

**OVERSIGHT OF THE U.S. SMALL BUSINESS  
ADMINISTRATION**

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**HEARING**  
BEFORE THE  
**COMMITTEE ON SMALL BUSINESS  
AND ENTREPRENEURSHIP  
UNITED STATES SENATE**  
**ONE HUNDRED SIXTEENTH CONGRESS**  
FIRST SESSION

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FEBRUARY 13, 2019  
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COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP  
ONE HUNDRED SIXTEENTH CONGRESS

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## **OVERSIGHT OF THE U.S. SMALL BUSINESS ADMINISTRATION**

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**WEDNESDAY, FEBRUARY 13, 2019**

UNITED STATES SENATE,  
COMMITTEE ON SMALL BUSINESS  
AND ENTREPRENEURSHIP,  
*Washington, DC.*

The Committee met, pursuant to notice, at 2:30 p.m., in Room 428A, Russell Senate Office Building, Hon. Marco Rubio, Chairman of the Committee, presiding.

Present: Senators Rubio, Risch, Ernst, Young, Kennedy, Romney, Hawley, Cardin, Shaheen, Markey, Booker, Coons, Hirono, Duckworth, and Rosen.

### **OPENING STATEMENT OF HON. MARCO RUBIO, CHAIRMAN, A U.S. SENATOR FROM FLORIDA**

Chairman RUBIO. This hearing will come to order, the Committee on Small Business and Entrepreneurship. I want to thank all of you for being here. I want to welcome Administrator McMahon. It is an important hearing for me. It is—actually, it is my first. We have done subcommittees together but this is our—so there is really no baseline, so today is the baseline for how to judge the other ones. But—and it is really an honor to lead this Committee and to do so with the Ranking Member, who I also serve with, in the same capacities, on the Subcommittee on the Western Hemisphere and Foreign Relations. So people are starting to say we look alike, which is—we have done a lot of bills together as well.

And we have three new members to the Committee—Senator Romney, Senator Hawley, Senator Rosen. We appreciate your service and look forward to working with you this Congress. The issues under the jurisdiction of this Committee are of great importance to the whole country. Over—close to 60 million Americans work for a small business so that is literally half of our workforce.

And this Nation has a long history of innovation and entrepreneurship and hard work. And when American ingenuity, innovation, access to capital, access to markets, access to workforce—when all of that is in place we are a Nation that creates dignified jobs, and dignified jobs create upward mobility, and with upward mobility lives are changed for the better, communities are changed for the better, and the country is stronger for all of that.

So my priority here as Chairman is to pass bipartisan legislation that will expand economic opportunity for small businesses and for entrepreneurs who are forced to take on personal risk and sacrifice to compete in this new global marketplace.

As everyone in this room is aware, we got off to a slow start here at the beginning of the year in Washington. However, by most accounts, Administrator McMahon and the Small Business Administration have responded well, following the government shutdown. I commend you, your staff for their hard work to process the backlog of loans, to get expansion plans and small business growth back on track.

Following a history year of small business growth and optimism, I look forward to solutions from this Committee that will continue this pattern of growth, because bringing dignified jobs back and increasing opportunity in the areas of our country that need it the most are priorities, I believe, of every member of this Committee and should be the priority of this Committee during this Congress.

In times of distress and challenge, small businesses bring communities together and are vital to boosting morale. I have seen it first-hand in Florida, after the effects of natural disaster and the subsequent assistance the SBA offers to revitalize the area. Last October, Hurricane Michael hit our Panhandle, with the third-most intensity of any Atlantic storm, and the SBA is now processing more than 14,000 loans that will inject more than \$651 million into recovering and rebuilding the homes and businesses in Georgia and in the Florida Panhandle.

Previous to that, Hurricane Irma, the strongest storm to ever exist in the open Atlantic, hit Florida and Georgia, South Carolina, and Puerto Rico, in August and September of 2017. Hurricane Maria, the worst natural disaster on record for Puerto Rico, struck just two weeks after that. The SBA was quickly on the ground with nearly 2,000 field staffers and has handled more than 675,000 phone calls just from Puerto Rico. The region could not have survived without the \$7.37 billion in loans that the SBA distributed in the wake of Hurricanes Harvey, Irma, and Maria.

In times of tragedy, small businesses are the gathering place for the community and they become centers of optimism. So we have to make sure the disaster loan process operates at its peak efficiency, streamlining the process, making recovery dollars quickly available. And I look forward to working with the SBA to find the most effective way to serve disaster survivors.

Another focus, I hope, of this Committee will be the competitiveness of American entrepreneurs and small business. Yesterday we released a report, "Made in China 2025 and the Future of American Industry" that evaluates China's plan to become the global leader in innovation and manufacturing. Our report highlights the challenges posed by China's blatant industrial espionage and coercion, actions that threaten our economic framework and our national prosperity. It offers several policy recommendations to strengthen the system against its rivals.

The role of government is to align our economic policies with the right national priorities, and my personal view is that for too long we have been aligned behind some of the wrong priorities. Our most important priority should be creating dignified work through investment and innovation, and I see real opportunity through this Committee to bolster SBA's programs that provide capital for innovative, high-growth-potential firms. It is the goal of the SBA programs to act as a launching pad for small businesses, and there are

specific programs at SBA that fill a gap in capital to startups and entrepreneurs who may have the next great robotics product, as an example.

One of these programs, the Small Business Investment Company Program, introduced a concept of venture capital. Through this program, SBA licenses privately owned SBICs and provides them with leverage from SBA-guaranteed loans that the SBICs then couple with their own capital to invest in small businesses. This venture capital tool is a great way to fuel innovative, high job growth industries and companies.

Last Congress, I introduced the Spurring Business and Communities Act to increase the number of SBICs in states like mine, like Florida, where there are fewer investment companies. I'm proud to say that bill passed. The President signed it in December, and I'm eager to hear from Administrator McMahon on the SBA's progress in implementing this new law.

Unfortunately, an issue Congress needs to address is the timing for getting an SBIC license approved. Already an arduous application process, licenses can take more than a year to be approved, hampering access to capital for innovative startups. This is an example of the need to streamline agency processes so that we are not leaving money on the table and keeping businesses from starting or growing or innovating.

Another set of SBA programs that are focused on innovation are the Small Business Innovation Research and Small Business Technology Transfer Programs. They provide an opportunity for small businesses to partner with the government to conduct research and development that can ultimately fill a government need and provide the small business with funding to develop their ideas and technologies with the goal of commercializing that technology. Though these programs represent a very small percentage of extramural R&D for participating agencies, they show an impressive—very impressive return on investment.

The Navy commission to study, in 2016, it showed that commercialization of SBIR and STTR technologies resulted in \$14.2 billion in sales of new products and services and \$7 billion in sales for new capabilities and products to the U.S. military from the Navy alone.

The economic impacts of the program tell a similar story of nearly \$2.3 billion investment from 2000 to 2013. The program provided a 19-to-1 return on investment, with an economic output of \$44.3 billion and the creation of nearly 200,000 jobs. I understand a Defense-wide report on these programs is expected in the coming weeks and I have no doubt that the numbers from them will be similarly impressive.

But this is the kind of program and investment we need to make in the continued development of innovative firms that will bolster American jobs and bolster American global competitiveness.

While I intend to focus on innovation and competitiveness, it is also important that we work together to streamline processes at SBA and conduct appropriate oversight of the agency to ensure small businesses are able to access the programs that they need. An area that small businesses will always come to the SBA for is capital. Access to capital remains a top issue for entrepreneurs

across the country. So any changes made at SBA that affect programs providing capital should be considered thoughtfully.

It is also important that we work to streamline processes that we're not—as we work to streamline processes that we're not skipping over the very small businesses that the SBA exists to serve.

A proposed lending rule that the SBA issued in October appears to have failed to consider the effect of the regulation on small entities. Aside from some questionable changes that the rule would make, it is concerning that the Small Business Administration is making rules without considering small business impacts through a detailed regulatory flexibility analysis. SBA requires other agencies to do this analysis when a proposed rule will have a significant economic impact on a substantial number of small entities, yet this rule contains no analysis of the potential impact of these provisions on smaller loans, under \$350,000, and the negative potential impact on small business access to capital.

So I look forward to discussing these things today and to working with this Committee and this Congress to ensure that the SBA is working as effectively as possible for the American people, and I also look forward to learning how this Committee can provide the support the SBA needs to carry out its important mission.

I turn it over to the Ranking Member.

**OPENING STATEMENT OF HON. BENJAMIN L. CARDIN,  
RANKING MEMBER, A U.S. SENATOR FROM MARYLAND**

Senator CARDIN. Well, Senator Rubio, first congratulations on your selection as Chairman of this Committee. I can tell you on behalf of not just the Democratic members but all members of this Committee we look forward to working with you. We are excited about your strategies for what this Committee needs to undertake during the 116th Congress, and we look forward to continuing the great tradition of this Committee to work in a nonpartisan, bipartisan manner to help the small business communities in this Nation.

And to Senator Risch, congratulations on your term as Chairman of this Committee. The two of us look forward to your leadership on the Foreign Relations Committee, since we serve on that committee with you, but it has certainly been a legacy that we intend to continue.

Administrator McMahon, it is nice to have you here. As you noticed, we both are the leadership of not only this Committee but Western Hemisphere, so we expect that you will be putting the priority on trade between small businesses in the Western Hemisphere countries. So we will be asking you to report back to us on that. But it is good that we really have, I think, a very ambitious but important agenda.

I also want to join the Chairman in welcoming our new members. Senator Rosen, it is good to have you here on this Committee and I look forward to working with you. And to Senator Romney and Senator Hawley, it is good to have both of you on our Committee and we look forward to your participation on this very important Committee. And welcome back, Madam Administrator.

Chairman Rubio went through a lot of the issues that are extremely important. The bottom line is that small businesses are the

driving force behind our economy. We know that. That is where job growth is going to take place. That is where innovation takes place. I am always so energized when I visit small businesses in Maryland and see the creativity that is taking place in these businesses. It is not only exciting because I know it is going to translate into more jobs, and good-paying jobs in our community, but I know that we are going to do things better as a result of their innovation.

Our job is to make sure that the tools that are available are used in the most effective way to encourage the growth of small businesses in our community. And Chairman Rubio went through many of those particular areas, and I support what he has said. What I hope, on the oversight function that this Committee plays, that we can look at the essential tools that are under the SBA jurisdiction to see whether these tools are being operated in the most effective way or whether we also need to, in a reauthorization process, look at ways that we can make these tools more effective.

Whether they are the access to capital, the 7(a) program, the 504 program, whether it is the SBIC that the Chairman talked about, what we are doing on high tech, on the SBIR program—all those are areas where we can try to see whether these programs can even be made more effective than they are today, in accomplishing our mission not only to help small business growth but to make sure it is done in a fair manner, so that underserved communities have access to these tools in order to be able to build the capacity in areas that we may not have had a fair allocation in the past.

So I look forward to that type of discussion during this Congress. I think we can make tremendous progress.

The Chairman also mentioned the disaster loan program, and I have mentioned this before in the Committee. Thank you again for the work that you did after the tragedies in Maryland. In Ellicott City, your people were on the ground, literally, when the waters were still flooding. You were there immediately and provided tremendous assistance. The only complaint I have from the small businesses is that your people had to leave the community at some point. They would have liked you to stay there because the services that you were providing were extremely helpful for these small businesses to get back on their feet. So I thank you very much for that service.

I do want to say your presence here is very timely in that we went through the longest shutdown in the history of this country. The SBA was operating, as I understand, with about one-third of your workforce during that period of time. I want to first thank the dedicated workers at the Small Business Administration—these patriotic people, many of whom showed up for work without pay, doing their jobs, others not knowing whether they would get a paycheck, who were furloughed. And they are dedicated people and please express, on behalf of this Committee, our thanks for carrying out the mission.

I know that many small businesses were inconvenienced during this period of time. I had—we know that loans were slowed down dramatically, came to a stop in several areas. The number I heard is that we lost as much as \$100 million a day in loans that were not made during this period of time. We know that some of the contracting was not done. We know that the mentoring services had

to be curtailed. The certification process for women, for HUBZones, and for 8(a) programs all were jeopardized during the 35-day shutdown. So I would be interested in your testimony as to how well we are back functioning since the government reopened, and we certainly hope that by tomorrow night, midnight, we will have a budget so we do not have to go through this again.

But I just really want to comment. I, along with Senator Van Hollen, we had a meeting, a town hall meeting in Montgomery County, Maryland, not far from here, with small businesses. Small businesses that were there were not directly involved with the Federal Government. They did not have contracts with the Federal Government. They were not located in Federal facilities that were shuttered. And yet the dozen or so small businesses that were represented, their volume of business during the shutdown was down 20 to 60 percent from a year ago. The general impact on our economy was felt by all businesses, but small businesses do not have deep pockets, and it was extremely difficult and challenging for them to be able to maintain their workforce.

We heard from one company that had to lay off 46 employees during this period of time. We know that the Community Advantage lender program, we heard that there were loans that were held up. In one case it was a restaurant in D.C. that wanted to locate in Baltimore, a \$100,000 loan. That was put on hold during this period of time. We also had a situation with a 504 lending program that could not close on a real estate deal by December 31st because they could not get their 504 loan. We are happy to report that that company has now gotten their loan but they missed their original date so it put them at a tremendous disadvantage.

So we would like to hear from you how we are getting back up to work speed and dealing with the challenges that were created during the shutdown, and how confident you are that we can make up for those days and provide the services necessary for our small business community.

And with that, Mr. Chairman, I look forward to hearing our Administrator and am looking forward to our exchange.

Chairman RUBIO. Thank you, and now I would like to welcome the Administrator of the U.S. Small Business Administration, Linda McMahon. She is head of the SBA since February 14th of 2017, so a year ago tomorrow—two years. Is it 2019 already?

And as an entrepreneur she co-founded the World Wrestling Entertainment and led the company to grow from a 13-person regional operation into a publicly traded global enterprise with more than 800 employees.

I want to thank you for being here today. We look forward to your testimony.

**STATEMENT OF HON. LINDA E. McMAHON, ADMINISTRATOR,  
U.S. SMALL BUSINESS ADMINISTRATION, WASHINGTON, DC**

Mrs. McMAHON. Thank you, Chairman Rubio, Ranking Member Cardin, and members of the Committee. I appreciate the opportunity to visit with you again.

Tomorrow will be two years, appropriately Valentine's Day, since I was sworn in as the Administrator of the SBA. In my testimony today I want to look back on my service, provide updates on our

agency's progress, and outline some areas where I hope we can work together.

Let me start by reporting on our activity following the lapse in appropriations. As a result of the lapse, our lending programs were closed for a total of 20 business lending days. During that time, SBA was unable to approve loans and was not able to accept new applications.

Over the last two years I placed a great deal of emphasis on loan process improvement. By the end of 2018, we were able to reduce our processing times by half. Those improvements have clearly helped us following the lapse.

Since lending activity resumed in all lending categories but one, our application volume is back to pre-lapse levels. In 12 days of lending, we have approved over 5,700 loans, totaling over \$2.5 billion.

During the funding lapse, the agency had close to 2,000 staff that were furloughed. While most routine activity ceased, we were able to perform limited risk management of our loan portfolio. We were also able to support contracting actions for DoD and other funded agencies. Our disaster staff were exempt from furlough and our operations continued as normal. The agency's work in responding to natural disasters stands out as an area that has touched so many members in so many states.

Following the hurricanes in 2017 and 2018, I traveled to all of the impacted regions. Our work in many of these areas is ongoing. To give you a sense of scale to date, SBA has approved over 170,000 loans totaling \$8.3 billion for those five hurricanes.

In addition to the major disaster events, many of you certainly know and identify with more localized events in your states. Working with you and your governors, SBA has helped businesses and homeowners get back on their feet following flooding in Maryland, algae blooms and red tide in Florida, wildfires in Idaho and Washington, and volcanic eruptions in Hawaii, just to name a few. And speaking of Hawaii—

Senator HIRONO. Aloha.

Mrs. MCMAHON. Aloha—snow in your State yesterday. Oh my goodness.

Last year I updated you on my Ignite Tour, Senator Hirono, after I returned, and my goal to visit all 68 SBA district offices. I'm happy to report that I completed that tour in December and my last stop was in Honolulu. The purpose of my travel was to meet our field staff, see our SBA services are delivered to our customers and visit with small business owners, over 800 in total. I was pleased that many of you were able to join me.

Highlighting some other accomplishments, in the last 16 months we have closed 27 GAO and 144 Inspector General audit recommendations. We have made great strides in our agency's information technology and our IP protection. Also, we have increased our yearly SBIC license approvals from 15 to 25. We continue to improve the application process for Federal contracting through our certified system. We want to utilize the system this year for certifying women businesses and potentially service-disabled veterans.

In the area of training, this spring we plan to launch a digital platform to provide learning resources for women entrepreneurs.

This will enhance our outreach to more than 1 million women, up from 150,000. We also will launch a leadership program for veteran entrepreneurs in conjunction with the VA.

With our lending programs we will continue to expand our outreach in rural areas, as well as to minority populations. I am pleased with the success of our Microloan and Community Advantage programs and I hope we can build on them.

I continue to examine workforce challenges, an issue I heard so much about during my travel. And lastly, we are reviewing our international trade initiatives so as to bolster export opportunities.

In closing, I have shared with many of you how much I appreciate the bipartisan approach of this Committee and your support of the agency. We worked together last year on a number of items. This year I would invite you to experience SBA with me. Perhaps we can schedule time for site visits or roundtable discussions with small business owners in your State. Also, we could drop by our SBA district office or visit any of our resource partners—a university-based SBDC, women's business center, or a SCORE chapter.

Two years ago I began my service as Administrator and every day I have valued our work on behalf of America's small businesses' men and women. I look forward to a productive 2019 and to our continued work together, and I thank you very much for having me today and giving me the opportunity to speak with you.

[The prepared statement of Ms. McMahon follows:]



**Statement of Linda E. McMahon  
Administrator  
U.S. Small Business Administration**

**before the  
Senate Committee on Small Business and Entrepreneurship  
Hearing on “Oversight of the U.S. Small Business Administration”  
February 13, 2019**

**Statement of Linda McMahon  
Administrator  
U.S. Small Business Administration**

Thank you, Chairman Rubio, Ranking Member Cardin, and members of the committee for inviting me to testify today. I appreciate the opportunity to visit with you again. It is also nice to see some new faces on the committee, and I look forward to working with you and getting to know you better.


Tomorrow, February 14, will be two years since I was sworn in as the Administrator at the U.S. Small Business Administration (SBA). The last time I appeared before the committee, I talked about my areas of focus within the agency, updated you on my district office travel, and shared with you my many small business interactions. In the time we have today, I want to look back on my two years of service, provide further updates on our agency's progress, and outline some areas where I hope we can work together this year.

Let me begin, though, by addressing something that I know is top of mind for all of us, the agency's resumption of operations following the lapse in appropriations, and specifically, our lending activity. As a result of the lapse, our business lending and surety programs were closed for a total of 20 full business lending days. During that time, SBA was unable to approve loans and was not able to accept new loan applications.

Throughout the lapse, our Capital Access Financial System contained a notice advising lenders and the public of the status of our lending programs. SBA's Office of Capital Access also communicated with external stakeholders, as necessary, and while most routine activity in the program office ceased to operate, we were able to sustain a few functions. Among them, we were able to close previously-approved and obligated 504 loans, and perform limited risk management of our loan portfolio, including certain time-sensitive lender reviews.

When agency funding was restored, our loan programs resumed operations on Monday, January 28 and our program office issued an Information Notice to notify lenders of items such as servicing actions, report filings, and expedited requests. Since lending activity has resumed, I have been proud of the work done by our Office of Capital Access and the significant progress they have made. In two weeks of lending, we have approved over 4,700 loans totaling over \$2 billion. We have processed all surety bond applications within five days for a total of \$188 million in bond guarantees. We also have cleared over 800 secondary market loans that are pending sales.

Over the last two years, I have placed a great deal of emphasis on process improvements, particularly in our Capital Access programs. By the end of 2018, through better procedures and electronic processing, we were able to reduce our loan processing times by half – small loans are being processed within 2-3 days, down from 6 days, and regular loans within 7 days, down from an average of 15 days. These improvements and efficiencies have certainly helped us following the lapse. In all lending categories but one, our application volume is back to pre-lapse levels. Where we are still experiencing a higher volume with 504 loan modifications, we have assigned



additional staff resources to review and process them, as these modifications typically require a longer evaluation time.

During the lapse in appropriations, the agency had close to 2,000 staff that were furloughed. As with our Office of Capital Access, we were able to perform limited functions in some of our other program offices. For example, staff within our Office of Government Contracting and Business Development (GCBD) were able to support contracting actions at agencies that were fully funded. While work had to cease on new or pending applications during the lapse, they were also able to preserve small business contract opportunities at agencies affected by the lapse and support ongoing 8(a) contracting award activity.


Turning to our Office of Disaster Assistance (ODA), the staff were exempt from furlough and were able to assist disaster survivors and service disaster loans throughout the lapse. This was particularly important given the ongoing disaster areas where SBA remains active. When I look back on the last two years, the agency's work in responding to natural disasters stands out as an area that has touched so many members and states.

