CLIENT ALERTS & INSIGHTS

Paycheck Protection Flexibility Act

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Late last night, the Senate passed the previously approved House version of the Paycheck Protection Flexibility Act. The bill is awaiting President Trump's signature in order to officially become a law. Below is a summary of the provisions of the CARES Act that will change if President Trump signs the bill into law:

- The term of the loan has been extended from 2 years to 5 years
- Extends the PPP loan forgiveness period to include costs incurred through the earlier of (i) 24 weeks after a loan is issued and (ii) December 31st. Note that businesses that received a loan before the amendment becomes law can still utilize the current eight-week covered period.
- Extends from June 30th to December 31st the date by which you can have FTE's and compensation back to the levels that included the February 15th payroll period and not have the forgiveness amount reduced due to FTE reduction or compensation reductions that occurred between February 15th and April 26th.
    - Forgiveness amounts will not be reduced due to a reduction in FTEs if a borrower in good faith can document either (A) or (B) below:

    (A) An inability to:

    - rehire individuals who were employees of the borrower as of February 15th; and

    - hire similarly qualified employees for unfilled positions on or before December 31

    (B) An inability to return to the same level of business activity as such business was operating at before February 15, 2020, due to compliance with requirements established or guidance issued by the Secretary of Health and Human Services, the CDC, or OSHA during the period beginning on March 1, 2020, and ending December 31, 2020, related to the maintenance of standards for sanitation, social distancing, or any other worker or customer safety requirement related to COVID-19.

- Non-payroll costs (rent, interest and utilities) can now account for 40% of the PPP loan and payroll costs only have to account for 60%.
- Allows borrowers to defer principal and interest payments on PPP loans until the SBA compensates lenders for any forgiven amounts, instead of the current six-month deferral period.

- Borrowers that don't apply for forgiveness within 10 months from the end of the covered period (i.e. the earlier of 24 months from loan funding of December 31st) will have to start making principal and interest payments after the 10 month period
- Recipients of PPP loans can now defer their payroll tax payments whereas, before they were unable to if they took PPP funds.

If you have any questions, please contact a member of Benesch's Commercial Finance & Banking Practice Group.

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Please note that this information is current as of the date of this Client Alert, based on the available data. However, because COVID-19's status and updates related to the same are ongoing, we recommend real-time review of guidance distributed by the CDC and local officials.

