 or (ii) *the date of the forgiveness application*. Borrowers who laid off a significant number of employees might need more time to re-hire employees in order to meet this safe harbor, in which case applying for forgiveness later may be beneficial for such borrowers.

If you have questions regarding the new interim final rule or when you should apply, please contact [Jack Beeler](#), [Jack Meadows](#), [Cassandra Rice](#) or any member of Porter Wright's [Banking & Finance practice group](#).