Over the last three years, SBA has offered federal assistance to disaster survivors in every state represented on this committee. In the 19 committee member states, there have been 121 disaster declarations over that time, either presidentially declared or SBA agency declared disasters. Working with you, your Governors, and your state emergency management personnel, SBA has been on the ground to assess damage and ultimately provide access to home and business loans, enabling survivors to get back on their feet. While people might more readily identify with major disaster events, like the hurricanes of the last two seasons, many of you certainly know and identify with those localized events. From severe storms and flooding; to droughts; tornadoes; algal blooms and red tide; mudslides; wildfires; natural gas explosions; and volcanic eruptions, the agency continues to work closely with you and your states to help respond in a time of need.

Following the hurricanes in 2017 and 2018, I traveled to all of the disaster impacted regions. So that we are transparent in our activity and that we can also respond to any questions you may have, it is a priority for me that we regularly report to the committee on our disaster assistance efforts. Using numbers from a recent update we sent you last week, for the 2017 Hurricanes Harvey, Irma, and Maria, SBA has approved over 145,000 home and business loans totaling over \$7.37 billion. Even though we are over a year removed from the disaster event, SBA still has a presence on the ground in Puerto Rico and we are operating 31 community recovery centers with over 100 SBA disaster assistance staff.

Considering the hurricanes in 2018, for Hurricane Florence, we have approved close to 11,000 loans so far in North and South Carolina totaling \$439 million. In Florida and Georgia, for Hurricane Michael, we have approved over 14,000 loans totaling \$651 million. Lastly, as a result of the California wildfires, SBA has approved over 3,100 loans totaling \$356 million.

From just these six major events over the last eighteen months, the five hurricanes and the California wildfires, SBA has helped over 173,000 disaster survivors with home and business loans totaling \$8.8 billion in federal assistance. I am very proud of our agency's work and of our



disaster assistance staff, and you can continue to count on us to respond to survivors in their time of need.


At the previous hearing, we discussed my Ignite Tour and a goal that I had set to visit all 68 of SBA's district offices. The purpose of my listening tour was to meet directly with our field staff, see how our SBA programs and services are delivered to our customers, understand how we can deliver our service more effectively, and visit directly with small business owners and entrepreneurs through site visits and roundtable discussions. In addition, I conducted many local media interviews to continue to educate the public about the many resources of SBA. In December, I completed the last of those visits, in Hawaii, at our District Office in Honolulu. At the time of my trip, the Senate was in session, and while Senator Hirono was unable to join me, I enjoyed visiting her afterwards to share details of my time in Hawaii.

On my Ignite Tour, over the course of twenty months, I was in every state as well as Puerto Rico, visited all 68 district offices, and interacted with over 800 small businesses. The experience was invaluable to me in seeing firsthand how SBA operates from headquarters to the field, in aligning and ensuring the consistent delivery of our services, and in hearing directly from small business men and women.

I mentioned at the last hearing my appreciation that several of you were able to participate with me along the way. I was in New Hampshire with Senator Shaheen; in Iowa with Senator Ernst; in Delaware with Senator Coons; in Idaho with Senator Risch; in North Dakota with former Senator Heitkamp; and with others not on the committee, such as Senator Portman in Ohio and Senators Blumenthal and Murphy in Connecticut. SBA plays such a key role in our economy and the lives of our nation's small business owners, and it was good to see and experience that with so many of you.

Let me turn next to some other highlights and accomplishments from 2018 and then cover areas of focus for 2019. Our lending programs remained strong, providing loan guarantees to small businesses. In the last two fiscal years, we have provided more than \$60 billion in loan guarantees supporting more than 1.2 million jobs. The agency has also made significant strides with the most serious Management Challenges as outlined by SBA's Inspector General (IG). We were able to resolve more than 25% of outstanding items while making positive progress on 10 remaining items. We also have been able to greatly reduce our outstanding audit recommendations, so far in Fiscal Year 2019, closing three Government Accountability Office (GAO) and 27 IG recommendations. Maintaining a constructive relationship with GAO and the IG is important to me and we have dedicated significant staff resources to managing those engagements.

I have also been pleased with our work with the committee on bills that were passed into law in 2018. I appreciate the opportunity we had to provide technical assistance and offer agency perspective on various pieces of legislation. Among those was the lender oversight bill that Senator Risch, Senator Shaheen, and Senator Cardin worked so hard on; the surplus property bill from Senator Duckworth; the military reserve loan bill from Senator Shaheen; legislation dealing with the duplication of federal disaster benefits by Senator Rubio; and a bill to renew and extend a critical disaster provision by Senator Kennedy, to name a few.



As you may know from my previous testimony, the agency has and continues to improve the application process for federal contracting through our Certify.sba.gov system. We have several related initiatives this year that will utilize this system for the certification of Women Owned Small Businesses, and potentially, for Service Disabled Veteran Owned Small Businesses (SDVOSB). We have been in extended conversations with the Department of Veterans Affairs (VA) for several months about possibly taking over the SDVOSB certification process. I know some of you have a specific interest in this, and I welcome the chance to work with you on it.

Some other focus areas for 2019 include plans this spring to launch an innovative interactive digital platform to provide learning resources for women entrepreneurs, who are the fastest growing segment of small businesses. This platform will significantly enhance our outreach capabilities from 150,000 to one million users and will be used in conjunction with Women's Business Centers, Small Business Development Centers, and SCORE chapters. We also are launching a leadership program for Veteran entrepreneurs, in conjunction with the VA. The pilot funding was made possible through the donation to SBA of the President's quarterly salary.

With respect to our lending programs, we will continue to expand our outreach to and lending in rural areas, as well as to minority populations, with a specific focus on under-served communities. We continue to implement our memorandum of understanding with the U.S. Department of Agriculture, to increase awareness of SBA's loan offerings and contracting opportunities. In the area of risk management, throughout 2018, I visited with my counterparts at the Federal Deposit Insurance Corporation, the Federal Trade Commission, and the Office of the Comptroller of the Currency, to learn about and bring in best practices to our SBA operations in 2019. Also, I continue to work with my fellow Cabinet members on workforce challenges, an issue I heard so much about during my small business interactions. Lastly, we are reviewing our international trade initiatives to better enable small businesses to take advantage of emerging opportunities presented by digital trade.

In closing, I have shared with many of you in conversation, and I want to reiterate, how much I appreciate the bipartisan approach of this committee, as well as the support you have given to me and the agency. Two years ago, I was sworn in as the SBA Administrator, and every day I have valued the work of the SBA on behalf of America's small business men and women. I look forward to a productive 2019 and to our continued work together.

Thank you again, Mr. Chairman, Ranking Member Cardin, and members of the committee, for the opportunity to testify today.

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Chairman RUBIO. Thank you, and thank you for being here.

Let me start with this. There is a—and I mentioned this in my opening statement. The proposed rule that has been released and makes significant changes to the rules governing the SBA's lending program, it has resulted in about 4,000 individual comments. Now what I have heard from some lenders in Florida about the impact on the rule, especially those receiving loans under \$350,000, I have heard a lot of concern about it.

The change in the rule, I think, generally requires a full discussion, but the part that I am troubled by is it appears that it did not consider how the rule would affect small businesses. The Regulatory Flexibility Act requires agencies to consider the impact of their proposed rules on small entities and to consider less burdensome alternatives if the rule would have significant impact on a substantial number of small entities.

The SBA Office of Advocacy, which monitors compliance with the Regulatory Flexibility Act, has looked at this rule and has asked the SBA to look for a less-burdensome way to regulate the loan program.

So what analysis, if any, did the SBA perform to determine the impact of this rule on small entities?

Mrs. MCMAHON. Primarily—and thank you for the question, Senator—primarily, we looked at this rule change relative to fees. And what jumped out at us, in fact, our Oakland office suddenly saw a few outliers in the fee structure. For instance, one particular loan in the amount of \$22,000 had fees of \$11,000. That prompted us to look across loans in very different areas of lending, different amounts, and we looked at about 65,000 of those loans, and we found that there were some outliers. But by and large, about 90 percent of the lenders were right in the area of the fee proposal caps that we took a look at. So we were comfortable with that range of the fee caps.

And we looked at—you know, there were about 4,100 responses now. We are still in the rulemaking process. So clearly as we continue to review those responses during the rulemaking process we will evaluate if we need to make changes in the rule and we will certainly report back to you, and I am welcome to have discussions with you at any time about that.

Chairman RUBIO. Well, just to be clear, at this moment the SBA's rationale is that this rule would not have a significant impact on a substantial number of small entities?

Mrs. MCMAHON. I think in the lending process. What the rule is to do is to protect the borrowers, because the borrowers are the ones that were being gouged—

Chairman RUBIO. I see.

Mrs. MCMAHON [continuing]. With exorbitant, I think, fees, fees that were being charged, both to the lender and to the borrower. So we wanted to make sure that we have strengthened the program to protect small entities, not in any way to negatively impact them.

Chairman RUBIO. So obviously if moving forward it is to be discovered that the SBA did not properly consider how the rule would affect small entities, would you commit to being open to re-examining the—

Mrs. McMAHON. Certainly, and we are continuing the rule-making process and we definitely will look at what those responses are.

Chairman RUBIO. On the issue of disasters—and there are several of our members here who have been impacted by it—I don't need to tell anyone here what role this played. I outlined it in my opening statement. And making programmatic improvements should be one of our top priorities, because these events have shown both the strength of the program and some of the places where we can get better.

As you know, the physical presence of SBA in the form of business recovery centers is crucial to being able to receive necessary support, especially as a natural disaster leaves millions without access to power, to the Internet. For example, most recently in the aftermath of Irma and Michael, thank you for hearing our calls to have these ground resources there.

So I want to begin the discussion with SBA's disaster recovery program and get your take on what efforts Congress should prioritize. After responding to so many natural disasters, what are the lessons learned and how can the SBA better coordinate with FEMA and other government agencies in disaster response? How can you better coordinate with FEMA and what can Congress do to assist in that effort?

Mrs. McMAHON. I have an incredibly good relationship with FEMA, Administrator Brock Long. He and I have met several times. I have traveled with him to disaster zones. You know, FEMA is first on the ground. SBA is right behind them, or at the same time, and we co-locate in the FEMA offices. FEMA is, first of all, taking care of the immediate needs of housing, food, et cetera, and SBA comes behind for lending to those homeowners, as also business owners, to get them back in their homes and back on their feet.

I think we have a really good relationship with FEMA. One of the things that I have stressed with our disaster department is the, you know, response time we are there, working on the ground, I want to see our application time for loans be reduced. And we are working with new technology that we are—I am very proud of what we have already accomplished.

In terms of the five hurricanes that hit in 2017 and 2018, we processed our applications in half the time that it took for the prior series of storms relative with Katrina and that group. So I think we are making great progress. There is always room for improvement.

Chairman RUBIO. I have one final question before I turn it over to the Ranking Member. I don't—the critical gap that SBA fills in making capital available to victims is important. So last November, a provision expired that allowed disaster victims to apply for physical damage disaster loans up to \$25,000 without having collateral required. Led by our colleague and member of the Committee, Senator Kennedy, Congress passed a one-year fix, but to my view that it is necessary to permanently increase the cap of the physical damage disaster to \$25,000 so the victims may have adequate resources to fully recover from these tragedies.

What is the average physical damage disaster loan amount requested, and I guess aligned with that is what are the negative consequences of not—if we do not increase the loan limit?

Mrs. MCMAHON. Well, as you can imagine, I am not sure what the average is, but I can respond this way. Critically, as soon as a disaster happens, the sooner you can get funds into the hands of those folks who have lost businesses or need to rebuild homes, the better it is, and the larger amount that we can get in their hands is better. So having to revert back to the \$14,000 really would have limited our ability to be able to service those needs—\$25,000, hopefully we can make permanent.

Chairman RUBIO. Thank you. Ranking Member.

Senator CARDIN. Well, thank you, Mr. Chairman. Again, thank you, Madam Administrator, for your work.

You had one of the largest percentages of workers that were laid off or furloughed as a result of the government shutdown. Have all of the workers received their back pay since the government has reopened, under the Small Business Administration?

Mrs. MCMAHON. I'm happy to report yes, and when our workers came to work on Monday morning after the furlough they had a letter from me on their computer that said my number one priority was to get them paid. We had processed the paperwork to get them paid and they would get paid by Thursday of that week. I am glad to report they were paid by Tuesday night of that week.

Senator CARDIN. Well, thank you. I appreciate that, because it was pretty desperate.

There is also, I assume, some of your workforce that laid out money for travel, et cetera, that was reimbursed by the government. Has that also been processed to make sure that they are reimbursed for their out-of-pocket expenses?

Mrs. MCMAHON. You know, I will check on that and get back to you. I do not know that answer.

Senator CARDIN. I appreciate that.

Mrs. MCMAHON. But I can tell you it was pedal to the metal for me, to make sure everybody was made whole.

Senator CARDIN. Thank you. The numbers that we have is that during the shutdown there was approximately \$117 million of 7(a) and 504 loans that were held up as a result of the shutdown. You have given us some impressive numbers since you have reopened. Is there a backlog today, or how are you dealing with the inability to give the loans during those 35 days?

Mrs. MCMAHON. Well, the good news is, as I mentioned in my testimony, that we had put process and procedures in place even prior to the storms, just in good business practice, that we had reduced the processing of our loans in half. So that really helped us coming out of the furlough period.

So we caught up on our loans in about two weeks. There is a bit of a backlog still relative to some 504 servicing issues. All of our delegated loans moved through quickly. It was the non-delegated loans that took us a little bit of time to catch up. So basically it is just the servicing of the 504s, and that, I think, they will be finished pretty quickly.

Senator CARDIN. Good. You mentioned in your prepared testimony about servicing the agencies that were still open for their

small business set-asides—Department of Defense and others. But those agencies that were shuttered as a result of the shutdown, how are they complying with their small business commitments now that government has reopened? Are you confident that they will put small business as a priority in dealing with the contracting, as required?

Mrs. MCMAHON. Well, any that we find that are not—and I have not come across any yet that are not complying—we would certainly be urging them to make sure that small businesses are a priority for them.

Senator CARDIN. One of the areas that we heard about is the mandatory training required for 7(a) Community Advantage lenders, and that that was postponed, canceled during the shutdown and has not yet been rescheduled. Do you know whether you are scheduling the mandatory training so that Community Advantage lenders can satisfy that requirement, new vendors?

Mrs. MCMAHON. It will be rescheduled. I do not have the time with me today but I can let you know.

Senator CARDIN. Would you, because that is a priority. Because I know Community Advantage program, it is one of the major efforts we have to help disadvantaged communities, and it was a major setback to have that mandatory training canceled, which you had to do during the shutdown.

You have heard both Senator Rubio and I talk about wanting to make these programs work better for the small business community. We would like to work with you and evaluate how these programs are working. We have not reauthorized these programs for many years, and it is, I think, incumbent upon the Congress to reauthorize the major programs.

Can you assure us that your staff will work with us in a way that we can look at the legislative authority on your major programs and look towards a reauthorization that would help us work together to focus on how we can make these tools work better and help disadvantaged communities?

Mrs. MCMAHON. I look really forward to doing that. I think we have shown, over the last couple of years, not only your willingness to work with us but our willingness to be with you too. In fact, I have enjoyed traveling with many of you in your states, and Senator Coons, Senator Shaheen, I have certainly been there, and I am really happy. I have not been with Senator Kennedy but I have enjoyed my trips down to New Orleans and Louisiana. So we look forward to that.

Senator CARDIN. Well, and I just would confirm that you have been very accessible and your staff has, and we appreciate that.

One last question, if I might, dealing with small businesses that had—were doing work for the Federal Government that were not paid during the shutdown, that had service workers. We are looking at legislation to try to help them. Are you—do you have a way to reach out to small business communities that may have had difficulty in maintaining their workforce that had contracts with the Federal Government to see whether you can assist them in mentoring them as to how they deal with protecting the workforce that was disadvantaged during the shutdown?

Mrs. MCMAHON. We are gathering some of that information now, but as you can imagine it is—those contracts across all agencies of the government are those that we are working more closely with firsthand, with DoD and others. We had more information but it is a pretty big task, but we are certainly reaching out to all of those contracting offices to see how we can help.

Senator CARDIN. And would you keep us informed—

Mrs. MCMAHON. Yes.

Senator CARDIN [continuing]. As to how that—because that is an area that, I agree, we did not anticipate this, but I think would be good for us to get an understanding of the risk factors that we have in regards to contract workers.

Thank you, Mr. Chairman.

Chairman RUBIO. Senator Romney.

Senator ROMNEY. Thank you, Administrator McMahon. It is good to have you here today, and I want to express appreciation on behalf of my State for the work the SBA does to help create small businesses, particularly in areas that are most affected by changing economics. Rural parts of our State have been an area where there has been a great deal of SBA focus, for which I express a great deal of appreciation, and also areas where there is a disruption as a result of changes in technology.

Specifically, we have a county called Coal County—excuse me—Carbon County, which obviously is a place where a lot of coal is mined, and there has been a lot of loss of employment there, and the SBA has played a real role in helping get people on their feet with new enterprises.

I am of the view that it would be wonderful if the Administration were to do the same thing that President Kennedy did when he talked about his challenge to go to the moon, if we would have a challenge to have a transformative initiative in the world of energy, so that we could find ourselves not reliant upon energy sources that are creating, or contributing to global warming.

And I wonder if it is possible for the SBA to, in any way, encourage enterprises that have, as their interest and their focus, changes that will make us perhaps someday achieve an objective like that. And I wondered to what extent the SBA is able to have influence in the types of purposes of businesses to which you make loans.

Mrs. MCMAHON. Well, clearly that is a big goal and a lofty goal and one I think we all aspire to get to. We do not have a particular focus in SBA at this particular point on that development, except to say that through all of the technology support that we give, especially through SBIR programs, STIR programs, there are so many incubators that are looking at developing technology to help in energy and across all sectors. So to the extent that SBA is supporting all of those technology programs clearly the forms of energy would be part of that.

Senator ROMNEY. Thank you. I think we all are familiar with the statistics that the great majority of jobs that are created, millions and millions of jobs are created every year by small business. At the same time we know that millions and millions of jobs are lost every year by small business.

A professor at Harvard Business School, Michael Porter, has indicated that there are two categories of businesses, some he calls

export businesses, which sell goods and services to a broad community throughout a State, throughout a country, perhaps even globally, and then there are other businesses that are support enterprises—hair salons, auto repair shops, and the like. And the latter, it would seem, tend to rotate more coming in and out of business. The others have the potential to be longer-term contributors to the economy with more permanent job opportunities for those that are employed there.

And I guess the question is, can you make efforts to encourage those kinds of enterprises to be the recipients of support from the SBA?

Mrs. McMAHON. Well, I can tell you that one of the reasons why we do have our resource partners located all over the country—our SCORE offices, our SBDCs that are co-located with universities, our women's business centers, our veterans, our outreach centers—because they are mentoring and helping businesses understand not only how to start and to grow, but once they get to a certain position then how to scale. Because I have often said there is no status quo in business. You can start but unless you start to grow you're going to eventually start to decline. So how do we help them scale?

And that happens more often in understanding their business and their business plan in our resource partner offices, which are, you know, free to those who are going to those offices. And I have spent the last 20 months traveling the country—you were not here so I will just be repetitive—traveling. I have been to every State and I visited every SBA district office. There are 68 of them. I have made it a point to sit with businesses in roundtable discussions and visit their businesses, because I want to make SBA not the best-kept secret in the country for those mentoring and networking opportunities.

And I think we have made some good progress because I have done local media in all of those areas to talk about the programs from SBA, and I think we are seeing, you know, an uptick in those offices. We are incredibly supportive of our SBDCs. There is a really fine one in Utah. And we just want to encourage people to go there. The small businesses can go but they do not understand their business plan. And the biggest single factor for small businesses to fail is cash flow management, so we are hoping to help them understand that better.

Senator ROMNEY. Thank you, Administrator.

Chairman RUBIO. Senator Shaheen.

Senator SHAHEEN. Thank you, Mr. Chairman, and congratulations on your new position.

Administrator McMahon, I want to begin by thanking you and the SBA for your commitment to sign the Notices of Award for those SBDCs that operate on a calendar year. I met with the folks from our SBDC in New Hampshire who talked about how important that is in giving them clarity for how to go forward this year, so thank you very much for that.

And I would put that on the list, to follow up on Senator Cardin's comment, of programs that we need to reauthorize. We need to do it as soon as possible. It has been a very long time since that reauthorization has happened, and as you pointed out, the SBDCs do some of the best work of any of those resource partners for the

SBA. So I hope that we can work with you to get that done this year.

I want to talk about, to begin by talking about the role of women in small business, and you are now the third woman in a row to serve as SBA Administrator, so that's been a very good sign, I think, in the trend for SBA.

But while we have seen the number of women-owned businesses grow from just 4.6 percent of all firms in 1972 to 40 percent of all firms in 2018, unfortunately just 15 percent of U.S. venture capital dollars went to firms with a female founder in 2017, and women-owned businesses still secure only about 5 percent of Federal Government contracts, based on the last 2016 SBA data.

So can you talk about what more you think SBA can do to help support those women-owned firms, which are growing despite the challenges, and just think what they could do with a little more support and access to capital?

Mrs. MCMAHON. Thank you, Senator. It is a subject very close to my heart. Before I came to SBA I had actually founded a company that was to support women in business, so it is something I like to keep a sharp eye on.

