WHAT COMES NEXT? PPP FORGIVENESS

HEARING

BEFORE THE

COMMITTEE ON SMALL BUSINESS
UNITED STATES
HOUSE OF REPRESENTATIVES

ONE HUNDRED SEVENTEENTH CONGRESS

FIRST SESSION

HEARING HELD
SEPTEMBER 1, 2021

Small Business Committee Document Number 117–030
Available via the GPO Website: www.govinfo.gov

U.S. GOVERNMENT PUBLISHING OFFICE
45–478 WASHINGTON : 2021

HOUSE COMMITTEE ON SMALL BUSINESS

NYDIA VELÁZQUEZ, New York, *Chairwoman*
JARED GOLDEN, Maine
JASON CROW, Colorado
SHARICE DAVIDS, Kansas
KWEISI MFUME, Maryland
DEAN PHILLIPS, Minnesota
MARIE NEWMAN, Illinois
CAROLYN BOURDEAUX, Georgia
TROY CARTER, Louisiana
JUDY CHU, California
DWIGHT EVANS, Pennsylvania
ANTONIO DELGADO, New York
CHRISSY HOULAHAN, Pennsylvania
ANDY KIM, New Jersey
ANGIE CRAIG, Minnesota
BLAINE LUETKEMEYER, Missouri, *Ranking Member*
ROGER WILLIAMS, Texas
JIM HAGEDORN, Minnesota
PETE STAUBER, Minnesota
DAN MEUSER, Pennsylvania
CLAUDIA TENNEY, New York
ANDREW GARBARINO, New York
YOUNG KIM, California
BETH VAN DUYNE, Texas
BYRON DONALDS, Florida
MARIA SALAZAR, Florida
SCOTT FITZGERALD, Wisconsin

MELISSA JUNG, *Majority Staff Director*
ELLEN HARRINGTON, *Majority Deputy Staff Director*
DAVID PLANNING, *Staff Director*

CONTENTS

OPENING STATEMENTS

WITNESSES

APPENDIX

WHAT COMES NEXT? PPP FORGIVENESS

WEDNESDAY, SEPTEMBER 1, 2021

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SMALL BUSINESS,
Washington, DC.

The Committee met, pursuant to call, at 1:00 p.m., via Zoom, Hon. Nydia M. Velázquez [chairwoman of the Committee] presiding.

Present: Representatives Velázquez, Mfume, Phillips, Newman, Bourdeaux, Carter, Chu, Evans, Delgado, Houlahan, Kim of New Jersey, Craig, Luetkemeyer, Williams, Hagedorn, Stauber, Meuser, Tenney, Garbarino, Kim of California, Van Duyne, Donalds, Salazar, and Fitzgerald.

Chairwoman VELÁZQUEZ. Good morning. I call this hearing to order.

Without objection, the Chair is authorized to declare a recess at any time.

Let me begin by saying that standing House and Committee rules and practice will continue to apply during remote proceedings. All Members are reminded that they are expected to adhere to the standing rules, including decorum, when they are participating in any remote event.

With that said, the technology we are utilizing today requires us to make some small modifications to ensure that the Members can fully participate in these proceedings. House regulations require Members to be visible through a video connection throughout the proceeding, so please keep your cameras on. If you have to participate in another proceeding, please exit and log back in later.

In the event a Member encounters technical issues that prevent them from being recognized for their questioning, I will move to the next available Member of the same party and will recognize that Member at the next appropriate time slot, provided they have returned to the proceeding.

Should a Member's time be interrupted by technical issues, I will recognize that Member at the next appropriate spot for the remainder of their time once their issues have been resolved.

In the event a witness loses connectivity during testimony or questioning, I will preserve their time as staff address the technical issue. I may need to recess the proceedings to provide time for the witness to reconnect.

Finally, remember to remain muted until you are recognized to minimize background noise. In accordance with the rules, staff have been advised to mute participants only in the event there is inadvertent background noise. Should a Member wish to be recognized, they must unmute themselves and seek recognition at the proper time.

Seventeen months ago, during the early days of the COVID crisis, this committee and our counterparts in the Senate worked together to create emergency relief programs to assist small businesses. At that time hundreds of thousands of small firms across the country were closing their doors to protect their customers and their employees.

Recognizing the dire nature of this situation, Congress created the Paycheck Protection Program. The PPP was an unprecedented government effort that sought to distribute hundreds of billions of dollars to entrepreneurs so they could keep their lights on and pay their employees.

Over the course of the past year, Congress replenished the funds multiple times and made critical improvements to make the program more equitable for the smallest of small businesses and the underserved. More than $800 billion in critical PPP support was provided to small businesses during their time of need.

PPP was never perfect, but thanks to the hard work of SBA employees and necessary reforms made by Congress, the program has helped saves millions of businesses from permanent closure. With conditions improving from the loss of the pandemic, it is vital that this committee turn to what may be the most important part of the program, the federal government's promise that this loan can be forgiven and converted into grants.

