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Coronavirus Stimulus & Relief Alert

AUGUST 10, 2022

PPP and EIDL statute of limitations for fraud extended to 10 years

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We highlight the PPP and Bank Fraud Enforcement Harmonization Act of 2022 and the COVID-19 EIDL Fraud Statute of Limitations Act of 2022.



What's the Impact?

- / Recent legislation passed by Congress demonstrates that pandemic relief fraud enforcement will continue to be a priority in the coming years.
- / Companies that sought and obtained relief funding should conduct due diligence and ensure those funds were properly received, used, and forgiven.

On August 5, 2022, two bills extended the statute of limitations for civil and criminal enforcement actions for fraud in connection with the Paycheck Protection Program (PPP) and Economic Injury Disaster Loans (EIDL) to 10 years. The [PPP and Bank Fraud Enforcement Harmonization Act of 2022](#) and the [COVID-19 EIDL Fraud Statute of Limitations Act of 2022](#) were both passed by Congress with bipartisan support and signed by President Biden.

These bills demonstrate that pandemic relief fraud enforcement will continue to be a priority in the coming years. As of March 10, 2022, the government had already brought criminal charges

against more than 1,000 defendants, with alleged losses exceeding \$1.1 billion; seized over \$1 billion in EIDL proceeds; and initiated more than 240 civil investigations into more than 1,800 individuals and entities for alleged misconduct in connection with pandemic relief loans totaling more than \$6 billion. The government has flagged tens of thousands of potentially fraudulent loans totaling several billion dollars, and we expect investigations into those loans to continue in earnest over the coming years.

Before passage of these bills, the statute of limitations for civil and criminal fraud enforcement actions concerning PPP and EIDL loans was six years. Now that the statute of limitations has been extended to 10 years, borrowers should maintain all of their loan files for at least 10 years from the date a loan was received, used, and — if applicable — forgiven, whichever date is later. It is worth noting that many forms issued by government agencies, such as the U.S. Small Business Administration, advise borrowers to retain files for six years, as do certain regulations enacted before these bills. To the extent there is a conflict between older forms or regulations and the new laws, the new laws' 10-year limitations period likely controls.

In addition to maintaining their loan files for 10 years, companies and individuals who applied for and received government-sponsored pandemic relief funding should conduct due diligence to ensure those funds were properly received, used, and forgiven.

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