One of the things that we are doing, this upcoming year—and we have already been working on it, and I mentioned it in my opening remarks—it is a new platform. It is an interactive learning platform for women entrepreneurs. It will be first at SBA, and then we hope that all agencies will be able to use it. You know, right now we reach about 150,000 women through our WBCs and other offices. This platform will enable us to have an outreach into rural areas and to other—for women to use it at their own time. And we think we are going to be able to reach about 1 million women.

And this, again, will start out—the first program that is on it is about scaling. It is about growing your business, because a lot of women will get to a certain point, and then they will need capital and they do not know how to get to that next step. So this is going to be an interactive learning program that I really am confident is going to be a little bit state of the art, and even though I have sort of announced it now, the official rollout is going to be in May, with National Small Business Week. I think this is going to be an incredible tool.

We have also authorized, I think it was nine more women's business centers since last year, so we are up to 100—I am going to get the number wrong—114, 117. I will clarify that for you. But just having more—women have more access, again, to these mentoring services I think is incredibly important. And the mentoring is not just about, you know, business plans and marketing, but it's also where to go to try to get capital, you know, for your businesses.

And I have met with some incredible venture capitalists, you know, that are in the marketplace, that do, more specifically, for women, like Springboard. So I try to learn from them more thoughts of how we can push women towards them or in ways that we can encourage our lenders to have more women through that pipeline, because I think that's really important, and to encourage women, you know, to take that risk to get more capital. And so I think, combined, we will have a good program moving forward.

Senator SHAHEEN. Well, I hope when you roll out the platform that you will let us know so we can share that with the businesses that each of us deal with in our own State.

Mrs. MCMAHON. We definitely will. Maybe you will get a preview when we are doing the beta testing, just for you.

Senator SHAHEEN. Good. Sign me up for that.

One of the real challenges that our young entrepreneurs have, I think, is the amount of student loan debt that so many young people are graduating from college with these days. In New Hampshire we have the second-highest student loan debt in the country. And as we look at some of the biggest, most transformative, exciting businesses, many of them were started by young people right out of school who then were able to grow those businesses. You know, Facebook comes to mind as one of those.

So in thinking about young people starting businesses and wanting to be entrepreneurial as they come out of college, would you support the idea of deferring student loans for a period of time for young people who are starting their own businesses?

Mrs. MCMAHON. I think so, because it would give them a little bit of a breathing time to do that.

Senator SHAHEEN. And do you have any thoughts about how we could actually put that idea into place, and whether that is something SBA might be willing to help with?

Mrs. MCMAHON. I would like to come and talk to you more and get more of your thoughts on that as to how we could—how we could be helpful together.

Senator SHAHEEN. Good. Thank you. Thank you, Mr. Chairman. Chairman RUBIO. Senator Ernst.

Senator ERNST. Thank you, Mr. Chair, and Administrator, thank you very much for being here. I appreciate it.

During the first two years of the Trump administration we have really taken some big steps to reduce excessive regulations on small businesses, and, of course, as a result our job creators are spending less time on compliance issues and sorting through regulations, and instead they are focusing on growing their businesses and investing in their employees.

I have started my 99-county tour this year, doing the full Grassley, and as I am working across the State of Iowa I do hear an overwhelming sense of optimism from our small business owners. They really are the lifeblood of our Iowa and our rural communities, so we appreciate their hard work and your advocacy on their behalf.

And during the 2017 National Defense Authorization Act, Senator Gillibrand and I included legislation that requires the SBA to submit a report on small business participation in multiple award contracts, and currently the Federal Government is increasingly using large contracts, but there is very little data regarding these awards, and whether adequate awards are being given to women, to veterans, and to minority contractors.

And the deadline for the report was June of 2018. Do you happen to have an update on when we can expect that report to come out?

Mrs. MCMAHON. Well, I saw a letter from you in January indicating that that report had not gotten to you yet, which made me go find out why. And it was a more complex answer than I ex-

pected to have. To say I am disappointed that you have not had a response from that, I can assure you that there is a lot more focus and attention on it at the moment. But what I found out was that we have to go across all agencies and not just go to one to find out, you know, where the schedules are that small businesses can then get onto to participate and to be there, you know, to participate in these contracts.

So we are doing that. We are in the process of doing that, and I will not be much longer before I get back to you.

Senator ERNST. Okay. Well, very good. And that just speaks to the——

Mrs. MCMAHON. And I apologize.

Senator ERNST. Oh, no, that is—that is—it is unfortunate. We would really like to be moving forward. If there is a way we can craft legislation to find a way to really engage some of our minority contractors, those women, those veterans, we want them engaged in the contracting process within DoD. And if we can further that we certainly want to do that.

So just another question then. The Federal Government is consolidating contracts more and more into much larger awards. What steps do you think the Small Business Administration can take to ensure that those small businesses are not being left behind in that process?

Mrs. MCMAHON. Well, you know, we do have a formula, you know, with the Federal Government that, you know, 23 percent of Federal Government contracts must be awarded to small businesses. So we are vigilant about that. Also, as part of that breakdown, the percentage that goes to women and other, you know, minorities, you know, for those contracts.

So our Office of Advocacy keeps a sharp eye on that. We want to make sure that we are meeting all of those demands. I think as Senator Shaheen said, you know, women are like 5 percent of those contracts that are being awarded, and I really—I want to see that—sometimes we fall a little short of meeting that 5 percent. I want to exceed that 5 percent. So we want to make sure our small businesses are part of that program.

Senator ERNST. Right. Outstanding. I will yield back my time. Thank you.

Chairman RUBIO. Senator Rosen.

Senator ROSEN. Thank you. Thank you, Chairman Rubio, Ranking Member Cardin. Thank you, Administrator, for your work, your presentation. I look forward to being on this Committee and supporting small business and entrepreneurship around our country.

This past weekend, in Las Vegas, I hosted a roundtable at the Urban Chamber of Commerce with members of the Las Vegas African American small business community. We had a really robust discussion about ways to continue to promote economic growth across Nevada. And so one of the top concerns that they had this weekend, and something I actually hear every time that I go speak with small business owners and all of our local chambers, is the need for quicker, easier access to capital. So more resources, I believe, need to be given to small business development centers, especially to assist our minority business owners.

And so what are you doing to increase capital specifically for minority-owned businesses?

Mrs. MCMAHON. Well, we want to make sure, first of all, they are aware of where to go, you know, to get capital, to apply for their loans. And that's why I am trying to make sure more people are aware to go to [sba.gov](http://sba.gov) and look at all of the resources that might be available to them.

You know, between our 7(a) loans and our 504 loans, which are the two biggest loans, we have about \$30 billion each year in appropriations for those loans, and so we want to make sure that those who need them know where to go to find them, and that we can help them do that.

So we do it through outreach from our district offices, through our own online presence, through workshops that we have in the communities, through outreaches through our lender resource specialists that interact with our lenders in the community to make sure that those who are seeking capital, you know, can know where to find it.

Senator ROSEN. Perfect. And do you think that the current funding levels for your small business development centers are adequate as it stands today?

Mrs. MCMAHON. I think it is, because often we find that there is some carryover from year to year at the SBDC. So I want to make sure that we are spending those dollars effectively.

Senator ROSEN. Perfect. I want to move on to another issue that I like to talk about a lot, which is cybersecurity. So small business owners don't often consider that they are going to be attacked, and they often don't have the resources, of course, that large businesses have, just due to their size and the nature of their business.

But the majority of all targeted cyber attacks were actually directed at small businesses. And so 60 percent of businesses that are attacked will go out of business within six months after the attack. You think about dog groomer or a hair salon, those things. They do not have the resources to recover if all that information is gone from them. So they have the valuable information cyber criminals want—those credit cards and customer data, employee accounts.

So I know that you have been working with NIST and the FBI to improve the small business cybersecurity, so can you discuss any other initiatives that you might be working on to help protect our small business owners and partner with them so they can protect themselves against hacking?

Mrs. MCMAHON. I think what you talked about are some of the greatest ways to do it, you know, working with the FBI, and we have, you know, internally, before we even went externally at SBA, we wanted to make sure that our—you know, our data was very well protected, and we made great strides and great efforts to do that. As a matter of fact, we have, you know, received awards now for where we are in our cybersecurity platform.

So taking that kind of a role model to kind—we cannot role out exactly what that is to small businesses, but I think making small businesses aware of the threat of cybersecurity, we found was one of the things that they did not ever think about when they were setting up their businesses. You know, some of them are more in-

terested, okay, how do I take Square and bill immediately? How do I, you know, reduce the time frame of my paperwork through some of the technology that is available? And yet they really never thought about, oh, it is just me. I do not have much of a customer base, so I am not a target.

So I think with more publicity, more education for our small businesses, and it is part of the program that we are rolling out to them through our district offices and our resource centers, is to make businesses aware of hacking and to look at programs for anti-hacking.

Senator ROSEN. And I hope that as you roll out some of these websites and platforms for people to find on-ramps you can also maybe consider having links to cybersecurity sites, or ways that they can do that kind of hygiene, or give them the tools to search out what they need and help them in that way, because they often do not know where else to go.

Mrs. MCMAHON. Sure, and link from the sba.gov website on that too, as well, would be a good thing.

Senator ROSEN. Thank you. I would appreciate. I yield back.

Mrs. MCMAHON. Thank you.

Chairman RUBIO. Senator Kennedy.

Senator KENNEDY. I want to thank Senator Hawley for letting me go first. I am going to ask you one question, after making a quick statement. I think you are doing a fantastic job, Madam.

Mrs. MCMAHON. Thank you, sir.

Senator KENNEDY. And I know you are working hard. I am sorry I missed you in Louisiana.

Mrs. MCMAHON. Me too.

Senator KENNEDY. I will catch you next time.

I have just got one question. You have been on the job now for two years. You knew a lot even before then about business. You know even more now. What impact do you think the Green New Deal will have on small business in America?

Mrs. MCMAHON. Well, I think I would have to see how it exactly rolls out. There will be a lot of impacts on small businesses that I think would be very difficult, but I think I would rather reserve my comment until I really know more about it.

Senator KENNEDY. Well, do you think it will have a positive impact or a negative impact? Let us start there.

Mrs. MCMAHON. Well, I—

Senator KENNEDY. I agree with you that it will be impactful.

Mrs. MCMAHON. I guess that depends on what kind of businesses do what under the Green Deal. If it is technology development, looking at other sources of energy, they will probably exceed. If it is impacting small business farmers, especially, and some of the issues that we are looking at, I think that those would be harmful. So—

Senator KENNEDY. What about the taxes that would be charged to small business in order to pay for it?

Mrs. MCMAHON. I do not know if we know where that is yet, but I am not sure we could—from what little I know, I am not sure we could tax enough to pay for it.

Senator KENNEDY. Okay. Well, you have had two years of experience here in the Federal Government. Suppose a President turned

to you and said, "Here is the Green New Deal. Implement it." Where would you start?

Mrs. MCMAHON. I would have to take a look at it and see where we would need to start. I am not trying to be evasive with my question but just to implement a whole new program you have to look at where it is going to start. And you are talking about specifically relative to new business. Do we look at farmers? Do we look at technology?

Senator KENNEDY. Well, I am thinking—

Mrs. MCMAHON. Do we look at bankers or lenders, and how do we do that?

Senator KENNEDY [continuing]. Suppose the President turned to you and said, "I want you to implement a program that would guarantee a good-waged job to every American," if they wanted to work. If they did not want to work they did not have to. How would you go about doing that?

Mrs. MCMAHON. With great difficulty.

Senator KENNEDY. Okay. Thank you, ma'am.

Mrs. MCMAHON. Thank you, Sir.

Senator KENNEDY. Thank you, Senator.

Chairman RUBIO. Senator Coons.

Senator COONS. Thank you, Chairman Rubio, Ranking Member Cardin. Congratulations, Chairman Rubio, on your new role.

Senator Kennedy and I are, in this Congress, going to be the Chair and Ranking of the Financial Services and General Government Subcommittee, and I look forward to talking with you, Madam Administrator, about your budget priorities for this coming year. I just—I want to congratulate you on everything you have gotten done. Your report back to us about cutting loan processing time in half, increasing backup to the pre-slowdown level, digital training and outreach for women entrepreneurs is just another reminder of why I enjoy working with you and enjoy being on this Committee.

I recently met, actually yesterday, with the head of the SBDC from Delaware, to hear about some of their concerns and what they are doing operationally, and to being encouraged about their work. I look forward to reauthorizing SCORE in this Congress, something Senator Risch and I have now tried two Congresses in a row.

And SBA is making a great impact in Delaware. Last year you guaranteed 195 loans to small businesses, totaling about \$73 million, the second-best year on record in the State.

So thanks for our recent conversations about poultry loans. I look forward to continuing to work with you to ensure our poultry farmers have access to appropriate and relevant financing and there is sufficient oversight of lenders under delegated authority.

I want to express my appreciation for your working with my staff to improve the method for designating rural areas. A State as small as Delaware does, in fact, have rural areas, and because of your office's attentiveness all business in Sussex County, Delaware, is now eligible to benefit from the Rural Lending Initiative's fee waiver.

Take a minute if you would and just help me—and I assume I will have a chance to do this with Senator Kennedy on the Appropriations Subcommittee—but just at a high level tell me what your

funding priorities will be for FY 2020, and I am hoping that in the next day we will pass the FSGG approps bill for FY 2019. That will be the first time in 20 years, because it is typically a divisive bill. SBA is the one area in the bill that has never been divisive. So tell me what your top funding priorities are for this coming year, if you would.

Mrs. MCMAHON. Well, always, clearly we look to make sure that our lending programs have sufficient funding, and so that would always be a concern. But I would work with you, and if there were any particular issues, and my staff would be working with your staff to make sure that we are looking at all the programs. And if we think there are funding opportunities that we should enhance, then we will come to you and we will talk about that.

The women's initiative that I talked about, that's a—it's platform driven so there's technology investment in that, you know, through appropriations. I think we're good but to move forward and roll it out we might look for, you know, some additional funding on that.

Also, I really—one of my priorities this year is I traveled all across this country, over the last 20 months. My goal over the next year is to travel more internationally to look for more export markets, and how can we develop that?

I've had great outreach from many countries that talk to us about the model that the United States has for SMEs, small and medium enterprises, equivalent to our SBAs. How do we do it? How do we work with the government? How do we set up our training programs? And so I want to focus more on that, as well as making sure that our STEP programs in our different states are exposing those businesses to the opportunity for trade and for export. And so I think that is going to be a really critical program for what we are doing. It is going to be a big program and I really want to see that grow.

And now if we have USMCA, I think that is going to really enhance that, especially, you know, that is a treaty that, for the first time, has a total chapter on small businesses. And I would hope to see that chapter incorporated in other treaty deals as well.

Senator COONS. I look forward to working with you, in particular on the international aspects, both trade growth and export. But women's entrepreneurship programming, I have been to more than 20 African countries and there is a rapid rise in women's entrepreneurship in the developing world.

Let me talk about apprenticeships with you for a minute, if I could. I appreciate your reference to the importance of workforce development. I think apprenticeships offer a terrific cost-effective way to develop skills for good jobs. But small businesses, in particular, have a hard time developing apprenticeships and sustaining them.

Senator Young is also on this Committee and I introduced the Apprenticeship Hubs Across America Act in the last Congress. It would fund workforce hubs, intermediaries which help small businesses design and run apprenticeship programs and provide support services to help apprentices complete their training, especially in sort of non-traditional areas—not in the building trades, not in areas that have had apprenticeships for a long time, but things like hospitality, for example, or health care.

In your travels around the country, what did you hear about workforce needs for small business and how do you think an expanded apprenticeship program might help with this? I recently talked to the Secretary of Labor about this particular idea.

Mrs. MCMAHON. And I work with Secretary Acosta a lot, and looking at the apprentice programs, workforce development is one of the—or access to a skilled workforce is one of the greatest challenges that I hear from small businesses all over the country—small and big business. You know, we are—we clearly are at a great unemployment level, which makes the demand for those workers even more. So how do we skill those workers?

I have also been working with the Secretary of Education to look at programs that are not just traditional, you know, in our high schools and in our colleges. Apprentice programs, I think, are critical.

And I will give you just a quick side story, if I may. I was with a landscaper and he started—he is not just a landscaper. He is in big equipment business and clearing and all of that. And he said when he was in high school he used to drive his dump truck. He had a second-hand dump truck and he would drive it. He said it did not do much for his dating life but it really helped him start to build his business. And his friends always made fun of him.

He said, but he now has a really big, flourishing business. And I encouraged him. I said, “Are you talking to your guidance counselors at your schools, et cetera?” He said, “As a matter of fact, I go at least once a month and talk to kids in assemblies and whatever about apprenticing. Come over to my shop. Let me show you not only how to operate, you know, this big equipment, but how to manage your business, how to grow, how to do sales, how to do marketing.” I do not think you could do better than to have that kind of one-on-one experience to help young people grow and develop.

Senator COONS. Well, I appreciate your tireless advocacy for growing small businesses and the relevant workforce. I will close by just referencing that Chairman Rubio and I—we are joined with Senators Kennedy and Jones—recently introduced the Small Business Credit Protection Act to help make sure that small business owners have the same protections against data breach, compromising their credit, that many other larger businesses enjoy. So I hope you will be willing to work with us, and with small business owners, to build and protect their commercial credit.

I really appreciate your testimony and I appreciate the Chairman’s forbearance in allowing me to extend beyond my time. Thank you.

Mrs. MCMAHON. Thank you very much.

Senator COONS. I welcome you back to Delaware at any point.

Mrs. MCMAHON. Thank you. I look forward to that.

Chairman RUBIO. Senator Hawley.

Senator HAWLEY. Thank you, Mr. Chairman. Administrator, thank you for being here.

I have two questions for you. Thank you for the excellent work that you are doing. But let me start with a concern, one that has already been raised by the Chairman, related to the proposed loan rule change.

I want to ask you about the affiliation provisions. I have heard from a lot of farmers in my State that they are concerned about the changes, the proposed changes to the affiliation provisions. Missouri, as you may know, is one of the top 10 poultry producers in the United States. Poultry farmers, in particular, in my State, are concerned that a lot of smaller operations who depend on partnerships with larger poultry operations will be swept in by this rule change and, therefore, no longer eligible.

Will you take—and I am sure this is showing up in the many thousands of comments you have received—will you be taking these sorts of things into account as you assess going forward with this rule?

Mrs. MCMAHON. Oh, we absolutely will, and that is exactly what we are doing now, as part of the rulemaking process, is evaluating those statements that have come in.

You know, SBA operates under the umbrella of making sure that our lending goes to right-sized businesses. So we need to make sure that they are, in effect, small businesses, under all of the guidelines, and there is no credit elsewhere available. So as we look at all the responses that are coming in we will then report back.

Senator HAWLEY. Great. I look forward to that. Thank you, and thank you for your attention to this.

Let me ask you about the Rural Initiative Pilot Program. As a guy who grew up in a very small town in rural Missouri, and familiar—all too familiar with the difficulties that rural parts of our country and of my State are facing in terms of keeping good jobs, attracting new businesses, starting a business in a rural area—I mean, there are significant challenges across all these fronts.

Your Rural Initiative Pilot Program, to increase access to capital in rural areas, I think is extremely promising and much needed. I wondered if you could describe that to us and the progress that you are seeing there, or making there.

Mrs. MCMAHON. Well, I have signed a Memo of Understanding with Secretary Perdue at USDA, because we want to combine our service. He has greater outreach into rural areas. They have 96,000 people in the field in USDA. So what we are doing is combining our marketing materials as well as loans that we have, loans that USDA has, and providing those marketing materials into the marketplace so that more and more of our potential rural business development can see exactly what is available, you know, for them.

In addition, I think that—I am not doing it but Secretary Perdue, under USDA, has launched, you know, a rural toolkit for broadband penetration. That is going to also help, I think, significantly in helping our rural businesses grow.

Senator HAWLEY. Great. Thank you so much. Thanks for your leadership on this.

Mrs. MCMAHON. Thank you.

Senator HAWLEY. Thank you, Mr. Chairman.

Chairman RUBIO. Senator Hirono.

Senator HIRONO. Thank you. Thank you very much for coming to Hawaii.

Mrs. MCMAHON. I enjoyed my visit but it was much too short.

Senator HIRONO. Oh, well. You are welcome any time.

Mrs. MCMAHON. Thank you.

Senator HIRONO. Hawaii has had a number of disasters in 2018, so I did want to go over some of these disasters and how SBA has been very helpful.

So we had disasters including severe storms, floods, mudslides, volcanic eruptions, earthquakes, and hurricanes. These disasters displaced homeowners, disrupted businesses, and had an enormous impact on individuals and families in our communities, as well as State and local resources. And even today, people in my State are still working to recover from these disasters.

And when you last appeared before the Committee in 2018, in May, we had the opportunity to discuss the record rainfall that flooded Kauai. In fact, it was the most rainfall that had fallen anywhere in the United States in the history of the United States—

Mrs. McMAHON. Wow.

Senator HIRONO [continuing]. And Oahu communities. And since that time Hawaii has experienced other natural disasters, including, of course, the volcanic eruptions on the Big Island.

So to date, roughly 500 disaster survivors in Hawaii, including business owners, individuals, and families and homeowners have received more than \$48 million in disaster assistance from the SBA, primarily through the SBA's low-interest disaster loan programs. And with this assistance businesses have been given access to SBA resources that will help them rebuild, including, of course, replacing damaged machinery, equipment, inventory that may have been affected by those disasters.

