

Senate Passes Paycheck Protection Program Flexibility Act of 2020

Last night, the United States Senate unanimously passed the Paycheck Protection Program Flexibility Act of 2020 (H.R. 7010) (the “Act”), which was passed by the House of Representatives last week. The President is expected to sign the bill into law shortly.

Key Highlights

- New PPP loans will have a minimum maturity of five years. Previously, the SBA and Treasury had, by regulation, set the maturity at two years. This would only apply to loans made after the enactment of this Act. However, lenders and borrowers are free to renegotiate the terms of PPP loans already made.
- The Act extends the time period in which a borrower could obtain a loan to December 31, 2020. However, the more important deadline for a borrower is the exhaustion of funds appropriated to the PPP program.
- The Act extends the time period in which borrowers are allowed to use PPP funds and then seek forgiveness from eight weeks after loan origination to the earlier of 24 weeks after origination or December 31, 2020. A borrower can elect to keep the 8 week covered period, however.
- The Act statutorily conditions any loan forgiveness on the borrower spending at least 60% of the PPP proceeds on payroll costs. The previous requirement was 75% set by SBA regulations.
- The Act adds in an exemption to the reduction in forgiveness based on reduced headcount of employees where: (1) the borrower is unable to rehire individuals who were employees or similarly qualified persons, or (2) there is a documented inability to return to pre-COVID business activity due to social distancing, sanitation, or other worker or safety requirements.
- The Act allows PPP borrowers to defer payment on employer portion of payroll taxes from March 27, 2020 to the end of the year. Previous regulations had a cut-off date of the when a borrower's PPP loan was forgiven.

PPP borrowers should consider their specific circumstances to determine whether to extend the covered period to 24 weeks instead of 8 weeks. The extension will be detrimental to some borrowers. An extension of the Covered Period extends all related PPP requirements, including, the obligation to retain employees and fund payroll.

[The text of the bill can be found here.](#)

Contact Us

Reach out to Fraser Stryker's business attorneys for more information. We are here to help:



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