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US Paycheck Protection Program Flexibility Act Relaxes Certain PPP Loan Deadlines + Standards

June 5, 2020

Late Wednesday, Congress passed the **Paycheck Protection Program Flexibility Act** (PPPFA), which has now been signed into law. It relaxes certain deadlines and standards, providing borrowers additional flexibility in the use of PPP funds.

Key features of the PPPFA

- It extends the loan maturity for any unforgiven portion of a PPP loan made after the effective date of the legislation from two years to five years, although borrowers and lenders may mutually agree to modify the maturity terms of loans issued previously
- The "covered period" for calculating forgiveness amounts has been extended from the eight weeks from loan origination until the earlier December 31, 2020, *or* 24 weeks from loan origination, though borrowers that took a PPP loan prior to the effective date of the PPPFA may still elect to use the original eight-week period
- It extends from June 30, 2020, until December 31, 2020, the end of the period during which borrowers can rehire employees and thereby limit reductions in forgiveness
- It provides that the reduction in a borrower's forgiveness amount associated with reductions in headcount during the covered period is not applicable to the extent the borrower can document in good faith that:
    - The borrower is unable to rehire employees who worked for the borrower as of February 15, 2020, or hire "similarly qualified" employees for unfilled positions on or before December 31, 2020, or
    - The borrower is unable to return to the same level of activity as existed on February 15, 2020, as a result of requirements and guidance issued by the secretary of Health and Human Services, the director of the CDC, or OSHA during the period from March 1, 2020, through December 31, 2020, for sanitation, social distancing or any other worker or customer safety requirement related to COVID-19
- It reduces from 75% to 60% the amount of the loan proceeds that must be used for covered payroll expenses and, conversely, increases to 40% (from 25%) the amount of the loan proceeds that may be used for covered non-payroll expenses
- It extends the deferral of payments on principal and interest (originally set at six months) until the date on which SBA remits the forgiveness amount back to the lender, or if forgiveness isn't sought within 10 months after the last day of the "covered period" described above, then the deferral ends on that 10-month date

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