And, furthermore, homeowners—I think there was something like 2,000 homeowners who are displaced because of the volcanic eruption, and they have been given access to resources that will help them rebuild by allowing them to repair their homes, refinance mortgages, and make improvements to better prepare for future disasters.

So needless to say that SBA has been right there. And at one point we were having all of these natural disasters on a recurring basis, and when I was on the Big Island there were dozens of Federal people, including, of course, the State and county people and SBA there. They were there for months at a time, as it turned out.

And yesterday afternoon I had a chance to meet with local directors from Hawaii's Small Business Development Center, and they, as you know, provide businesses counseling services, and they have many examples of how they hands-on help entrepreneurs to succeed, including, I think you mentioned, money management and how to use computers to keep track, as opposed to handwriting, you know, their receipts and all of that. So that is really important.

They reiterated the challenges that businesses in the State faced last year related to these disasters, and, of course, were really appreciative of SBA's coordinated efforts.

So as an island State, when disaster strikes we are particularly vulnerable so I will continue to work with you. And now I have some questions, a few questions to ask you.

You were asked several times about the set-asides for women. And in the country, we put out about \$400 billion worth of contracts to various businesses. And I am wondering whether the set-aside for women-owned small businesses, which is 5 percent of this \$400 billion—is part of the challenge for women-owned businesses

that they do not provide the kinds of goods or services that the government wants to contract for?

Mrs. MCMAHON. That is a good question.

Senator HIRONO. Is that the problem?

Mrs. MCMAHON. I have not done that kind of analysis but I think that is a really good question to raise, one I will look into, and I will get back to you.

Senator HIRONO. Could you please, because I know that a lot of small businesses that I have encountered, they work really hard but they—I think they do not produce things that the government wants. I mean, I love chocolates and cupcakes.

Mrs. MCMAHON. But I can tell you, I have been to a couple of women-owned businesses—

Senator HIRONO. Right.

Mrs. MCMAHON [continuing]. That produce manufacturing parts, you know, and supply for, you know, the larger prime contracts. Those women are—it is unbelievable how they run and operate their businesses.

Senator HIRONO. So as you expand your outreach to rural areas, and especially to women in these rural areas, I think it would be helpful to encourage them to perhaps get into those kinds of goods or services that can enable them to vie for the \$400 billion in contracts.

I also had discussed with you last time, and I am running out of time, the importance of supporting the ability of Native Hawaiian-owned businesses or NHOs in Hawaii, or Native—Alaska Natives, American Indians. You have a Native American outreach program. And I would like to make sure that you are doing everything you can to continue to enable these minority-owned businesses, these very particular minority-owned businesses to be able to successfully be able to get government contracts.

Mrs. MCMAHON. I think, under my tenure so far, I think we have made a good start. I just recently—we had a team on the ground with outreach to the Hawaiian Native Americans to look and to see what the—if there were issues, if there was help we could do, et cetera. And so it has been certainly an instruction from me that we must do more of that outreach.

And I had a great time when I was in Hawaii. Was the Dawson—

Senator HIRONO. Mm-hmm.

Mrs. MCMAHON [continuing]. The Dawson family, their whole business.

Senator HIRONO. I know them well.

Mrs. MCMAHON. And, oh, my goodness, they were involved in contracting, and they bring so many businesses in and support so many businesses.

Senator HIRONO. Yeah.

Mrs. MCMAHON. So I talked to them about how we could even be more helpful and work more closely with them, because they seem to have such a great footprint. So I will look forward to continuing that as well.

Senator HIRONO. Thank you, and, Mr. Chairman, just one more thing. I want to pitch Hawaii on the Hill, because Hawaii on the Hill is an opportunity for Hawaii's small businesses to bring their

products and services to Hawaii. And they come the farthest to highlight their products and services. And I would like to extend to you, as the SBA Administrator, to participate in the policy summit portion, because that is an opportunity for Hawaii small businesses to interact with leaders like you who will be making decisions that will impact their businesses.

Mrs. MCMAHON. Is it called Hawaii on the Hill?

Senator HIRONO. Hawaii on the Hill.

Mrs. MCMAHON. When is it?

Senator HIRONO. It is a really hot ticket. Truly. The people stand in line to get in.

Mrs. MCMAHON. Could I get an inside?

Senator HIRONO. Sure.

Mrs. MCMAHON. Could I get a little inside access?

Senator HIRONO. Thank you. Thank you so much. Thank you, Mr. Chairman.

Chairman RUBIO. Senator Duckworth. Are you ready.

Senator DUCKWORTH. I sure am. I just made it. Thank you.

Administrator McMahon, as you know the Veterans Small Business Enhancement Act was recently passed into law last year, allowing veteran-owned businesses to be eligible for GSA surplus property. Senator Kennedy and I worked very hard to make sure our veteran-owned businesses have access to the program, with help and support from the dedicated staff at SBA. My office has been hearing from veteran-owned small businesses eager to take advantage of this new program.

Can you provide details on how implementation will proceed, specifically what SBA, in coordination with the GSA, issue general implementing rules before establishing Memorandums of Agreement with each State agency, or will SBA and GSA begin to get those MOAs drafted and finalized now?

Mrs. MCMAHON. What we are—I don't mean—this is not a pejorative statement, but what we are waiting on at the moment is for GSA to establish and set the parameters for the program. We will then be working with them very closely, and I would look forward to coming back and talking with you about, here is what we are looking at. How do you think we can improve that? I would really appreciate your input when we are ready to do that.

Senator DUCKWORTH. Okay. Thank you. Let us hope that it moves along quickly.

Mrs. MCMAHON. Yes. I think that is such a great—it is such a great program.

Senator DUCKWORTH. Thank you. I have heard from small business owners across Illinois that one of their biggest challenges continues to be access to capital and the need for technical assistance from the Federal Government to help them compete with major corporations. That is why I am developing legislation that would enhance the SBA Microloan program, which helps meet those needs, particularly for women-, veteran-, and minority-owned small business and low-income entrepreneurs.

I think we agree it is an important program and I was really pleased to see President Trump request increased funding for the program in fiscal year 2019.

Can you explain why the Administration believes the program is important to the small business community?

Mrs. MCMAHON. Well, it is one of our fastest-growing loan programs as well. And I think it does—and with the technical assistance and working closely in the communities I think we are developing more and more of those small businesses. So it is really that connectivity, and I am really pleased to see how well it is doing, and we want to continue to focus on it.

Senator DUCKWORTH. Great. Thank you. I agree that, you know, that is one—

Mrs. MCMAHON. And you might be interested to know that the average loan is about \$17,000 in the Microloan program.

Senator DUCKWORTH. That goes a long way, does it not?

Mrs. MCMAHON. It does go a long way, but sometimes people need \$500 to start, or \$1,000 to start. So that is about the average loan.

Senator DUCKWORTH. That is fantastic. I cannot think of a better time to enhance the program, and my legislation would—my draft legislation would increase microloan intermediaries' loan portfolios per year, and overall, and authorize increased technical assistance funding, just as you mentioned—

Mrs. MCMAHON. Mm-hmm.

Senator DUCKWORTH [continuing]. The importance of technical assistance. I think this would serve as a continuation of the success that SBA has had with this program.

Would you support my forthcoming legislative proposal that builds on your progress to further increase intermediaries' loan portfolios so that they can take on more—we can give them more money that they can loan out more loans to more businesses?

Mrs. MCMAHON. I would—I would certainly look forward to working with you on that.

Senator DUCKWORTH. Thank you. And also the level of technical assistance, increased level of technical assistance funding, as well, throughout the country.

I really think it is wonderful that you are supporting this program and actively championing for it. I know across Illinois, for example, small businesses are 95 percent of all employers—

Mrs. MCMAHON. Mm-hmm.

Senator DUCKWORTH [continuing]. In our State, and so the vast majority of people in Illinois work for small businesses, and should they not be successful we certainly would not be successful as an economy, statewide. So thank you, and thank you—

Mrs. MCMAHON. Thank you.

Senator DUCKWORTH [continuing]. For being so available to discuss this.

Mrs. MCMAHON. You bet. You know, two out of three net new jobs in the private sector are created by small businesses.

Senator DUCKWORTH. Thank you.

Mrs. MCMAHON. So that is—we need to take care of them and help them grow.

Senator DUCKWORTH. Thank you. I yield back the remainder of my time, Mr. Chairman.

Chairman RUBIO. Thank you. The Ranking Member had some questions and then I had one to wrap up, as well.

Senator CARDIN. I had one or two more questions. On workforce development, one of the issues I hear over and over again is the difficulty of small businesses getting trained workers. I know that you mentioned that when you were here that, in your travels, you are finding it challenging.

What steps have you taken to ensure that small businesses have easier time finding skilled workers, and is there any way that we can help you in that regard to help strengthen the tools in regards to small businesses being able to have a trained workforce?

Mrs. MCMAHON. Well—excuse me—it does become more and more competitive as we have low unemployment, because clearly then there is a competition for those workers. So that is kind of a given as part of the marketplace.

However, the apprentice programs that we were speaking about with Senator Coons, I think they are incredible. They are not—those apprentice programs are not only being done by schools and private businesses, they are also being done by unions who will come in to different areas and offer apprenticeship programs. And I think it is going to take more and more of the private sector working with our educational system, and with government, to make sure that we are emphasizing providing funding, you know, for those programs.

I will give you an example of how this is working so well. I was just—I was in Cleveland about a week ago, and I went to Tri-C Community College. So not only do they work with the private sector to develop their apprentice—apprenticeship programs and technological training, but they have gone a step further. They actually have taken a tractor-trailer and they have portable units for training in the field. And they take that tractor-trailer to businesses and will be there for a time period to train those workers, at no charge, often, for the program. Sometimes it is travel or expense-related reimbursement.

But that kind of innovative thinking, you know, for virtual welding, for technology, for computer science, and being able to take programs to companies, to schools, is going to be one of the ways that we are going to be able to increase our workforce.

Senator CARDIN. I would also urge you—the apprenticeship programs are critically important. I agree with you. This is the Congress that should reauthorize the workforce development program, and I would just urge us, this Committee, working with you, to take a look at making sure there is a focus on small businesses in our workforce development programs and local government, using Federal funds—

Mrs. MCMAHON. Mm-hmm.

Senator CARDIN [continuing]. To help small businesses deal with this shortage of trained workers. Whether it is because of low unemployment rates or just difficulty finding trained workers generally, it is a particular problem for small businesses.

Mrs. MCMAHON. Oh, it is, and it is something I talk about all the time.

Senator CARDIN. And then, lastly, we passed the Small Business Runway Extension Act, which deals with the five-year averaging in order that there is not an abrupt qualification problem for small businesses in getting the tools available under SBA. In talking

with your staff I understand the delay in implementing that as you are going through a rulemaking process. I would just urge you to give this a priority attention, because I know this is an area where Congress really wants to implement this five-year averaging as soon as possible.

Mrs. MCMAHON. And I think it is the right timing, as well, for the five years, and so, yes, we are going to be pushing on that rule-making.

Senator CARDIN. Thank you. Thank you, Mr. Chairman.

Chairman RUBIO. Just on the SBA disaster loans, last year we were able to get language included in the supplemental, the 2018, that ensures that applicants aren't penalized when they apply for but do not accept an SBA disaster loan. That only unfortunately applies just to those disasters.

Does the agency support a permanent fix?

Mrs. MCMAHON. Yes. I would like to see a permanent fix. It is—you know, it is relative to HUD programming. You know, SBA comes in and we make our loans, you know, and in disaster lending it is the only time that SBA is actually the bank, to make the loans for businesses and for mortgages. So we make those loans, but then the—going into the municipality or the local district office—not district office, but local government—if HUD comes in to make the grant it has been HUD's determination that it is a duplication of benefits.

So we would like to see that clarified, because we come—you know, we get our stuff done and then we want to make sure that those who are receiving the loans are not penalized.

Chairman RUBIO. And then on the SBIC program that was created back in 1958, before there was really venture capital—in fact, some think that is where venture capital got the idea from—but it is still, even though we have a lot of venture capital today, it still fills a gap that is really important. And I think what has been concerning is to see the approval process that—well, the approval process takes 18 months, and I do not know if that applies to it, but there has been a decrease in the number of approved applicants over the last two years.

I'm curious, do you know how many licenses were approved in 2017 and 2018, or either one of those years, or in cumulative, and I guess what is behind the decline, what is being done to address it?

Mrs. MCMAHON. Well, we have changed. It is not declining anymore. We have changed it. It went from 15 approvals to 25 approvals in 2018. So I am pleased to see the direction change on the approval levels.

It is—part of the timing is because those venture capital firms who come in to get the license, they come in and first they apply, and they get a green-light letter that says, okay, we have verified that they are capable of running the SBIC.

Then they must go out and raise \$75 million. They have 18 months to do that. Sometimes they do it in a much shorter period of time. But they have a length of time to come and raise their capital. And they come back and then we have the matching program. We put in \$175 million. Then from that process, you know, the—they just get approved at that point, so that is a few more months.

What we are doing is shrinking the amount of that tracking by new technology, and it is called backstop. It will give us the ability then to track status of case management. I think that is going to cut down on some of the approval time. So I am looking really forward to getting that in place. It should be—it will definitely be before the end of the year.

Chairman RUBIO. Do you have anything further?

All right. Thank you so much for being here today. We really appreciate it. I think we had great attendance and it was a good way to start the year. We have a lot of work ahead of us but I think you have done a good job at sort of outlining what you have done to this point, and, in particular, your individualized awareness of so many of the states that are applied here. I think certainly a lot of members clearly have been interacting with you and are impressed by the work that the agency has done.

So the hearing record for this hearing is going to remain open for two weeks. Any statements or questions for the record that anyone might have should be submitted by Wednesday, February 27th, at 5 p.m.

Thank you again.

Mrs. MCMAHON. Thank you both very much.

Chairman RUBIO. Thank you.

Mrs. MCMAHON. Chairman, Ranking Member, thank you both.

[Whereupon, at 3:58 p.m., the Committee was adjourned.]



## **APPENDIX MATERIAL SUBMITTED**

## **Opening Statement and Question**

**Senator Jim Risch**  
**U.S. Senate Committee on Small Business and Entrepreneurship**  
**“Oversight of the U.S. Small Business Administration”**  
**February 13, 2019, 2:30 p.m. (SR-434)**

- Good afternoon and thank you to the members of this Committee, Administrator Linda McMahon, and Chairman Marco Rubio for holding this important hearing.
- While I realize this is not the first official hearing Chairman Rubio has called to order this Congress, I'd like to recognize the significance of this being the first hearing called to order in the Small Business Committee hearing room since I've passed on my Chairmanship of the committee over to my dear friend and colleague, Chairman Rubio.
- As you all know, this Committee holds jurisdiction over the Small Business Administration, a very important and valuable agency that has the ability to enhance American productivity and make American entrepreneurship more globally competitive.
- Being that it's a taxpayer-funded agency, conducting proper oversight of the Small Business Administration is an essential duty of the members of this Committee.
- I am proud that last Congress as Chairman the Committee I held numerous oversight hearings on the programs administered by SBA and was able to enact my bipartisan bill, the Small Business Lending Oversight Reform Act, into law.
- This new law will increase the oversight authority of the SBA 7(a) lending program and guarantee that entrepreneurs will have access to the critical capital they need to grow their business, and I look forward to seeing that piece of legislation implemented into law.
- Administrator McMahon, I am pleased to welcome you back to the Senate Small Business Committee today. Thank you for making the time to be here to discuss this very important topic.

Statement for the Record

By Brett Palmer  
President, Small Business Investor Alliance

Hearing Entitled "Investing in Small Businesses: The SBIC Program"

The House Committee on Small Business  
Subcommittee on Agriculture, Energy, and Trade

November 7, 2017

Chairman Blum, Ranking Member Schneider, and Members of the Subcommittee, thank you for the opportunity to testify today and for holding this hearing, “Investing in Small Businesses: The SBIC Program.” SBIA’s members are proud of their role in creating small business jobs and are thankful to Congress and the Small Business Administration (SBA) for supporting American small businesses.

The Small Business Investment Company (SBIC) Program, administered by the Small Business Administration (SBA), has broad support because the core features of the program address fundamental problems in the small business economy:

- We need more small business investment;
- We need to create more jobs here in the United States;
- We need to support jobs domestically and not outsource and offshore our economic dynamism;
- We need more investment in domestic manufacturing;
- We need to be very frugal and wise with the taxpayers’ money and trust; and
- We need the government to serve Americans and their interests and not work against them.

SBIA thanks the members of the Committee for supporting small business investment and job creation by unanimously voting through the Committee—and then unanimously through the full House—the Small Business Investment Opportunity Act and the Investing in Main Street Act. If we are able to get these bills through the Senate, then more small businesses will be able to access growth capital.

My testimony is broken into three parts. The first section explains how the program works and why it has been so successful growing small businesses and creating American jobs. The second section covers common questions about the SBIC program. The concluding section covers some of the issues that would benefit small businesses if improved. I have also attached a recent non-partisan Library of Congress study on the extraordinary record of SBIC job creation; a small sample set of small businesses that have received investment in districts represented by members of this committee; and a state-by-state table of SBIC investment from 2012-2016.

### **The Small Business Investment Company Program Overview**

It seems that only bad news gets attention, which does not make it easy for SBICs to get attention because SBICs are an American success story. For example, in 2016 SBIC invested a record amount, nearly \$6 billion, in American small businesses. The program is having the best (lowest) loss rates in its 59-year history. There is currently unprecedented private sector interest in getting capital to small businesses via investment in SBIC funds. A recent Library of Congress study found that SBIC-backed businesses created 3 million new jobs and supported an additional 6.5 million jobs from 1995-2014 (a period that included the Great Recession and the tech bubble recession). These quiet successes were achieved while being the only major SBA program that was able to maintain its zero-subsidy rate - even through the Great Recession and Financial Crisis. With the help of Congress and SBA, SBICs have seen significant operational reforms to the program that have been producing positive results for the American small business economy.

SBICs are highly regulated private funds that invest exclusively in domestic small businesses. At least 25% of an SBIC’s investments must be made in “Smaller Enterprises.” (Smaller Enterprise are smaller than the SBA’s normal small business standards.) SBA currently licenses two types of SBICs: non-levered SBICs and Debenture (levered) SBICs. Both forms of SBICs invest in growing domestic small businesses,

with non-levered SBICs tending to provide more equity capital and Debenture SBICs tending to provide more debt capital.

SBIC leverage significantly increases the amount of money invested into the small business economy. The private capital forms the foundation of an SBIC fund. SBICs raise capital from accredited investors and institutional investors (pension funds, university endowments, banks, etc.). After the SBIC applicant raises private capital, the SBA applies a rigorous licensing regime. If the SBIC applicant meets the legal and performance criteria, then an SBIC license is issued. Once licensed, an SBIC is permitted to access a line of credit (SBIC debenture leverage) to increase the amount of capital available for investment. For example, an SBIC may raise \$50m in private capital and then, after licensure, may access up to an additional \$100 million line of credit, which combines for a total of \$150 million. The leverage is provided at a zero-subsidy rate and is eventually paid back in full (plus interest and fees). All of this capital is to be invested in domestic small businesses and may not be used for “offshoring,” relending, project, finance, or for purposes that are not in the public interest. Unlike many government programs, the private capital is in first-loss position, which means the private investors lose their money before the taxpayer is exposed to risk of loss. This is an important taxpayer safeguard and a key reason why the SBIC program has been able to maintain its zero-subsidy rate. The program is effective and distinct because the private sector leads with its capital and investment expertise and then SBIC leverage follows to augment the impact of the private investment. It is a mark of SBIC industry pride that the program continued to maintain its zero-subsidy throughout the Great Recession.

- Since 1958, SBICs have invested over \$80 billion in hundreds of thousands of small businesses.
- In FY 2016, SBICs invested \$5.99 billion in businesses that employ approximately 122,000 workers across the U.S.
- For FY 2016, 313 SBICs were operating across the United States, which is a similar number as were operating 10 years ago. These SBICs managed \$27.8 billion in committed capital resources.
- Of the 1,210 U.S. small businesses that received SBIC financing in FY2016, 28% were located in Low-to-Moderate Income (LMI) areas of the country.
- The SBIC program has operated at a zero-subsidy rate since Congress mandated a zero subsidy in the late 1990s.
- A 2017 study by the Library of Congress found that the average small business backed by a Debenture (leveraged) SBIC Fund created approximately 125 new jobs and non-levered funds created an additional 530 new jobs.
- Levered funds tend to provide more debt capital and non-levered funds tend to provide more equity capital.
- From 1995-2014 SBIC-backed small businesses created over 3 million new jobs and supported an additional 6.5 million jobs – all of which were in the United States.
- Many icons of American industry were once small business that received critical growth capital from SBICs including: Apple Computer, Intel, Buffalo Wild Wings, Build-A-Bear Workshop, Callaway Golf, Costco, Federal Express, Gymboree, Jenny Craig, Restoration Hardware, and Staples.

