# COVID-19 CARES Act Updates – Paycheck Protection Program Flexibility Act (PPPFA)

June 8, 2020

**Porzio Client Alert**

On June 5, 2020, President Trump signed into law the Paycheck Protection Program Flexibility Act (PPPFA). The PPPFA makes changes to the Paycheck Protection Program (PPP) established under the CARES Act (signed into law on March 27, 2020). Below is a summary of some of the key terms of the PPPFA, for a detailed explanation or discussion of PPP and/or PPPFA, please contact, Pam Kapsimalis and/or Jonathan King.

**PAYCHECK PROTECTION PROGRAM FLEXIBILITY ACT**

As explained in more detail below, the PPPFA: (i) extends the "covered period" to pay forgivable expenses; (ii) extends the maturity period to repay a PPP loan; (iii) increases the ratio on forgivable non-payroll expenses to 40% from 25%; (iv) extends the deadline to rehire/restore salaries; and (v) provides relief for employers who remain partially or fully closed through the end of the year.

**Extension of Covered Period to Use PPP Loan**

- The PPP grants borrowers 8 weeks from the time they receive the proceeds of a PPP loan to incur costs eligible for forgiveness. This 8-week period is known as the "covered period."
- The PPPFA extends the covered period to the earlier of: (i) 24 weeks after the loan origination date; or (ii) December 31, 2020. PPPFA also adds a section that a business which received a covered loan before the enactment of the PPPFA "may elect for the covered period applicable to such covered loan to end on the date that is 8 weeks after the date of the origination of such covered loan."

**Extension of Maturity Period**

- The interim final rules promulgated by the SBA capped the loan maturity period at 2 years.
- The PPPFA increases the term of loan repayment to a minimum of 5 years. This maturity period applies to loans made on or after the date the PPPFA is enacted.

**Modification of Non-Payroll Versus Payroll Ratio For Forgiveness**

- The SBA's interim rules determined that Congress capped the amount of non-payroll expenses which could be forgiven at 25% of the forgiveness amount.
- The PPPFA provides that to receive forgiveness under its amendment a business "shall use at least 60 percent of the covered loan amount for payroll costs, and may use up to 40 percent of such amount for" eligible non-payroll expenses.

**Extension of Deadline to Rehire/Restore Salaries**

- The PPPFA changes the date (from June 30, 2020 to December 31, 2020) by which employees that were laid off must be rehired by the business in order to obtain maximum forgiveness.

**Employer Relief from Full Time Employment (FTE)Reduction**

- For many businesses that remain partially or fully closed through end of the year, the PPPFA provides that during the period of February 15, 2020 to December 31, 2020, the PPP loan forgiveness amount shall not be reduced when a borrower experiences a loss of FTE and if the borrower demonstrates, in good faith, that:
    - An inability to (i) rehire employees who were employed as of February 15, 2020, and (ii)hire similarly qualified employees for unfilled positions on or before December 31, 2020, or
    - An inability to return to the same level of business activity as such business was operating on or before February 15, 2020, due to compliance with certain COVID-19 requirements and guidelines issued by Health and Human Services, Centers for Disease Control and Preventionor the Occupational Safety and Health Administration from March 1, 2020 to December 31, 2020.