CARES ACT – Summary Chart: Loan Forgiveness for Paycheck Protection Program

Below is a summary of key details related to the loan forgiveness requirements for the Paycheck Protection Program in the CARES Act. Many details are yet to be finalized.

	Loan Forgiveness in the "Paycheck Protection Program"
What payments can be made with the loan proceeds and still have the loan be eligible for loan forgiveness?	The sum of costs incurred and payments made for payroll costs, mortgage interest, rent and utilities over an 8-week period[1] referred to as the "Covered Period" (described below) are eligible to be forgiven. Up to 100% of the loan can be forgiven if the loan proceeds are used for eligible payments. [Note: The mortgage and rent obligations must have been incurred prior to February 15, 2020, and the utilities must have had service in place prior to February 15, 2020.]
What will cause the loan forgiveness to be less than 100% (provided all loan proceeds are used for permissible purposes)?	The loan forgiveness will be reduced in two circumstances: (1) a "**Headcount Adjustment**" (described below) which will apply if the employer has fewer full time equivalent employees during the "Covered Period" than it did during the "Historical Period" (described below), ***unless*** the employer re-hires employees such that it meets the "**Headcount Exemption**" (described below); and (2) a "**Compensation Adjustment**" (described below) which will apply if the employer reduces employee compensation for Covered Employees (only) during the "covered period" over employee compensation paid during the "Historical Period" **unless** the employer meets the **Compensation Exemption** (described below).
DEFINITIONS	
Headcount Adjustment	A *PERCENTAGE* equal to the Average number of FTE per month employed per month during the Covered Period *divided* by the average number of FTE per month during the Historical Period.
Compensation Adjustment	A *DOLLAR AMOUNT* equal to the sum of any reduction in total salary or wages of any Covered Employee that is greater than 25% of the total salary or wages paid to that employee during the most recent full quarter in which the employee was employed before the covered period UNLESS the Compensation Exemption Applies. [Note: There are multiple definitions of "covered period" in the Act. A full quarter is 13 weeks and the definition of the "covered period" in the relevant section of the CARES Act is 8 weeks. In other sections of the Act, the "covered period" is February 25 to June 30, so the regulations will presumably clarify exactly how this adjustment will be calculated.]
Headcount Exemption	If not later than June 30, 2020, the employer has "eliminated the reduction in the number of full-time equivalent employees."
Compensation Exemption	If not later than June 30, 2020, the employer has "eliminated the reduction in the salary or wages of such employees."
Covered Period	The "covered period" for the PPP loan will not necessarily have to be the 8 weeks immediately after the PPP loan is funded (as is provided for in the definitions of the CARES Act), and will likely be any 8 week period between February 25, 2020 and June 30, 2020 per a Senate committee report.
Historical Period	At the election of the borrower, February 15, 2019 to June 30, 2019 or January 1, 2020 to February 29, 2020.
Covered Employee	Each employee who received wages in each pay period of 2019 that if annualized would be **not** more than $100,000. Employees who received during **any** pay period in 2019 an amount that if annualized would have exceeded $100,000 are not "Covered Employees" and are entirely excluded from the Compensation Adjustment (but not the Headcount Adjustment).

For Further Information: If you have any questions, please contact the attorney in the firm that you work with or Matt Benson at m.benson@clrm.com.