## SBIC Frequently Asked Questions

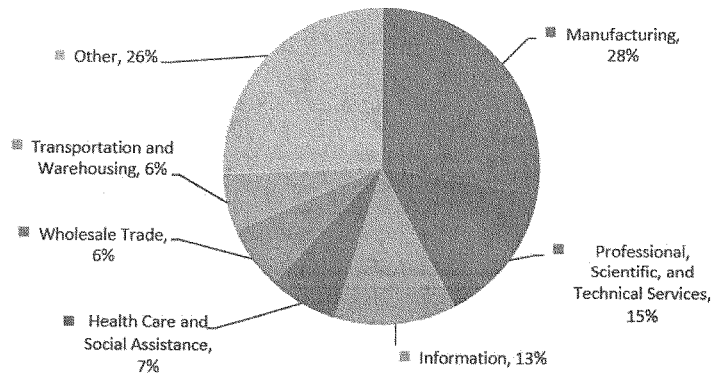
### How does the SBIC Program Help the Taxpayer and the American Public?

The SBIC Program helps the taxpayer by providing capital to growing small businesses that in turn hire more employees, invest in capital improvements, and generally grow the economy. A 2017 study by the Library of Congress found that one new job was created for every 35 dollars of taxpayers' money spent administering the program. (The leverage operates at zero subsidy, but there are still some administrative costs.) Correlation is not causation, but there is no doubt that the ability of successful small businesses to access growth capital empowers them to grow and hire more employees.

SBIC investments are made in areas of the country and in industry sectors that are commonly overlooked by conventional venture capital and private equity. The overwhelming percentage of venture capital is invested in Northern California and the New York to Boston corridor. While SBICs do invest in those areas, SBICs invest most of their capital in places other than this investment footprint. For example, 28% of SBIC investments are in areas certified as Low-Moderate Income. Even SBICs that are primarily located in population centers regularly invest well outside of their local area so the SBIC program helps move capital to underserved areas – both urban and rural.

SBIC investments are commonly made in industry sectors largely passed over by many conventional venture capital and private equity funds, including manufacturing and asset-light services businesses.

**Distribution of SBIC Financing Dollars by Industry  
FY 2010-2014**



\* Numbers will not add to 100% due to rounding.

**Is the SBIC Program Effective?**

- Yes. Multiple studies, including a 2017 Library of Congress study (attached) have found the SBIC program is very effective at supporting growing small businesses and creating jobs.
- It could be even more effective with broader benefits to more communities with modest reforms.

**Is the SBIC Program an Efficient Use of Capital?**

- Yes. It is one of the most efficient, job-creating programs within the government. According to a 2017 Library of Congress study, only \$35 in administrative government costs were associated with creating each new job. There were only \$11 in administrative costs for each additional job supported. Further, the fact that the SBIC Program's leverage has successfully sustained its zero subsidy for so long is a testament to its operational effectiveness and efficient use of capital.

**Is SBIC Investing the Same as Bank Lending?**

- No, SBIC investing and bank lending are very different.
- SBICs provide education, training, and professional guidance that banks generally do not provide.
- Banks are often only able to provide conventional lending to a small business *after* an SBIC has invested in a small business.
- SBICs provide long-term capital that empowers small businesses to survive and recover from the inevitable surprises that can happen in business.
- SBIC capital can be in the form of debt, equity, or both.
- Banks and SBICs collaborate, but offer different types of capital so they do not compete.

**Does SBIC Investment Displace Conventional Bank Lending?**

- No. Banks are partners, not competitors.
- Banks are often only able to provide capital after a business has received SBIC capital because the SBIC capital changes the capital structure of the business and thereby makes it more "bankable."
- Over 500 banks, ranging from small community banks to large banks, are investors in SBIC funds.
- Some banks own non-levered SBIC funds and other banks are forming their own internal SBIC units to provide equity capital that the banks cannot otherwise provide.
- If small businesses could access this capital from banks, then they would get bank loans because there are thousands of banks and conventional bank lending is less expensive.

	Bank	SBIC
Provide Debt	Yes	Yes
Provide Equity	No	Yes
Provide Convertible Debt	No	Yes
Provide Unitranche Capital	No	Yes
Can revoke capital on 30 to 60 day notice in the event small business hits a snag or if there is a macroeconomic disruption?	Generally, Yes	No
Are loans required to be fully collateralized?	Generally, Yes	No
Cash Flow Lending	Limited	Yes
Able to provide Capital to businesses that are not otherwise bankable	No	Yes
Commonly has a Formal Role on the Board of the Small Business	No	Yes
Provides Management Assistance to Help the Small Business Grow and Have Good Governance	No	Yes

**Does the Government Own Any Part of these Small Businesses?**

- No. The government does not invest in or own any portion of any small businesses.
- There was a time (1994-2004) when the government effectively participated in the ownership of some types of SBIC funds, and therefore the small businesses, but that program ceased licensing funds in 2004.

**Is the Government a “Limited Partner” in SBIC Funds or Does It Own a Part of the SBIC Fund?**

- No. The government manages access to and guarantees a private sector credit facility, but is not a “Limited Partner.” The government is in a more advantaged position than the private sector limited partners.
- The SBA does not own an interest in SBICs or their portfolio companies.

- The SBA stopped being a “fund of funds” and stopped being a “Limited Partner” with the end of licensing funds where the government participated in the profits (and losses) in 2004.
- The SBA is a regulator and a guarantor of credit facility.

Can the 7a and 504 programs do what the SBIC program is doing?

	SBA 7a	SBA 504	SBA SBIC
<b>Government (Taxpayer) Guarantee on Each Investment</b>	Yes	Yes	No
Must the small business have collateral or a personal guarantee to loan against?	Yes	Yes	No

#### Does the Government Choose Which Small Businesses Receive Capital?

All SBIC investments are made entirely by the private sector via investing professionals without the government’s involvement. Investments are made for real economic reasons. SBICs invest in growing small businesses and then notify the SBA which small businesses received capital after the investment has been made. There are size standards and other basic requirements and taxpayer protections that must be adhered to, but government involvement stops there. The program is successful at creating jobs and growing small businesses because it allows the private sector to find the businesses with the greatest growth potential and direct capital to them.

#### What Happens if an Investment Underperforms?

A single SBIC will invest in many different small businesses. Unlike the 7a and 504 programs, when a single investment underperforms or loses money, only private capital is lost, not taxpayer guaranteed capital (leverage). The profits from the other investments cover the losses from the isolated underperforming investment(s). If the profits from the other investments are inadequate to cover all the losses, then the private investors’ capital is lost before taxpayer money is at risk. There is generally a large private capital cushion that would need to be burned through before the taxpayer guarantees would be realized. Even if the guarantees would be used, SBIC funds pay an annual fee on their leverage that is designed to offset losses and maintain the statutorily-required zero subsidy rate. SBA can cut off SBICs from accessing additional leverage or trigger an orderly liquidation process run. Even if a fund is ordered into orderly liquidation, it does not necessarily lose private capital or realize losses for the taxpayer.

#### What Built in Accountability Exists in the SBIC Program?

There is extensive accountability built into the program. Private capital being in first-loss position is a very effective accountability tool because there is no “gambling with other people’s money.” Private capital being in first-loss position is an important, built-in taxpayer safeguard. The SBA has reporting

obligations that ensure the SBA is fully apprised of the health of the fund, and the funds receive independent audits plus SBA examinations. The SBA can cut off underperforming SBICs from further leverage and can even require disgorgement if an investment does not meet the SBA's statutory and regulatory requirements. SBA can require an orderly wind down of the SBIC and limit compensation. In extreme cases, SBA can remove the fund managers.

#### **Are Repeat Licensees a Good Thing?**

Repeat licensees are exceptionally good for the small businesses and the taxpayer. Repeat SBICs specialize in small business investing, which is good for small business, the SBA, and ultimately the taxpayer. SBICs are only able to receive an additional license if their previous fund was a success and the private sector was willing to commit its own money first. The private sector leads, and only then can a license be issued. The market speaks before the SBA licenses. Keeping successful fund managers in the program and culling poor performers is one of the reasons the program has been so good at growing businesses and has been able to sustain its zero-subsidy rate. Congress recognized the importance of repeat licensees by raising the "family of funds limit" to allow more successful managers to continue to invest more money into more growing small businesses. The GAO studied this issue in 2016 and found repeat licensees were far less likely to be put into an orderly wind down than first time funds.

#### **Is the SBIC Program Stress Tested and Sound?**

The Great Recession and Financial Crisis were a real-life stress test. Unlike other SBA programs, the SBIC Debenture program was able to maintain its zero-subsidy rate. Further, many small businesses were able to survive the Great Recession because they were backed by SBICs. Banks were forced by their regulators to pull lines of credit from thousands of small businesses, which then failed. SBIC-backed small businesses benefitted from the longer-term capital provided by SBICs and had a much better chance of surviving.

## **Opportunities for Improvement**

### **Licensing**

Licensing is down over 40% (year over year) and has slowed considerably since January. This drop off was not caused by lack of private market interest in investing in SBICs. To the contrary, there is record institutional interest in investing in domestic small businesses via SBICs. As many polls have pointed out, small business optimism has been inspired by this Administration. In the face of this licensing slowdown, licensing staff have been loaned to disaster loan processing, which will further slow licensing. Fund managers, even repeat SBICs, are uncertain as to what is required for licensure or how long it will take. This is particularly foreboding to smaller funds and funds that are not in financial centers for whom taking the risk to form an SBIC is a very big personal, professional, and financial risk. This lower licensing rate is likely a leading indicator of reduced future investments in small businesses. To quantify what this slow down and confusion means, there is currently nearly \$1 billion of private investment for small businesses that is in licensing limbo, and some private institutions have pulled out of investing in new Small Business Investment Companies.

The licensing process for repeat licenses, which the GAO recently studied and found to be much less risky, should be clear and relatively fast because these fund managers are well known to SBA and have a history of performance and compliance. However, the licensing process for all funds, even repeat SBICs has slowed. For example, to pass the “Green light” phase of the licensing process used to take two weeks but now requires a 4-6-month advance notice before filing the application, and then it will take several more months to get a decision. These new built-in delays do not apply to new fund investors with whom the SBA has no direct experience and has never regulated before. To be clear, new funds are experiencing all sorts of new delays too, but they are different delays. SBICs would like a return to a clearer, faster process so they can increase small business investment, which would seem very much in line with President Trump’s pro-jobs, pro-small business, pro-manufacturing, America-first economic agenda.

Similarly, the Investment Division’s committee process has become protracted for performing licensing interviews, licensing reviews, and approving leverage. The committee reviewing license applications used to meet regularly (often weekly), but now meets irregularly with meetings and interviews being rescheduled more often than occurring as scheduled. The committee chair has ceased the decades-long practice of actively participating and attending nearly all the interviews for licensure. Lack of consistent scheduling, attendance, and constructive engagement have added unnecessary delays. When the committees do meet, the agenda is commonly not followed and key decisions are regularly not made or repeatedly postponed. Additional delays have been caused by new internal policies that the committee performing interviews must now give a minimum of 28-day notice before internally scheduling a licensing interview, and the committee no longer is allowed to deliberate and decide immediately after the interview while the information is fresh in their minds. There is now a mandatory delay period before the matter can be discussed and decided, which runs counter to private sector best practices and creates more unnecessary delays. Even when licensed, actual documentation of being licensed is taking an additional several months. Scheduling delays are compounded by more and more scheduling delays. The industry has not seen delays of this magnitude since 2007-2008.

#### **Licensing Recommendations**

SBA should return to a more timely licensing process, particularly for repeat licensees whose tracks records are already very well-known and documented with the SBA. SBA should also return to having regularly scheduled meetings. Both the industry and the SBA would benefit from clearly articulated timelines and applicant feedback.

Finally, SBA should provide a more complete picture of what is happening in the licensing process by regularly reporting data that recognizes the numbers and timeframes for applications and similar regulatory requests that have been “set aside” or otherwise sit in procedural limbo and may not be showing up in the system now.

#### **Examinations**

SBICs are regularly examined by private, independent auditors. In addition to these conventional audits, SBA performs additional regulatory examinations. Delays in these examinations have significantly increased this year, particularly recently. For example, the year-over-year number of exams performed is down 35% as of SBA’s most recent data release (June 30, 2017), and cycle times are up 33%. These numbers are worse for leveraged funds. From January 1, 2017 to June 30, 2017, examination cycle time for leveraged funds has increased from 10.8 months to 16.6 months. The delays in examinations do not

mean the SBIC has never been examined before (they likely have many times), or that the SBA does not have insights about what is going on in the SBIC, because SBICs still file reports after every investment and provide detailed quarterly and annual reports to the SBA. SBICs have no control over when examinations take place, and yet SBICs are being frozen in licensing or in securing leverage commitments because the SBA has not performed a recent enough examination.

#### **Examination Recommendations**

SBA deserves credit for having recently contracted out some of their examinations. SBA recently made another positive reform by allowing SBA examiners to perform multiyear exams instead of doing multiple single-year exams. SBIA would also suggest that for SBICs with multiple licensees that examiners should try to examine all licenses at the same time to reduce disruption to the SBIC's operations and to reduce wasting SBA's travel budget and human resources. We encourage Congress to support SBA's efforts to get caught up with the examinations, and we ask that this Committee maintain its oversight role to make sure the examinations backlog is improving. Finally, SBA should recognize that SBICs have no control over the timing of their examinations and should not penalize SBICs for matters that are solely under SBA's control.

#### **SBIC Program Transparency**

SBIC data has become less transparent and more outdated. The 504 and 7a programs release their data weekly, but the SBIC program releases its data quarterly, and then holds the data back for nearly two months before releasing it. This data used to be released monthly in the first few days of the new month. Further, SBIC program data and reports have been removed from the SBA website.

#### **SBIC Program Transparency Recommendations**

The SBICs do not need weekly data like the 7a and 504 programs, but the program data should be made available in a timely fashion. SBIA believes this data should be released no later than two weeks after the reporting period ends with the reporting period being no less than quarterly. SBA should return to posting the information on the SBA website. SBA also should release the 2016 SBIC Program Annual Report that was completed at the beginning of FY 2017 but is still unpublished.

#### **Informational Technology (IT)**

SBA staff cannot serve the public as effectively as the public deserves without the tools to do the job efficiently. SBA deserves credit for undertaking an effort to make IT improvements, and SBIA asks Congress to support their modernization efforts.

#### **Operations**

The Investment Division's Operations section is run by experienced managers and frontline staff who regularly engage directly with SBIC fund managers as their primary regulatory contact. Many of these SBIC-Regulator contacts have become less constructive because the SBA staff are no longer clear about what they are allowed to do and what are the current policies or interpretations. This is not because they are not competent but because policies and practices are changing without advance notice to the SBICs or the staff. Without formal communication to them or the industry it is very difficult to provide informed regulatory guidance. This is currently happening with the proposed TechNote 7b, which has been proposed but not finalized. Despite not being finalized, it is being enforced much to the surprise of SBICs and some SBA staff.

**Operations Recommendations**

The Investment Division should provide clear policies and guidance to both SBA staff and SBICs with realistic timelines for completing tasks. Communication of changes before they go into effect would also be very helpful to both the SBA and the private sector. Finally, applying the rules with a greater degree of consistency and clarity would benefit both SBA and SBICs.

**Conclusion**

Thank you for considering the views of the SBIC industry. We thank you for your consideration of these matters. We also thank the SBA for their time and effort in working with SBICs to grow the small business economy. Without the support of the Congress, the SBA, and the private sector, this program would not be able to provide such a positive impact for the taxpayers.

I would welcome any question you may have for me.



August 10, 2018

Joseph Shepard  
Associate Administrator  
Office of Investment and Innovation  
Small Business Administration  
409 3rd Street SW, Suite 6300  
Washington, D.C. 20416

Re: Industry Comments on Reducing Regulatory Burden

Dear Associate Administrator Shepard:

For 60 years, the Small Business Investor Alliance (SBIA) has been the trade association that serves as the collective voice of the Small Business Investment Company (SBIC) industry. SBIA's membership includes both GPs and LPs in the SBIC program. This membership ensures that our SBIC policy proposals are solid, balanced, and aligned with promoting a healthy capital market for small businesses.

Debt and non-levered SBICs are highly-regulated private funds that serve the important public purpose of facilitating private investment into domestic small businesses. Core to the success of the program is that investments are market-driven and not government-chosen. A 2017 Library of Congress study found that SBIC-backed businesses created 3 million net new jobs and supported an additional 6.5 million jobs from 1995-2014 (a period of 20 fiscal years that included the Great Recession and the tech bubble recession). The underlying economics of the SBIC program are sound: for years it has maintained its zero subsidy, and for several years it has been operating at or near the lowest loss rates in the 60-year history of the program.

On August 15, 2017, SBA published in the Federal Register a request for public comment entitled "Reducing Unnecessary Regulatory Burden." The request was issued in accordance with three executive orders aimed at reducing regulatory burdens. Executive Order 13771 was issued by President Trump on January 30, 2017 and has the goal of reducing regulatory costs by eliminating two regulations for every new regulation that is issued. Executive Order 13777, issued by President Trump on February 24, 2017, aims to—among other things—repeal, replace, or modify regulations that "eliminate jobs, or inhibit job creation; are outdated, unnecessary, or ineffective; impose costs that exceed benefits;" and "create a serious inconsistency or otherwise interfere with regulatory reform initiatives and policies." Executive Order 13563, issued by President Obama on January 11, 2011, requires agencies to propose regulations whose benefits are justified by their costs and to issue the least burdensome regulations possible. In November 2017, SBIA submitted a comment letter in response to the August 2017 request from SBA. SBIA stands by that letter and would like to see those recommendations implemented. We submit the comments below as additional items that would make the SBIC program operate more efficiently.

President Trump deserves credit for his pro-small business efforts to reduce regulations and taxes. Further, SBIA is supportive of the goals laid out in the President's executive orders and appreciates the opportunity to comment on ways to reduce unnecessary regulatory burdens. SBICs embody SBA's goal "to preserve free competitive enterprise and to maintain and strengthen the overall economy of our nation," while instituting strong taxpayer protections. SBICs are proof that these goals can coexist, and we welcome the opportunity to offer suggestions to extend and enhance that record.

The recommendations contained below are all in line with the goals of the executive orders issued by Presidents Trump and Obama and applying them would ease burdens on small business investors and help unleash more capital to domestic small businesses in a more efficient manner.

In preparation for the SBA's regulatory review, SBICs and Limited Partners (LPs) were surveyed about the regulations and, equally important, the SBA's real-world application of the regulations. Many of our LPs participated in a conference call to help us further flesh out our comments to reflect their views. SBIA staff also spoke to many more SBICs, LPs, lawyers, and accountants to ensure we were capturing and communicating critical issues. The survey produced results based on a very large sample size of all actively investing SBIC license holders. Fund managers who hold over 100 active SBIC licenses completed the survey as did LPs who have investments in a similarly large number of SBIC funds. The survey encompassed the four main regulatory aspects of the SBIC program: licensing, operations, examinations, and forms.

This comment letter includes some of the findings of the survey. For the sake of brevity, we are including only comments which received overwhelming consensus from the SBIC industry and which are appropriate for this specific comment letter. It is important to note that a number of SBICs had serious concerns about responding to the survey out of an explicitly stated fear that SBA would trace back their responses and retaliate against them if SBA was able to identify fund managers who had raised concerns about the regulations or how they were being applied. As such, SBIA will only be describing the results of the survey and not be releasing the survey or any other information that could be tied back to any specific person, group, or SBIC fund.

#### **Overall Regulatory Challenges**

The Debenture and non-levered SBICs have been successfully operating for decades under regulations that have barely changed. Most of the regulations are time-tested and reasonable. While the regulations have been adequate to the task, with the passage of time, personnel, and management philosophies, a review and update of the regulations and their applications are appropriate. Our survey documented a significant number of regulations, policies, and practices that are unnecessary, outdated, burdensome, conflicting with other law, and hindering job creation. By an overwhelming margin in our survey, respondents noted that the biggest challenge facing the SBIC program is uncertainty about the management of the program and confusion about the current leadership's vision for the operation of the program, not the regulations. Not only was this the answer to the specific question about the biggest challenge facing the SBIC program, it also showed up in the "word cloud" of responses to the survey. Words like "confusion," "delays," and "uncertainty" were some of the most common concerns. Words like "clarity," "timelines,"

“consistency,” “standards,” and “communication” were some of the most common in the questions where suggestions for improvement were sought. SBIA applauds SBA’s efforts to clean up and modernize the regulations, but we also strongly encourage SBA to focus on fixing the delays, uncertainties, and other execution problems that may continue long after any written word of regulation is changed. LPs described it this way:

[It is now] about 20 months into the Administration and the leadership of the SBIC program has not articulated what they want to accomplish with the Small Business Investment Company program.

Improved regulations are welcome, but how the leadership of the SBIC program implements the regulations has a far bigger effect on how effective SBICs are allowed to be.

LPs choose between competing investments every day. If the leadership of the SBIC program makes it difficult to invest in SBICs and for SBICs to operate, then we can redirect our investments away from SBICs and small business and into other investments.

#### **SBIC Licensing**

SBIC licensing is core to the program because without a license, no investments can be made into small businesses. SBA has an extraordinary group of public servants doing the best they can to fulfill the demands of their jobs. They are at the front lines of both taxpayer protections and small business access to capital. The SBICs and LPs are concerned that licensing is understaffed and that the staff does not have the adequate technological resources needed to perform at their full potential. LPs in particular see the SBIC licensing team as disciplined professionals who complement the private sector’s efforts to vet and approve fund managers. Further, there are a number of regulatory and policy improvements that can make licensing clearer, faster, and better for both applicants and the SBA.

