

May 4, 2020

PPP Loans, May 7 Deadline

All Paycheck Protection Program (PPP) loan applications require borrowers to certify in good faith that “[c]urrent economic uncertainty makes this loan request necessary to support the ongoing operations of the Applicant.” Thursday May 7, 2020 is the last day for recipients of loans from the PPP to repay their loans in full if they wish to avoid scrutiny whether their certification of necessity for the loan was made in good faith.

On April 23, 2020, the SBA published guidance requiring that borrowers take into account their ability to access other sources of liquidity (apart from the PPP) sufficient to support their ongoing operations in a manner not significantly detrimental to their business. The SBA stated that it is unlikely that a public company with substantial market value and access to capital markets will be able to make the required certification in good faith. On April 28, 2020, the SBA expanded that guidance to indicate that private companies with adequate sources of liquidity to support the business’s ongoing operations must face the same test.

Borrowers who made false certifications can face criminal and civil consequences.

The SBA has further indicated that borrowers that applied for a PPP loan before the April 23 guidance, who repay the loan in full by May 7, 2020, will be deemed to have made the required certification in good faith.

We are available to provide guidance and advice to our clients who may have any concern regarding any of the foregoing.

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About Pavia & Harcourt LLP

Established in 1951, Pavia & Harcourt LLP is a business law firm concentrating in international commercial and corporate transactions, banking, media and entertainment, real estate, litigation and arbitration, intellectual property, estate planning and administration, and matrimonial law. We are based in New York City.

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