

COVID-19 PPP Loans – Paycheck Protection Program Flexibility Act of 2020

In response to significant pressure from small businesses, Congress passed the Paycheck Protection Program Flexibility Act of 2020 (“PPP Flexibility Act”), which was signed into law on June 5, 2020. The PPP Flexibility Act provides significant additional flexibility to small businesses obtaining PPP loans.

Increased Flexibility for Use of PPP Loan Funds:

The PPP Flexibility Act extended from eight weeks to 24 weeks (but no later than December 31, 2020) the covered period during which PPP loan funds may be used by borrowers and eligible for forgiveness. This extension allows borrowers more time to use the funds while the economy begins to reopen.

The PPP Flexibility Act also lowered from 75% to 60% the portion of PPP loan funds that must be used for payroll costs. This reduction allows borrowers to use a greater portion of PPP loan funds (up to 40%) on rent, mortgage interest, and utilities.

In addition, the PPP Flexibility Act extended from June 30, 2020, to December 31, 2020, the deadline for borrowers to reverse employment or wage reductions in order to utilize a safe harbor for loan forgiveness. PPP loans are subject to forgiveness reductions if a borrower reduced its full time equivalent employees or reduced wages more than 25% between February 15, 2020, and April 26, 2020. This extension allows borrowers more time to return their workforce to employment and compensation levels that existed prior to the pandemic.

Increased Deferral Period and Loan Term:

Any portion of PPP loans that are not forgiven must be repaid. The PPP Flexibility Act allows borrowers to defer principal and interest payments on a PPP loan until the SBA pays the lender the amount of the loan forgiveness. Borrowers that do not apply for forgiveness within ten months of the expiration of the borrower’s covered period must begin making principal and interest payments at that time. This extends the prior deferral period of six months.

The PPP Flexibility Act also extends the loan term for new PPP loans that are not fully forgiven to a minimum of five years. The term of PPP loans that were made before June 5, 2020, may be extended from the existing two year maturity if the borrower and lender agree.