#### Green Light letters

SBIA’s members believe that the SBA’s Green Light letter process should lay out the specific targets that the applicant must reach to be licensed. SBA should honor their letter and license applicants who meet the standards set therein, provided that no new material adverse information develops during the review of the license application. If SBA’s expectations are clear, quantifiable, and written, then there is greater transparency and less regulatory frustration for both sides. Clear standards must be communicated from the Agency Committee to make this happen. Also, LPs commit to GPs and their business model. SBA forcing changes to the business model that was approved for the Green Light, by significantly reducing leverage late in the process, is not fair to LPs or GPs.

#### Agency Committee

The survey shows there is overwhelming confusion or doubt about the value that the Agency Committee brings to the licensing process. The Agency Committee was created under the Administration of President Bill Clinton to get more political appointees involved in SBIC licensing. The Agency Committee makes decisions without many of its members having ever met an SBIC fund manager, without any members ever meeting the applicant whose fate they are deciding, without clearly documenting and communicating their expectations and standards to the Office of Investment, and without ever communicating their expectations and standards to the small business investing community. By the time applicants reach the Agency Committee for their consideration, hundreds of thousands of dollars and up to two years may have been spent forming the SBIC, but these expenses and applicants' work going through the process is not necessarily valued or respected.

It should be noted that, according to SBA's Standard Operating Procedure (SOP), all issues must have been dealt with satisfactorily before being presented to the Agency Committee. So, if all the legal, financial, and other approvals have already been satisfied, then it is not clear what value this body adds to the process. SBA should either have the Agency Committee communicate their standards and expectations to the SBIC community, or it should reconsider what value this additional step adds to the process beyond more time and expense. Every member of the Agency Committee was invited to meet the SBIC industry at SBIA's 2018 Washington Fly-In, and none accepted the invitation. SBIA would welcome the chance to have members of the Agency Committee engage the SBICs and understand more about our market.

#### Licensing Decisions Based on Facts in the Record (13 CFR 107.305)

Licensing decisions by SBA should be based on the facts in the record that are discovered during the process of approving a fund. The licensing team in OII does excellent diligence, a very small amount of which must be kept confidential, but there is no documentation of how decisions are made or what facts were used to make determinations. Applicants should have the right to address or correct any issues, but they cannot do so if they do not have a chance to address and correct the record.

#### Specific Reason for Non-Approval with Opportunity for SBIC Applicants to Cure

SBIA's survey respondents believe that SBA should give applicants clear and specific reasons for non-approval with an opportunity to cure any issues that SBA raises. Not every applicant for a license is worthy of licensure, but some issues deemed worthy of non-approval by SBA can often be cured by the applicant. If applicants cure the issues, SBA should promptly reconsider the application and grant approval if all conditions are met. An applicant should not be turned down or prohibited from filing a formal application without a clear, meaningful, written explanation from the SBA and a good faith opportunity to fix any issues. The SBA should also recognize that some of the reasons SBICs are being delayed or prohibited from filing an application are 100% due to SBA's actions or inactions and are on matters over which the applicant has zero control (timing of exams, for example).

#### Clear Appellate Mechanism for Adverse Decisions

SBIA members also believe that a clear appellate process should exist for funds who receive an adverse regulatory decision, particularly, but not limited to, licensing.

#### Meaningful Fast-Track Licensing for Known, Repeat SBIC Applicants

SBIA members surveyed unanimously support a meaningful fast track licensing process for repeat SBICs. The GAO has studied the risks of first-time and repeat licensees and found that repeat SBICs are lower risk<sup>1</sup>. Repeat licensees (some of whom have been successfully operating SBICs for decades) are fundamentally less risky and more well-known to SBA than first time applicants. SBA is intimately aware of their investments and is very familiar with their management teams and investment strategies. Beyond a new FBI background check and review of new capital certificates, nothing is not already known to the SBA. If there are no material changes, the process should be significantly expedited.

Existing SBICs have the added burden of not being able to apply for a license until SBA's (recently broken) examinations process has run its course. Existing SBICs may already have had dozens of clean exams previously, but that is not considered. First-time licensees have never been examined and therefore do not face these unnecessary delays. Existing SBICs should not face delays or have limitations put on the amount of leverage they can access because of an examination process that is completely outside of their control. (Greater explanation of the issues surrounding the problems with examinations are covered later in this letter.)

Recognizing the inefficiencies created by the treatment of existing SBICs and how that removes resources from attracting and vetting new SBICs from across the country, the House and Senate Appropriations Committees' Financial Services and General Government appropriations bills for FY 2019 recommended a 60- to 90-day window for repeat licenses.

#### Transparency During the Licensing Process

SBIA members surveyed unanimously agreed that the licensing process should be more transparent, more predictable, and that applicants should know where they stand at all stages during the process. As one LP described it, "The inability to forecast licensing causes cash flow and allocation planning problems for many LPs." Further, an LP described the following:

SBA wants banks to finalize their commitments to SBICs before licensure, but banks investing in SBICs are being forced to withhold their commitments until after licensure because we don't have insight into the timing of the licensing process. Banking laws do not allow us to be put in the position of being held hostage to the SBA's uncertainties.

<sup>1</sup> U.S. Government Accountability Office, *Small Business Investment Companies: Characteristics and Investment Performance of Single and Multiple Licensees*, GAO-16-107 (Washington, DC, 2016), 14-18.

Other SBIA members described the situation this way:

Institutional Investors need to plan allocations yearly. SBA's delays have caused us problems with planning our allocations. Further, we have been forced to go back to our investment committee to get renewed approvals or to rebalance our allocations because of SBA's actions and timing.

For those of us (LPs) that are publicly traded companies, this is a problem because we want to be transparent with our shareholders who hold us accountable for meeting the investing goals that we set.

Acknowledging Receipt of Materials and Accepting All Forms (Including Licensing Materials) Electronically without a "Wet Signature"

The requirement for a wet signature of licensing or regulatory materials is unnecessary, and the survey showed that removal of this requirement is overwhelmingly supported by SBIA members. With current technology, all required signatures can be collected safely and securely electronically. SBIA's membership recognizes that this is not a requirement that is peculiar to SBA. Accepting materials electronically will also address the issues/questions about when materials were received. The date SBA received regulatory or licensing requests should not be a question. This could easily be addressed with the use of virtual data rooms and other off-the-shelf technology, like email.

SBICs Should Receive Their Actual License within Two Weeks of Approval

SBICs need their license to operate and for their bank LPs to comply with banking law. Upon approval, SBICs should receive their actual license as soon as possible and definitely within two weeks. SBIC survey respondents overwhelmingly agreed on this point.

Recently, it has taken months to get a written confirmation of licensure. This time frame is arbitrary, expensive and challenging for the licensee, and does not benefit small businesses seeking capital. These delays are an added headache for bank LPs who need the letter to document compliance with banking laws. SBA should have a regulation providing SBICs with a timely confirmation of licensure. SBA should also publicly announce when funds are licensed and when licenses are surrendered.

SBICs Should Be Able to Maintain Their Licenses in Wind Down after Paying Down Their Leverage Below the \$5 Million-Dollar Threshold

When SBICs complete their life cycle, their fund size will eventually reduce to zero, but before they get to zero, they generally drop below the \$5 million minimal threshold that SBA requires. Surrendering the license can harm bank LPs because of the banks' allowance to invest in SBICs under the banking laws. Survey respondents feel that SBA should allow SBICs to hold onto their licenses as they wind down and should make regulatory changes to significantly reduce the cost of operating SBIC funds that are in wind down. At the final stages of a fund's life there is minimal fund income, so it is important that SBA reduce regulatory costs so as not to create an artificial incentive to surrender the license.

SBA's Model Limited Partnership Agreement (LPA) Should Be More Customizable

SBA has a fairly rigid model LPA. SBIA recognizes that the lawyers reviewing the SBIC LPA are severely under-resourced, which requires some level of standardization. It is very hard for an applicant to make changes to the LPA, even the "non-bold" language that is theoretically flexible. SBIA members surveyed believe that there should be more flexibility for General Partners (GP) and institutional Limited Partners (LP) to negotiate market terms for their LPAs. SBA should require LPA language that is necessary to fulfill its statutory mandate and provide the necessary protections to serve its role as a guarantor of a credit facility and as a regulator. Since SBA is a guarantor of a credit facility and not an LP, it should leave the non-statutory and non-credit related terms to the GPs and LPs to negotiate.

Affiliation

The SBA's affiliate rules need to be updated to ensure that investments with private equity funds are not inadvertently limited, survey respondents agreed. Some SBA regulations were written before related SEC regulations were written and now the SBA regulations need to be updated to reflect these changes. The lack of an exception from affiliation for portfolio companies that are owned by private equity funds that are exempt from registration under the Investment Company Act of 1940 because of Section 3(c)(7) only restricts or harms SBICs' investment activities. The exemptions from the Affiliates definition should be changed to expressly include 3(c)(7) funds. Many SBIC funds are affected by this regulation, and a simple fix would be to remove the current exception under 13 CFR 121.103(b)(5)(vi) and replace it with a reference to any "private fund" as defined by SEC Rule 203(m)-1, which includes any 3(c)(1) or 3(c)(7) fund.

**Capitalizing an SBIC: Private and Regulatory, Institutional Capital**

LP Capital from Bona Fide "Funds of Funds" Should Be Recognized as Institutional Capital

There are a number of well-established, proven "Funds of Funds" whose investments in SBICs are not treated as institutional regulatory capital. This harms capital inflows into domestic small businesses and does not treat all significant LPs similarly. SBIA's survey revealed that well-known and established Funds of Funds who meet or exceed the qualifications to be an "institutional investor" should be treated as providers of institutional, regulatory capital. We recognize that a new Fund of Funds that might warrant scrutiny and a review, but there are top-tier, long establish, SEC-regulated Funds of Funds that are not treated as institutional capital. Further, fair treatment of the Funds of Funds model will allow new entities to form to provide professional investment opportunities to unique sources of capital that may need to be pooled to gain the benefits of scale, to access unique market expertise, or to find particularly SBIC characteristics (looking for SBICs that focus on rural areas, for example).

Pensions and Endowments from State-Chartered Universities Should Be Recognized as Private, Regulatory Capital Instead of as "Instrumentalities of the State." (Instrumentalities of the State May Not Qualify as Regulatory Capital.)

Recently, SBA has started treating endowments and pension funds from some universities as "instrumentalities of the states." This is not an accurate description of what they are. Further, this

treatment effectively blocks other endowment and pension funds from investing in an SBIC that has these investors. As one large LP described it, “SBIC investments are only a fraction of our multibillion dollar endowment’s overall capital. If SBA continues to make it difficult to invest in SBICs, then we can and will redirect our investments away from domestic small businesses to other investment opportunities.” This new interpretation of the regulations runs directly counter to the President’s goals for fostering domestic investment and small business job growth.

SBA Should Recognize LP Investments from Canada and Other Treaty Countries as Regulatory Capital

Under US law, investments from certain countries may not be discriminated against. Canada, Australia, and Mexico are three examples where this US law applies. Contrary to US law, SBA is not treating investments from these countries as regulatory, institutional capital. Survey respondents agreed that SBA’s regulations should be modified to reflect existing law. Creating barriers for our trading partners to empower domestic small businesses via SBICs appears to run counter to the President’s goals for job creation and more equitable treatment of American small businesses.

Transfer of LP Interests That Represent 10% or Less of an SBIC Fund Should Be Streamlined or Permitted without Prior SBA Approval

SBICs have Limited Partner Advisory Committees (LPACs). Survey respondents feel that if an SBIC has the approval of its LPAC, then it should be allowed to transfer smaller LP interests (10% or less of the committed capital). Existing restrictions are cumbersome and unnecessary.

Side Letters

Side letters are necessary documents for many LPs, particularly banks. Many banks have their own standard side letter to reflect their bank’s (banking) regulatory requirements. Side letters are extremely time consuming to the under-resourced legal staff because they are commonly treated as if each were *de novo*. SBIA’s survey found that side letters that have already been approved and used numerous times by LPs (commonly from bank LPs) should be presumed by SBA to be acceptable for future commitments. Alternatively, LPs should be able to get a standard side letter pre-approved once for use across multiple and future funds that they plan to invest in for a set period of time. SBIA’s LP Council could work with SBA to provide guidance and standards for these side letters.

**SBIC Operations**

Common Contact File/Resource to Prevent Multiple Requests for Information

Survey respondents said that SBA should have a common contact file/resource/customer relationship management system in place that will prevent SBA from asking for the same information that has previously been submitted – often many times or in many similar ways. Redundant requests of information are common, burdensome, and could be easily remedied. A system of this type could expedite processes at SBA significantly and reduce burdens for both SBICs and the SBA.

#### Addressing Regulatory Questions through a “No Action Letter” System

SBIA survey respondents overwhelmingly support the establishment of a no action letter system, modeled off that of the SEC, to help SBIC industry participants address good faith regulatory questions that may arise. SBIA believes this would help facilitate productive communication between industry participants and regulators and would provide an outlet to address questions and potential issues early. As appropriate, no action letters should also be shared with the SBIC community so there is clarity in the regulatory environment.

#### Conflicts of Interest (13 CFR 107.730)

The conflict of interest rules are being interpreted so narrowly that in some cases they are now harming LPs and GPs by preventing or terminally delaying legitimate small business investments. Similar to transfer of LP interests below a certain threshold, if the LPACs from two affiliated SBICs (often two successive SBIC funds, e.g., SBIC Fund 1 and SBIC Fund 2) both agree that an investment is appropriate, then it should be allowed. With LPAC approval, and when two SBIC entities are financing a small business under the same terms, this should be automatically approved and should not be viewed as a conflict of interest. SBIA survey respondents recommend that the regulations follow 13 CFR 107.730(d)(2) for conflicts of interest. The regulations should also provide automatic approval if all SBIC LPACs have been approved and the SBA has not made a determination within 30 days.

#### Overline Requests (13 CFR 107.740)

SBIA’s members recommended in the survey the establishment of clear, binding timelines within which SBA must make a determination on overline requests, or else the request should be deemed approved if the LPAC has already been approved of the investment. Such timelines will be helpful in reducing uncertainty and providing structure for industry participants. If SBA does not decide on an overline request within the time allotted (30 days), requests should be granted automatic approval. It should be noted that during the economic stresses of 2008, small businesses failed, and Americans lost their jobs because SBICs were not able to get timely approvals for follow-on SBIC investments from the SBA. The economy is solid now, but the regulations will need to be applied in tougher times, too. No American should lose their job because paperwork was pending for month after month at SBA.

Similarly, SBIA and its members overwhelmingly feel that the SBA should develop clear and binding timelines for processing all regulatory requests, not just overlines, to promote efficiency and certainty in the industry. SBA should create a list of regulations that will be deemed approved if SBA does not make a decision within a pre-determined amount of time.

#### Personnel Changes and Absences

By regulation, the SBA should provide SBICs with a formal notification when their analyst, examiner, etc. is reassigned or on extended leave. It is not uncommon that an analyst leaves the government, leaves SBA, goes on extended vacation, is out ill, or otherwise becomes unavailable. Often, no notice is given to the SBIC, and no information is given as to whom critical and time

sensitive requests should be submitted. In this scenario, SBICs could unknowingly submit time-sensitive regulatory requests to a person who is unable to receive the filing.

SBIA members surveyed believe that SBICs should be aware of whom they are supposed to communicate with at all times. SBIA hopes that informing SBICs of analyst changes will facilitate improved communication between SBA and the industry and contribute to the smooth functioning of regulatory processes. Further, the use of virtual data rooms and other off-the-shelf technologies commonly used in the private sector will make it easier for SBA staff to find information and records when assigned to a new SBIC.

#### Fund Expenses vs. Management Company Expenses

According to the survey, SBIA members feel that the allocation of an expense as either a fund expense or a management company expense should be negotiated between the private LPs and the GPs in the LPA. The expense allocation should not be decided solely via SBA regulation; rather, a negotiated decision made jointly by LPs and GPs in the LPA will allow for a mutually beneficial solution. It is appropriate that expense allocations should be included in the LPA which is shared with SBA.

#### Technological Modernization

Similarly, SBIA's members support the removal of regulations related to outdated technological requirements. Specifically, SBICs should no longer be required to maintain a fax machine at the primary office (13 CFR 107.504), as email and mobile communication systems provide faster, more reliable, and more ubiquitous forms of communication.

Additionally, to prevent fraud and protect market information, the SBIC industry participants responding to SBIA's regulatory survey agreed unanimously that the SBA should have a secure, encrypted mechanism for communicating sensitive materials and information such as leverage commitments and wiring instructions. Cybercrime is a growing problem across all industries, and SBICs, their LPs, and the SBA all should have more secure communications for the movement of large financial transactions than conventional email provides. It should be noted that the survey received comments about making sure any new communications system or portal not be too cumbersome, expensive, or limiting.

#### Recordkeeping

SBIA survey respondents recommend that SBICs be allowed to use a single safe to maintain the records for all affiliated SBICs. SBICs should also be allowed to keep records electronically in secure virtual data rooms or other secure cloud services.

#### Prepayment of Financing (13 CFR 107.830)

SBIA survey respondents also recommend that SBICs be allowed to put modest pre-payment limitations on the capital they invest in small businesses. Small businesses should be allowed to make prepayments, but reasonable limitations should be permitted. Every prepayment requires time and some expense by the SBIC. Being paid a penny (or a single dollar) is not reasonable. Perhaps prepayments of at least a certain percentage—5%, for example—would be reasonable.

#### SBIC Industry Data

SBA should return to publishing SBIC industry data on a regular, timely basis, according to the majority of survey respondents. The 7a and 504 programs release their data weekly. The SBIC program used to release the data monthly, and it would be released within a week of the month ending. Now SBA releases the data quarterly and waits an additional 6 weeks to release the data. LPs and GPs would benefit from having fresh, not stale, data. SBIC industry participants rely on up-to-date data to identify industry trends and remain informed as they make key decisions pertaining to their businesses. This data should be released monthly and within 5-10 business days of the end of the month.

#### Cost of Money

SBIA members believe that cost of money regulations should be made more flexible. Further, the definition of “default interest” should be revised to allow for increased charges without violating the Cost of Money. The definition of default should be expanded to be more consistent with the market and to not leave SBICs and the SBA in a disadvantaged position. SBICs should be allowed to be more proactive in taking necessary steps to address risks to investments.

#### Liquidations

SBIA members who were surveyed also overwhelmingly believe that an SBIC should be able to get out of “liquidations” and back into regular operations if the issues that caused them to be moved to liquidation are cured, and they otherwise would be able to operate as an SBIC. This is an unusual circumstance, but it should be addressed.

#### Debenture Pooling

SBIA survey respondents feel that the SBA should pool SBIC debentures four times a year (instead of the current two) and allow repayment four times a year (instead of the current two). Until about 10 years ago, SBA pooled four times a year (twice for Debenture SBICs and twice for the defunct Participating Securities program). SBICs may draw leverage and have to wait up to six months to know the interest rate on that leverage. SBICs also may be paid back from a small business and have millions of dollars sit idle for up to six months. If SBA were to keep the exact terms on the SBIC debentures, but pool/price four times a year instead of two, then SBICs would often have less timing/interest rate risk and would be able to pay back debentures sooner and reduce risk to SBA. This could be achieved without any change to the offerings other than adding summer and winter pooling/pricing dates.

#### OII Interaction with SBIC Fund Managers and Limited Partners

SBIA members would also like to see more engagement by OII leadership with the SBIC industry via SBIA. If there are regulations that are somehow preventing the OII leadership from attending industry gatherings, then those regulations should be changed. The leadership of OII has attended only one of the many SBIA industry events held since January 2017. These events are an opportunity to learn about what is happening in the market the SBA is regulating. Industry dialogue has been exclusively in closed, invite-only settings where the government chooses the participants;

in private, one-on-one meetings with LPs and GPs; or in settings where all questions are screened/chosen by SBA and all the answers are pre-scripted. This lack of engagement by SBA is not only an inefficient and ineffective way of having two-way communication, but it also raises doubts that market participants are being told the same information. As one LP put it, “The leadership of the SBIC program should be engaging the SBIA to work with SBICs and with LPs. Engagement should be regular and two-way.”

## **Examinations**

### Examination Reports

SBIA survey participants recommend that examination reports be provided to the SBIC within four weeks of a completed examination. Despite recent massive increases in examination fees, the examination process has recently become a choke point for the effective operation of the program. Currently, exams are being completed with the examiner verbally informing the SBIC that there were no findings, but the actual letter informing the SBIC of the results of their exam may not be given for up to six months later – awaiting approvals from higher ups at SBA. There is no justification for these delays in issuing the examination letters. This means that the SBIC may be blocked by SBA from reserving leverage or from submitting a licensing application for another entire year and exam cycle because their exam results are considered out of date and stale. It is also inappropriate for SBA to exclude from the licensing times report the amount of time SBA blocked SBICs from filing for a license due to SBA’s inability to produce an examinations letter.

It should be noted that licensed SBICs have been unable to invest because they have been waiting many months for the results of their examinations and therefore cannot purchase leverage. There is no reason SBICs are not given their results promptly after the examination. Further, the SBIC has begun misusing the existing regulations by applying a “must” standard to regulations that clearly state “should” regarding a fresh examination. Further, SBA’s delays in issuing exam reports prevent SBICs from responding to potential findings and resolving any outstanding concerns – meaning that they may get findings two consecutive years because SBA withheld that there was a finding, adding to SBICs’ expenses under the new higher fee regime. Timely exam results empower the SBICs to make needed changes prior to their next review.

Finally, it is critical to note that SBICs have absolutely zero control over when they receive an exam, but SBA is holding SBICs accountable for the timing of the exams by blocking their ability to file for a license or access leverage. Ultimately, both of these withholding actions hinder the ability of small businesses to access capital.

### Examinations for Multiple SBIC Licenses

The overwhelming number of survey respondents thought it best to have all licenses of an SBIC platform examined at the same time. It is not uncommon to have multiple licenses under common control examined at different times by different examiners. This is inefficient for both the SBIC and the SBA. Further, during examinations, many smaller SBICs are unable to continue their normal operations until the exam is complete, so spreading out the exams is particularly disruptive. Finally, having all licenses reviewed simultaneously by the same examiner will prevent getting

different results for the same practice inside the same SBIC group. However, simultaneous or sequential examinations should not be a reason for SBA delaying examinations in a way that could delay licensure, leverage, or other actions.

#### Examination Issues Shared with the Industry

There was overwhelming support in SBIA's member survey for the SBA to share an annual notice of the most common examination findings. Once a year, the SBA should share with the entire SBIC industry the most common negative findings from examinations. SBIA would be happy distribute this information and help the SBIC industry develop "best practices" to make regulatory violations far more rare. If GPs and LPs are informed of the most common errors, then GPs will have the opportunity to proactively review their practices to make sure they are in full compliance, and LPs will be able to consider these matters when interviewing funds for future investments. All parties will benefit from SBA sharing this information.

#### Examination of the Management Company

SBIA members also responded in the survey that examinations should be limited to the examination of the SBIC. SBA commonly examines things well outside of the scope of their legal and regulatory authority, specifically the management company contracted with SBICs. SBA should not conduct such examinations unless there is a specific, clear, and compelling reason to review the management company. Management companies regularly manage SBICs and non-SBIC vehicles, and the examiners confuse the two, causing SBIC regulations questions to be raised on entities that are not SBICs. SBA should clarify the regulations and SOP to make sure they are not wasting the time of SBA examiners and the money of SBICs by examining issues outside their legal mandate.

#### Choice of Accounting Method

SBICs should be given the option of using Generally Accepted Accounting Principles (GAAP) instead of statutory accounting at the time of licensure. Given the unique nature of leveraged SBICs, statutory accounting is needed while leverage is outstanding. Once leverage is paid off, SBICs should be allowed to reduce their operating expenses by going to GAAP.

#### Updating Forms

The survey received many comments that most SBA forms relating to the SBIC program are outdated, confusing, redundant, or overly cumbersome and require updating. SBIA's survey participants specifically identified Form 468 as confusing and difficult to read, with no opportunity to amend or correct investments that were entered erroneously. SBIC participants also identified Form 1031 as particularly dated, complicated, and in need of reform. SBA and SBIA should conduct a joint review of its SBIC forms to streamline and remove duplicative content.

The SBIC-Web system was always clunky, but recently it has become at times almost unworkable – with delays for each data entry being measured in seconds. With hundreds of entries required, it takes days and nights to enter the data. With the recent changes, SBIC-Web is also regularly unavailable to even access. Recently, SBA's use of technology has been getting worse, not better. SBA should allow SBICs to submit an Excel spreadsheet if SBIC-Web is not working.

SBIA thanks the Small Business Administration for its attention to SBIC regulatory issues and appreciates the opportunity to share feedback from the SBIC community. We look forward to a thoughtful and continued dialogue throughout the regulatory review process.

Sincerely,

A handwritten signature in black ink, appearing to read "Brett Palmer". The signature is fluid and cursive, with the first name "Brett" and last name "Palmer" clearly distinguishable.

Brett Palmer  
President  
Small Business Investor Alliance



February 27, 2019

The Honorable Marco Rubio  
Chairman  
U.S. Senate Committee on Small Business  
& Entrepreneurship  
428A Russell Senate Office Building  
Washington, DC 20515

The Honorable Ben Cardin  
Ranking Member  
U.S. Senate Committee on Small Business  
& Entrepreneurship  
428A Russell Senate Office Building  
Washington, DC 20515

Dear Chairman Rubio, Ranking Member Cardin, and Members of the Committee:

Thank you for asking questions about the Small Business Investment Company (SBIC) program during the recent oversight hearing of the SBA. When allowed to function, the SBIC program is a powerful catalyst for small business growth and job creation. As a 2017 Library of Congress study revealed, SBIC-backed small businesses created over 3 million new jobs and supported over 6 million more jobs. As the voice of small business investors, we feel it is important to clarify the record of what has been happening with the SBIC program.

Despite strong, pro-small business policies of the broader Trump Administration and the professionalism and dedication of the SBA career staff, for two years there have been serious problems with the management of the SBIC program. Until the day before this hearing, over four months into FY 2019 and through more than one third of the fiscal year, SBA had issued zero SBIC licenses. Less than 24 hours before this oversight hearing, the Office of Investment and Innovation (OII) finally released the first SBIC licenses of the fiscal year. All three licenses were approved by SBA's Agency Committee on November 16, 2018, but the leadership of OII was unable or unwilling to release the SBIC licenses until hours before the Committee's oversight hearing. Until 2017 releasing licenses would have taken 1 to 2 weeks. SBICs are not allowed to operate until they possess the license.

For the past two years, the SBIC program has suffered from ongoing problems that are clearly seen in the licensing process but are also manifest in nearly all facets of the SBIC Program. Where the OII leadership has inserted itself into any SBIC processes, each step of those processes has slowed to near paralysis and the outcomes are at best uncertain. As the association representing small business investors, we have been informing the OII and leadership of the SBA of these emerging problems from very early on, but the problems and the primary cause of these problems persist.

The Chairman asked a good question about SBIC licensing. The SBA Administrator answered honestly with what normally would be the textbook answer of what is supposed to happen. However, it is clear that the information being given to the Administrator, which was then passed on to the Committee in good faith, does not reflect the complete picture. SBIA hopes that this chart will inform the Committee and the leadership of SBA as to what is really happening from the private sector perspective. While it is true that SBIC licensing in FY 2018 increased relative to FY 2017, it is also true FY17 was one of the worst licensing periods in nearly a decade. Licensing was working well in FY 2017 until the Associate Administrator was appointed to oversee the OII.

Licensing returned to near average in 2018, but this too is misleading because given the underperformance and backlog of FY 2017 applicants, the number of licenses should have been much higher in FY 2018. To be clear, time to fundraise is not the reason for the slowdown in licensure, particularly for the funds licensed in FY 2019. SBIA agrees with SBA that technology improvements are needed and will improve some of these issues, but technology alone will not fix the primary cause of the problems at the Office of Investment and Innovation.

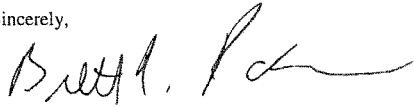
	<b>FY 2010-2016</b>	<b>Feb. 1, 2017-Feb. 10, 2019</b>	<b>FY 2019 (SBICs licensed from Oct 1, 2018 through date of Hearing Feb. 13, 2019)</b>
<b>Time for Greenlight Approval for Repeat Funds</b>	Commonly 0.5 Months	Commonly up to 6 Months	Average of 7.25 Months (100% repeat SBICs)
<b>Time to Receive License After Approval by Agency Committee</b>	Commonly 1-2 Weeks	Commonly 1 - 2 Months (sometime more)	3 months
<b>Annual Pace of funds licensed per year</b>	26.4 Licenses Per Year Average (Fewest 21 and highest 34 per year)	Averaging 16 Licenses Per Year for the last 24 months <ul style="list-style-type: none"> <li>7 in FY17 (excludes licenses issued by previous Administration in FY 2017)</li> <li>25 in FY 2018 (repeat and new SBICs)</li> </ul>	On pace for 9 to 12 licenses (No new platforms licensed as of date of hearing)
<b>Average Time for Licensure</b>	6.6 Months (185 first-time and repeat funds)	SBA reported numbers for FY 2017 are 5.1 months – this number is misleading because more than 50% of licenses issued were issued in a timely manner by the previous Administration (further, this data excludes SBA-caused delays) (includes new and repeat funds)  8.7 Months for FY 2018 (includes new and repeat funds and <i>excludes SBA-caused delays that are omitted from SBA's reported data</i> )  Zero SBICs Licensed from Oct. 1, 2018 through Feb 10, 2019	9.7 months (100% repeat SBICs, which should be much faster to analyze than first time funds)

Source of data 2009-2018 SBA, Source of FY 2019 SBIA (OII appears to have ceased releasing SBIC data for FY 2019)

Licensing is only one area where OII's leadership has broken the efficient and successful operation of this small business investing program. The leadership of the OII has created new uncertainty and delays at every step of the entire SBIC process from pre-licensure to operations to examinations and even to surrendering of licenses. Each of the new delays builds upon the preceding delays. Adding to the delays is the fact that the OII has numerous critical career director, manager, and chief positions that have been vacant for extremely long periods of time, but there has been no attempt by the leadership of the OII to post these open positions for replacement. Attached to this letter is a sample of the private sector's concerns that were submitted to the SBA in the summer of 2018. SBIA has also highlighted these problems in Congressional testimony to the House Small Business Committee with the hope that SBA would address the problem with OII's leadership. This small business program needs your oversight to return it to a fully functional resource for small businesses.

We encourage the Committee and the leadership of the SBA to review these concerns and address them as warranted. This is a program regulating over \$30 Billion in small business investment capital, and it needs competent leadership. As an industry, small business investors want to be working collaboratively with Congress and the SBA to get more SBICs in underserved areas, more equity-oriented SBICs, more investments in rural areas, more women fund managers, more veteran fund managers, and more small businesses growing. Instead our energy must be spent begging SBA to get the most basic functions of the OII to work. The SBIA looks forward to working with Congress and the SBA to better serve and empower growing small businesses with an efficient and functional SBIC program.

Sincerely,



Brett Palmer  
President  
Small Business Investor Alliance

cc U.S. Senate Committee on Small Business & Entrepreneurship  
U.S. Senate Committee on Appropriations  
U.S. House Committee on Small Business  
U.S. House Committee on Appropriations  
SBA Administrator Linda McMahon

MARCO RUBIO, FLORIDA, CHAIRMAN  
 BENJAMIN L. CARDIN, MARYLAND, RANKING MEMBER

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JOHN KENNEDY, LOUISIANA	TAMMY BRICKWORTH, ILLINOIS
MITT ROMNEY, UTAH	JACKY ROSEN, NEVADA
JOSH Hawley, MISSOURI	

MICHAEL A. REEDHAM, REPUBLICAN STAFF DIRECTOR  
 SEAN MOORE, DEMOCRATIC STAFF DIRECTOR

**United States Senate**  
 COMMITTEE ON SMALL BUSINESS & ENTREPRENEURSHIP  
 WASHINGTON, DC 20510-6350  
 TELEPHONE: (202) 224-5175 FAX: (202) 224-5619

February 28, 2019

The Honorable Linda E. McMahon  
 Administrator  
 U.S. Small Business Administration  
 409 3rd Street, SW  
 Washington, DC 20416

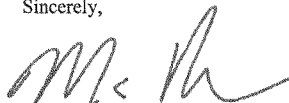
Dear Administrator McMahon,

Thank you for appearing before the Committee on Small Business and Entrepreneurship on February 13, 2019, at the hearing titled "Oversight of the U.S. Small Business Administration."

Enclosed are questions for you that have been submitted by Chairman Rubio, Senator Risch, Senator Inhofe, Senator Booker and Senator Hirono for the hearing record. Please submit your answers to these questions by 5:00 pm on Thursday, March 14<sup>th</sup> to the attention of Steve Gingerich, Senate Committee on Small Business and Entrepreneurship, 428A Russell Senate Office Building, Washington, DC 20510. In addition, please provide the Committee with a copy of your answers via electronic mail to [Steve\\_Gingerich@sbcsenate.gov](mailto:Steve_Gingerich@sbcsenate.gov). To facilitate the publication of the record, please reproduce the questions with your responses.

Again, thank you for your assistance. Please contact Meredith West of the Majority Staff or Sean Moore of the Minority Staff at (202) 224-5175 with any questions you may have. We look forward to reviewing your answers.

Sincerely,



Marco Rubio  
 Chairman

**Senate Committee on Small Business and Entrepreneurship Hearing  
February 13, 2019  
Follow-Up Questions for the Record**

Questions for Administrator McMahon

Questions from:

Chairman Rubio

SBA Vacancies

Currently, the SBA has several positions vacant, some of which are key to agency operations, including: Deputy Administrator, National Ombudsman, Director of Licensing, and the Deputy Chief of Staff. These vacancies undoubtedly impact the SBA's ability to serve American small businesses. The Director of Licensing for the SBIC program is an integral position to manage entry into the SBIC program, including the timely approval of licenses. The position has been filled in an "acting" capacity for some time.

**QUESTION 1:**

Please list all positions that are currently vacant at the SBA.

**QUESTION 2:**

Why do these positions remain vacant more than two years into President Trump's administration?

**QUESTION 3:**

How do you plan to staff these positions appropriately to better aid our small businesses and entrepreneurs?

**QUESTION 4:**

Do you have plans to make the acting SBIC Director of Licensing permanent?

SBA self-certification process

The SBA's women-owned small business federal contracting program and the 8(a) development program give disadvantaged business owners an opportunity to enter the federal contracting market with competitive and single-source contracts with agencies. Both of these groups of business owners are able to self-certify for program eligibility, while service-disabled veterans and those in Historically Underutilized Business Zones (HUBZones) must be formally certified. The Office of the Inspector General found that this current self-certification process is deficient

and prone to fraud, leading to more than \$126.8 million in contracts going to ineligible firms in Fiscal Year 2017 alone.

**QUESTION 5:**

What are the budget line items and the total cost associated with certifying small businesses for the 8(a) program and the HUBZone program?

**QUESTION 6:**

Are there any costs associated with certification of the women-owned and service-disabled veteran-owned programs at this time?

**QUESTION 7:**

What steps has the SBA taken to implement a more thorough certification process for women business owners as required by the 2015 NDAA?

**QUESTION 8:**

What specific controls will you put in place to ensure that businesses submit proper documentation for certification?

**QUESTION 9:**

What progress have you made on setting up the Certify.SBA.gov website as a single portal for contract certification?

SBA procurement program certifications

Both the SBA and the Department of Veterans Affairs operate procurement programs for service-disabled veteran-owned small businesses. The 2017 NDAA made the SBA responsible for all of these certifications to eliminate confusion.

**QUESTION 10:**

What is the current status of transferring the VA's verification program to the SBA?

**QUESTION 11:**

Have you determined how to pay for the veteran certifications that the SBA will now be performing?

Spurring Business in Communities Act of 2017

At a recent field hearing in Liberty City, I heard testimony that there are two Small Business Investment Companies (SBICs) listed for Miami on SBA's SBIC Directory, both of which are listed as "Likely Not Still Investing." Last Congress, I introduced the Spurring Business in Communities Act of 2017, to increase the number of Small Business Investment Companies in under-licensed states like Florida. This President signed this bill into law.

**QUESTION 12:**

Can you update us on your implementation of this law?

**QUESTION 13:**

What steps does the SBA take to monitor whether SBICs are still investing?

**QUESTION 14:**

Has SBA discussed or partnered with the SBIC licensed investment companies and related trade association to prioritize approving SBIC licenses in underserved parts of the country? If so, please provide details of these partnerships and interactions.

SBIC license approval wait times

SBICs have reported excessive wait times for license approval, often more than a year and up to 18 months. Many are concerned that the recent government shutdown will exacerbate these already onerous wait times. Additionally, since SBICs need SBA approval to draw down leverage, funds were concerned about their ability to draw down leverage during the shutdown.

**QUESTION 15:**

What is SBA doing to address the backlog of SBIC applications?

**QUESTION 16**

Were there any instances of SBICs being unable to draw down their leverage?

**QUESTION 17:**

If so, how is SBA working with these funds to address any issues caused by a lack of leverage?

SBIC annual examinations

SBICs are supposed to receive an examination once every 12 months in order to be fully operational. However, an SBIC does not have control over when their examination is scheduled, performed, or completed. When an SBIC does not have a current exam, the SBA may take

certain actions, such as not accepting an SBIC's license application and restricting access to, or the reservation of, leverage.

**QUESTION 18:**

From an SBIC's last examination, what is the current average amount of time for SBA to schedule an examination, how long does it take for SBA to conduct the examination, and subsequently, what is the average timeframe between completion and submission of the examination report?

**QUESTION 19:**

What is the current timeframe covered by examinations? For example, do the examinations cover a period of time up to the most recent quarter? Is the time period covered consistent across examinations? Please provide supporting data outlining the timelines and information requested.

**QUESTION 20:**

Have examinations been affected by the shutdown? If so, what is SBA doing to eliminate a backlog?

SBIC program reports

The SBA used to conduct and publish monthly reports on the SBIC program, but has since switched to quarterly reports.

**QUESTION 21:**

What is the reason for this change?

**QUESTION 22:**

Is it possible for SBA to move back to monthly reports?

**QUESTION 23:**

How soon after the data is compiled does SBA make the quarterly report publicly available?

Small Business Act reauthorization

As Congress contemplates the reauthorization of the Small Business Act and other integral programs, certain information pertinent to different programs will help inform the legislative process. With regard to the SBIC program, please provide the following information:

**QUESTION 24:**

The number of non-leveraged and debenture SBICs currently participating in the program.

**QUESTION 25:**

The number of licenses that have been issued since January 2017, and what type of funds have been licensed since 2017.

**QUESTION 26:**

The most recent numbers, including percentage, of investments made by SBICs that are comprised of debt, equity, and a combination of debt and equity.

**QUESTION 27:**

The number, purpose, and function of contracts dealing with the SBIC program.

**QUESTION 28:**

All interim and final reports and updates that contractors provided to SBA dealing with the SBIC program.

**QUESTION 29:**

The amount of money already spent on outside SBIC contractors and plans for future spending for outside contracting affecting the SBIC program.

Additional data request

Please provide the following data:

**QUESTION 30:**

The number of Green Light letters issued since January 2017 and the timeframe for a fund to receive a Green Light letter. Please include all delays caused by the fund not having a current exam.

**QUESTION 31:**

The number of leverage requests currently outstanding and the average time it takes for a fund to receive an approval for leverage. Please include all delays caused by the fund not having a current exam.

**QUESTION 32:**

The number of SBIC license applications currently submitted and the amount of time each has been in the queue. Please include all delays caused by the fund not having a current exam.

**QUESTION 33:**

The number of SBIC licenses issued since January 2017 and the time for each applicant to get a license in their possession after SBA's Agency Committee approves one. Please include all delays caused by the fund not having a current exam.

**QUESTION 34:**

A list of the all the travel performed by Associate Administrator for the Office of Investment and Innovation. Please include the purpose of this travel.

Technology upgrades

SBA communicated a desire to update technology in the Office of Investment and Innovation.

**QUESTION 35:**

Please provide details of the specific IT projects being undertaken, their purpose, and any involvement with the industries that are served by SBA's OII on these technology updates, including involvement with organizations that represent the SBIC industry.

Reports due to Congress

The FY 2019 National Defense Authorization Act (P.L. 115-874) required the SBA to submit backlogged reports on the overall Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) programs, as well reports on the four pilot programs that were reauthorized in P.L. 115-874, including the: 1) Phase Flexibility Pilot Program, 2) Phase 0 Proof of Concept Partnership, 3) Commercialization Readiness Pilot Program for Civilian Agencies Pilot Program, 4) and SBIR/STTR Administrative Funding Pilot Program. These backlogged reports are due to Congress March 30, 2019 with reporting agencies required to submit to SBA the data needed for the Administrator to fulfill the reporting requirement by December 31, 2018.

**QUESTION 36:**

Did SBA receive the necessary data from reporting agencies by December 31, 2018? If not, has SBA received this data to date?

**QUESTION 37:**

What progress is SBA making to complete these reports? Will SBA submit the required reports to Congress by the March 30, 2019 deadline?

SBIR and STTR Reauthorization Act of 2011

The SBIR and STTR Reauthorization Act of 2011 included language to allow a Phase II awardee to receive one additional Phase II award to build upon the work of the initial Phase II award. Please provide any data on the following:

**QUESTION 38:**

The use by agency of the sequential Phase II award authority;

**QUESTION 39:**

The number of sequential Phase II awards by agency since the SBIR and STTR Reauthorization Act of 2011;

**QUESTION 40:**

Any outcome data regarding the commercialization success of firms who received a sequential Phase II award.

SBIR and STTR awardees

The Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) programs are built on a tiered system in which an agency may award a Phase I award to determine feasibility, a Phase II award for demonstration and further development, and Phase III awards, which allow the business to pursue commercialization objectives, but are not funded by the SBIR and STTR programs. In recent years, Congress has heard more frequently about, and worked to address, commercialization issues faced by small firms participating in these programs.

**QUESTION 41:**

What is the most recent data SBA has on Phase III SBIR and STTR awardees?

**QUESTION 42:**

What data, if any, does SBA collect on the commercialization success and outcomes of Phase III awardees? Please share that data.

Changes to SBA's entrepreneurial development programs

SBA's revised strategic plan includes new performance goals to "better align" the entrepreneurial development programs with the agency's mission. I have heard concerns from resource partners that this change shifts the program metrics from an "outcome-based" model to an "assembly line" model. More specifically, people are concerned that focusing on the number of clients served disincentivizes counselors from referring clients to different programs that may be able to better assist them.

**QUESTION 43:**

What can you tell me about those performance metrics and how the agency determined that they were the appropriate measures for success?

Office of Inspector General (OIG) report

The Office of Inspector General (OIG) issued a report on November 8, 2018, entitled "Consolidated Findings of OIG Reports on SBA's Grant Programs – FY 2014-FY 2018." This report compiled results from nine separate reports on management deficiencies in the entrepreneurial development and other grant programs. The OIG made four recommendations and SBA management concurred with all four. I understand the deadline for SBA compliance with the OIG's recommendations is September 30, 2019.

**QUESTION 44:**

What progress is the SBA making to meet this deadline?

SBDC program funding

Over the past year, the SBDCs located in my home state of Florida provided more than 110,000 hours of no-cost, personalized, professional business consulting to more than 11,000 Florida-based small businesses, many of which were overcoming the devastating effects of Hurricane Irma, Hurricane Michael and Red Tide. An independent study by the Florida State University Center for Economic Forecasting and Analysis reported that the businesses assisted by the Florida SBDC impacted 28,876 Florida jobs, and returned \$37 for every \$1 of Florida taxpayer money invested. In spite of the SBDCs' proven effectiveness, efficiency, return on investment, and longstanding support from Congress, for FY2019 the SBA requested a reduction of more than 15 percent in program funding (from \$130 million to \$110 million). The President's budget proposal for the SBA ignored the statutory funding formula and used 10 percent of the Congressionally-appropriated SBDC program funding to create a competitive set-aside within

the program to "reward" the SBDCs that most efficiently utilize their resources and provide innovative methods to help entrepreneurs.

**QUESTION 45:**

Can you explain the rationale for cuts to this particular program?

**QUESTION 46:**

In light of overall cuts to the SBDC program, can you explain the reasoning for an additional set-aside?

**QUESTION 47:**

What criteria would be used to make these set-aside awards?

Small business size standards

The important determination of how big a "small" business is can make a business eligible for government contracts that are set aside for small businesses. Once a business becomes "big" – even if it outgrows the small category by one employee or one dollar of revenue – it is forced to compete against the giants of that industry.

**QUESTION 48:**

How can the SBA define size standards in a way that does not encourage small businesses to stifle growth?

**QUESTION 49:**

Are there technical industries that merit a larger "small" size due to the nature of their work?

**QUESTION 50:**

What about legislation to provide more companies with the larger transition period made available by the Small Business Runway Extension Act, such as expanding this Act to include employee size count companies?

**QUESTION 51:**

What are ways that the SBA can help small businesses transition into their next stages?

Re-evaluation of size standards

The SBA has to reevaluate size standards every five years, and I understand that you all have developed a new methodology for this round of standards. One year has passed and no new standards have been issued yet.

**QUESTION 52:**

Can you explain to me how you are setting size standards now?

**QUESTION 53:**

Will you have all of the standards issued within the next four years?

**QUESTION 54:**

Will you have time to give all of the standards careful consideration?

**QUESTION 55:**

Please provide your proposed plan, including dates, for issuing new size standards by industry.

Risk transfer program

Like several state programs, such as Florida's Citizens Property Insurance Corporation, federal programs, including FEMA's National Flood Insurance Program, the Export-Import Bank, and Fannie Mae and Freddie Mac, have successfully transferred some financial risk to the private sector, protecting taxpayers and enhancing program resiliency.

**QUESTION 56:**

Is SBA considering opportunities for its program(s) to similarly transfer risk from taxpayers to the private sector?

**QUESTION 57:**

If so, for which specific SBA programs?

**QUESTION 58:**

Does SBA have adequate authority and funding to successfully initiate a risk transfer program(s)?

**QUESTION 59:**

If not, please describe what additional authority and/or funding is needed.

Mandated reports

As you know, the Committee is charged with oversight of the SBA. To help execute this oversight function numerous reporting requirements have been included in statute over the years.

**QUESTION 60:**

I would ask as Chairman that you provide the Committee with the most recent reports mandated under the statutes listed below and the reason that any of these mandated reports have not been delivered on time and an estimated time for when any missing reports will be delivered.

- a. 10 U.S.C. §2391-note (Report on small business exports)
- b. 15 U.S.C. §631c(f)
- c. 15 U.S.C. §636(j)(16)(B)
- d. 15 U.S.C. §637d(2)
- e. 15 U.S.C. §638(b)(7)
- f. 15 U.S.C. §639(a)
- g. 15 U.S.C. §644(h)(2)
- h. 15 U.S.C. §645a
- i. 15 U.S.C. §649(f)
- j. 15 U.S.C. §651(h)
- k. 15 U.S.C. §656(o)(2)
- l. 15 U.S.C. §657a(e)(3)
- m. 15 U.S.C. §657b-note (Report on veteran-owned small businesses)
- n. 15 U.S.C. §657b(d)(4)
- o. 15 U.S.C. §657d(f)(2)
- p. 15 U.S.C. §657h(c)(2)(C)
- q. 15 U.S.C. §657p(b)(6)

- r. 15 U.S.C. §657r(c)(1)
- s. 15 U.S.C. §687(g)

Connecting small business borrowers with participating SBA lenders

As you are well aware, “Lender Match” is the SBA’s online referral tool connecting small business borrowers with participating SBA lenders. This free online platform allows small business owners to fill out a quick online form, without registration, and connects them with lenders within 48 hours. The SBA reports that Lender Match has generated 3.6 million in leads on behalf of small businesses to SBA lenders since its launch in September 2017.

**QUESTION 61:**

What percentage, and number, of these leads have resulted in funded SBA loans?

Oversight of SBA’s 7(a) lending program

As you know, legislation to improve oversight of SBA’s 7(a) lending program was signed in to law last Congress. This legislation included several requirements for SBA to promulgate regulations and ensure certain activities at SBA.

**QUESTION 62:**

Please provide an update on the following requirements in the law:

- a. Section 47, subsection (e) outlines allowable enforcement authorities against 7(a) lenders. Subsection (f) requires SBA to issue regulations no later than one year after the date of enactment to carry out subsection (e). What is the status of this regulation and is SBA on schedule to issue this regulation, with an appropriate comment period, by the statutorily specified date of June 21, 2019?
- b. The status of the budget justification required to be submitted to the Administrator for the Office of Credit Risk Management (OCRM)?
- c. The legislation requires the Lender Oversight Committee (LOC) to meet quarterly and report on their meetings and decisions to the Administrator. Please provide the members of the LOC as appointed by the Administrator, the dates of meetings held by the LOC, the minutes for these meetings, as well as such public information on the activities of the Committee, including enforcement actions taken and not taken.
- d. Information on any waivers that have been granted and are being maintained in an indexed form since the enactment of the legislation.

Commercial real estate appraisal thresholds

In the last Congress, legislation was passed to align both the 7(a) and 504 lending program commercial real estate appraisal thresholds with the threshold set by the Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve and the Federal Deposit Insurance Corporation. That threshold is currently set at \$500,000 for commercial real estate appraisals, while SBA's loan programs had previously required an appraisal for loans \$250,000 and higher.

**QUESTION 63:**

What notice or information has SBA provided to lenders to make them aware of this change?

**QUESTION 64:**

Have all references to the previous \$250,000 appraisal threshold been changed in the SBA's Standard Operating Procedure (SOP) document 50 10?

**QUESTION 65:**

If not, when will lenders be notified and changes be made to the SOP?

Awareness of SBA policy changes

504 lenders have anecdotally reported difficulty becoming aware of changes to SBA's policies with regard to 504 loan application requirements with several reporting they become aware of changes only when an application is rejected several times and rises to the level of deeper scrutiny by SBA's loan processing centers.

**QUESTION 66:**

What is SBA doing to communicate changes in requirements to certified development companies (CDCs)?

SBA 504/CDC loan guaranty program requirements

The SBAs 504/CDC loan guaranty program requires borrowers to meet at least one of two specified economic development objectives. The borrower can 1) create or retain a job for every \$75,000 of project debenture (or \$120,000 in the case of small manufacturers), or 2) meet any one of five community development goals or 10 public policy goals.

**QUESTION 67:**

If a borrower is meeting a community development goal or public policy goal, does SBA track and keep a record of the goal that meets this requirement? If so, please provide a breakdown of the goals met by community development or public policy category by number, as well as the numbers for each specific community development and public policy goal that enabled borrowers to meet this requirement.

**QUESTION 68:**

If SBA does not track this data, why not?

504 program third party investors

In Standard Operating Procedure (SOP) 50 10 5 (J), the SBA outlines requirements for borrowers in the 504 program regarding real estate issues. In this SOP, when a small business holds title to real estate in a real estate holding entity (known as an eligible passive company or EPC) rather than the small business entity itself (the operating company or OC), the rent the OC pays the EPC cannot exceed the mortgage plus costs to hold, maintain, and operate the building; and 2) requires the operating company (OC) lease 100 percent of the space from the EPC and then sublease space to any third party tenants. The Committee has heard anecdotally that these requirements stem in part from a concern that third party investors have benefitted from the 504 loan.

**QUESTION 69:**

Please provide any information on the presence of third party investors in real estate transactions in the 504 program.

Employee-owned business concerns

Section 862 of the John S. McCain National Defense Authorization Act of FY 2019 (P.L. 115-232), which was signed into law on August 13, 2018, requires the SBA to make changes with regard to opportunities for employee-owned business concerns through the SBAs loan programs. Please provide an update on the following:

**QUESTION 70:**

The status of SBA's outreach to Small Business Investment Companies (SBIC) and intermediaries of the Microloan program to increase the investment and loans for transitions to employee-owned business concerns;

**QUESTION 71:**

The implementation of the requirement for SBA to establish a Small Business Employee Ownership and Cooperatives Promotion Program to offer technical assistance and training on the transition to employee ownership through cooperatives and qualified employee trusts;

**QUESTION 72:**

The status of the amended report to Congress on employee-owned firms, including metrics on the total number of loans made to employee-owned business concerns guaranteed under section 7(a) of the Small Business Act and the SBIC program under the Small Business Investment Act of 1958;

**QUESTION 73:**

The status of the new study and report on cooperatives required 180 days after enactment of the legislation.

**QUESTION 74:**

The Senate and House Committees on Small Business sent a letter to Administrator McMahon regarding the SBA playing a more active role in the Interagency Working Group on Cooperative Development (IWGCD) on September 25, 2018 with a requested response date of October 15, 2018. The Committees have not yet received a response to this letter. Please respond with the information requested in the letter, including whether or not SBA will actively participate in the IWGCD, and if so to outline for the Committees the goals SBA intends to achieve through its participation.

Advising customers on the basics of international trade

The Small Business Jobs Act requires that a certain number or percentage of counselors at each lead SBDC be trained advising customers on the basics of international trade.

**QUESTION 75:**

What are you doing to monitor compliance with that mandate?

**QUESTION 76:**

Are all lead SBDCs meeting their training requirements?

SBA disbursements

The SBA consistently updates Congress with useful disaster loan and operation numbers. However, the SBA does not include disbursements in these reports.

**QUESTION 77:**

Please provide updated numbers on loan disbursements for Hurricanes Harvey, Maria, Irma, Hermine, and Michael.

Questions from:

Senator Risch

Women's Business Center

As you may know, Idaho is one of the only states that does not have a Women's Business Center or a licensed Small Business Investment Company. With that said, I was encouraged to see that this week the SBA will be hosting events across Idaho seeking applicants for the Women's Business Center.

**QUESTION 1:**

Could you tell me what would happen if no applicant is approved to open the Women's Business Center?

**QUESTION 2:**

Also, is this model something that could be replicated to recruit more SBIC applicants to Idaho and other "under-licensed" states?

**QUESTION 3:**

Finally, what can the SBA do to encourage more SBIC applicants in Idaho?

Questions from:

Senator Inhofe

Declassification of staffing firm franchisees as small businesses

Administrator McMahon, as you are likely aware, on February 14th and October 13th 2017 the SBA acted in two Policy Notices – 5001-1941 and 5000-17009, respectively, that resulted in the declassification of staffing firm franchisees as small businesses by SBA for services including loans that they previously qualified. It's my understanding this action overturned years of SBA precedent and is harming small business owners across the Nation including those owned by veterans, women and minorities. Further, my understanding is this action was handed off by the Obama administration to the Trump administration. The issue in question is whether the franchisors of staffing firm companies like Express Employment Professionals in Oklahoma City, Oklahoma directly control their franchisees, and, as a result, whether or not these franchisees should be classified as small businesses. Unlike what SBA's 2017 notices imply, Express' corporate office does not directly control its franchisees. Express corporate does not hire or fire its franchisees' employees and the 2017 notice does not take into account the unique product of staffing firm franchises. Express corporate simply requires that its franchisees' employees get paid on time and in full in order to ensure compensation for those workers and protect the name of the company – as it is inherently providing a service of temporary paid employment. This model is no different than fast-food corporate offices, which require their franchisees to prepare and cook their food a certain way – as they are providing a service to ensure safe and consistent food and drink products. The minimal level of oversight exercised by staffing firm franchisees, like Express, should be clear they do not directly control their franchisees. SBA should return its long-held previous standard that franchisees of staffing firm franchises are small businesses.

**QUESTION 1:**

Have you heard from other businesses being adversely affected by the 2017 changes in policy?

**QUESTION 2:**

Can I count on you to bring regulatory relief to small businesses like those of Express by resolving this issue?

**QUESTION 3:**

Will you personally sit down with Express to resolve this?

Questions from:

Senator Booker

Opportunity Zones

The Opportunity Zones program, based on the Investing in Opportunity Act that I introduced with Senator Tim Scott along with several members of this Committee, creates a powerful new tool for promoting lasting economic development in the places that need it most. Through a set of targeted incentives, the program encourages private investors to re-invest their inactive capital gains into high-impact projects in distressed communities.

**QUESTION 1:**

As you know, late last year, the President created the White House Opportunity and Revitalization Council to align funding and technical assistance across agencies to amplify the impact of the Opportunity Zones incentive. Can you provide an update on the Council, and what the SBA is doing to ensure startups and entrepreneurs are able to capitalize on this powerful new tool?

Paid Family Leave

Research demonstrates that paid leave contributes to reduced turnover and higher employee morale and loyalty, leading to productivity increases and significant cost savings for small businesses. Replacing employees is expensive: turnover costs are estimated to average one-fifth of an employee's annual salary. Paid leave increases employee retention by encouraging employees to stay in the labor force and with the same employer, leading to significant employer cost savings through reduced turnover expenses.

**QUESTION 2:**

Do you believe that a national paid family and medical leave program, like The Family and Medical Insurance Leave (FAMILY) Act, would help strengthen small businesses' ability to recruit and retain talent?

**QUESTION 3:**

What supports do you believe small businesses need to successfully implement a national paid family and medical leave program? What do you think the Small Business Administration's role should be to help small businesses successfully implement a national paid family and medical leave program?

Questions from:

Senator Hirono

Small Business Administration's (SBA) Local District Offices

The Small Business Administration's (SBA) local district offices provide important supports for local businesses and the broader business community, while promoting the SBA's mission to help Americans start and grow their own businesses—regardless of where they may be located. Last year in response to written questions submitted after your hearing before the Committee, you reiterated your commitment to making sure local district offices have the necessary resources to effectively deliver the SBA programs and services, including through staff trainings for local district offices.

**QUESTION 1:**

Now that you have completed your Ignite Tour, how do you plan to continue your engagement with local district offices?

**QUESTION 2:**

What has the SBA done over the last year to make sure local district offices continue to receive the necessary resources to effectively deliver services?

**QUESTION 3:**

Can you elaborate on your field alignment project to better connect with local district offices and deliver services?

Disaster Assistance

During last year's natural disasters in Hawaii, businesses were encouraged to seek assistance from SBA resource partners like Small Business Development Centers (SBDCs) to replace business documents, restructure their businesses, and receive general business counseling services.

**QUESTION 4:**

How does the SBA work with local resource partners like SBDCs after natural disasters to make sure they have the necessary resources to serve their clients—particularly in cases where these resource partners see increased use by clients following natural disasters?

**QUESTION 5:**

How does the SBA work with other resource partners like Women's Business Centers, Veterans Business Outreach Centers, and SCORE, following natural disasters?

**QUESTION 6:**

Does the SBA track increases in the number of clients who seek services from resource partners like SBDCs after natural disasters?

Government Shutdown

During the recent federal government shutdown thousands of small businesses were impacted throughout the United States, as the shutdown not only impacted the SBA, but also affected other federal agencies and the broader business community as a whole. This included many small businesses in Hawaii, many of whom rely on federal programs or contracts, or other federal resources like national parks, to support themselves and their families.

**QUESTION 7:**

Can you elaborate on what kinds of resources and outreach the SBA has provided to small businesses that were affected by the government shutdown?

**QUESTION 8:**

While it is my sincere hope that government shutdowns are few and far between, what lessons did the SBA take away from this shutdown?

**QUESTION 9:**

Are there any insights that will help you to improve SBA services or activities?

Contracting Goals

During our meeting last December you and I discussed the importance of federal contracting for small businesses in Hawaii and elsewhere. As you know, the federal government purchases nearly \$400 billion in goods and services from the private sector every year, and has established procedures to ensure that small businesses have opportunities to compete for contracts, specifically through its contracting goals for small businesses and the SBA's contracting programs to provide businesses with set-asides, sole-source awards, and price-evaluation preferences.

**QUESTION 10:**

Can you elaborate on how the SBA plans to meet its contracting goals this year?

**QUESTION 11:**

What specifically is the SBA doing to promote contracting opportunities for women owned small businesses and small disadvantaged businesses?

**QUESTION 12:**

Can you speak to how opportunities like set-asides, including for commercial products and services, have been important for small businesses?

Native Hawaiian Owned Businesses

During our meeting last December you and I also discussed the importance of providing opportunities for Native owned businesses, including Native Hawaiian owned businesses (“NHOs”) in Hawaii.

**QUESTION 13:**

Can you elaborate on how the SBA plans to support Native owned businesses and NHOs in the coming year?

Native American Entrepreneurial Empowerment Workshops

Last year in response to written questions submitted after your hearing before the Committee you mentioned that the SBA was planning to provide seven additional Native American Entrepreneurial Empowerment Workshops where potential entrepreneurs and business owners could receive specialized training and technical assistance in 2018, and that planning was in the early stages to schedule more workshops for 2019.

**QUESTION 14:**

Has the SBA finalized its workshops for 2019?

**QUESTION 15:**

If so, then could you provide an update about when and where these workshops will be held this year?

**QUESTION 16:**

Can you elaborate on how these workshops will support business owners?

Small Business Manufacturing

Last year in response to written questions submitted after your hearing you also mentioned that you had met with small manufacturers in the United States, and stated that the SBA can continue to help small manufacturers by making sure they know about and have access to the SBA’s

programs to support manufacturers, counseling opportunities through the SBA's resource partners, and other opportunities to pursue international markets.

**QUESTION 17:**

Can you elaborate on how these programs and opportunities can support small manufacturers in the United States?

**QUESTION 18:**

What else has the SBA done in the last year to improve opportunities for these manufacturers, including in providing access to international markets?

Science, Technology, Engineering, and Math (STEM) Workforce

I have continued to support programs that provide opportunities for women and minorities to pursue science, technology, engineering, and math (STEM) fields, and have introduced legislation that would strengthen the STEM pipeline and help businesses by making sure they have the employees they need to remain competitive in industries that require workers with backgrounds in STEM fields. Last year in response to written questions submitted after your hearing you stated that this is an area where the SBA could look more closely at through your interagency discussions with other federal agencies and your focus on helping small businesses better identify and meet workforce demands.

**QUESTION 19:**

What steps has the SBA taken since that time to make sure businesses have the workers they need to remain competitive—through interagency discussions and otherwise?

**QUESTION 20:**

Has the SBA taken steps to examine how counseling provided through your resource partners could better assist businesses that require workers with STEM backgrounds?

**QUESTION 21:**

What else could the SBA be doing more to examine the STEM pipeline?

Small Business Innovation Research/Small Business Technology Transfer (SBIR/STTR) Programs

The Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) programs provide set-asides for federal research and development for small businesses, and support federal research opportunities for businesses in Hawaii and elsewhere. As you have previously highlighted, the SBA Administrator plays a critical role in making sure federal

agencies are compliant with statutory commitments to supporting small businesses through these programs.

**QUESTION 22:**

I appreciate the commitment you have expressed to actively work with agencies and make sure they meet or exceed their commitments to supporting small businesses through the SBIR and STTR programs—will you continue working to address this issue?

**QUESTION 23:**

How do you think the contracting processes for SBIR and STTR awards could be improved to make these programs more accessible for participants?

State Trade Expansion Program (STEP)

The State of Hawaii has previously used resources provided under the SBA's State Trade Expansion Program (STEP) to create the Hawaii State Trade Expansion Program, or HiSTEP, which partners with the private sector to facilitate access to comprehensive export assistance, counseling and training assistance, and opportunities for Hawaii small businesses to showcase their services and products at trade shows. I have supported STEP since the program was established, and more recently supported its renewal through 2020.

**QUESTION 24:**

Do you continue to recognize the importance of STEP, and will you continue to support the program with resources appropriated through Congress?