PPP guidelines stipulated that SBA should forgive loans if small businesses spent funds on meeting payroll costs and other related expenses.

SBA has already received 5.6 million loans for business requests and made over 5.2 million forgiveness payments. This means that approximately 46 percent of all PPP loans have received payments. This statistic represents progress, but also shows that there is a long way to go.

Unexpected debt can hinder a small employer's recovery and cloud its path to future growth, so we must examine the obstacles preventing recipients from loan forgiveness and work to obviate them.

I look forward to discussing how the SBA is working to make PPP forgiveness as simple as possible and examining solutions to maximize total loan forgiveness, especially for small dollar borrowers.

I would now like to yield to the Ranking Member, Mr. Luetkemeyer, for his opening statement.

Mr. LUETKEMEYER. Thank you, Madam Chair, and thank you for calling this very important hearing on Paycheck Protection Program, loan forgiveness, and the process.

With the program's application window now closed, Members of Congress must examine the back end process that focuses on forgiveness to insure the program concludes appropriately, prudently, and smoothly for small businesses.

Prior to the pandemic, small businesses were displaying optimism, confidence about their economic future. Through a smart tax environment driven by the 2017 Tax Cuts and Job Act and former President Trump's deregulatory actions. Such as cutting two regulations for every new one, these small businesses were investing in their companies, their employees, and their communities. Unfortunately, COVID-19 and overwhelming State and local shutdown mandates devastated the nation's smallest firms.

From being closed entirely to altered capacity restrictions, these measures force small businesses into survival mode. Not surprisingly, many small businesses adapted and performed to the best of their ability under dire circumstances. That is what they do. Federal government assistance, like the PP, provided an avenue toward recovery and focused efforts on the nation's more than 60 million small business workers and employees.

The PPP proved to be successful due to the efforts of private sector lenders who partnered with the Small Business Administration and the Department of Treasury to deliver funds to small businesses with speed and efficiency. As the program continues to shift towards forgiveness.

Today's hearing will show a completely different perspective for lenders who participated in the program. If a small business adhered to the rules set out in legislation and the guidance produced by SBA and the Treasury Department, forgiveness should be attainable.

Congress examined this process in 2020 and created a streamlined forgiveness process for all loans below $150,000 in a December COVID package. The SBA has also taken steps to simplify the process to that end. As I have been examining SBA's new direct forgiveness process, it has come to my attention that lenders have received multiple messages which quite conceivable could be considered a threat from the SBA on potential for enhanced lender audits based on their participation within the direct forgiveness process or if they had not offered 2021 PPP borrows an opportunity to move through loan forgiveness.

One thing is clear. There are multiple legitimate and prudent reasons why lenders haven't joined the SBA's new direct forgiveness portal, including the fact that some lenders have had systems and portals up and running for months. And I cannot stress enough this next reason, which is many lenders would like to assist their small business borrowers through the completion of this program.

I will not stand by and let lenders who are punished for working closely with their small business borrowers, the SBA, their dismal performance and attempt at direct lending through the EIDL program to provide a warning to everybody that the SBA is ill-suited to perform many of these tasks. I will continue to watch these developments closely.

At today's hearing I look forward to hearing more about the relationship between SBA and private sector lenders. Has there been an open line of communication? And where should improvements be made going forward?

Additionally, I am also concerned about further changes to the forgiveness process that can open the program to increased levels of waste, fraud, and abuse. Granting blanket forgiveness has the potential to remove critical safeguards that are in place to ensure that American taxpayer dollars are protected.

PPP loan forgiveness oversight is even more important considering recent reports indicating that certain fintech lenders have been connected to many of the program's most problematic loans. These are significant issues that I plan to continue to examine closely. As Members of Congress assist the small business economic recovery, we must not ignore the barriers being enacted that will prevent small business growth in the future.

At a time when most small businesses are simply trying to stay afloat, President Biden and congressional Democrats are pushing tax increases on both the corporate and individual levels, the elimination of step-up basis on inheritance, and a slew of other harmful changes. These tax changes have implications for all small businesses and farms, and main street USA should not be forced to pay for the Democrats' outrageous and unnecessary spending agenda.

Our nation's small businesses are already facing worker shortages and skyrocketing inflation. We should be creating an environment that allows small businesses to create jobs, expand, and grow, not perpetuating an environment that requires them to scale back.

I want to thank all of the witnesses for joining us today, and I look forward to our discussion.

Madam Chair, with that, I yield back.

Chairwoman VELÁZQUEZ. Thank you, Mr. Luetkemeyer. The gentleman yields back.

I would like to take a moment to explain how this hearing will proceed. Each witness will have 5 minutes to provide a statement and each committee Member will have 5 minutes for questions. Please ensure that your microphone is on when you begin speaking and that you return to mute when finished.

With that, I would like to introduce our witnesses.

Our first witness is Ms. Tracy Ward, the director of the Self-Help Ventures Fund 504 loan program, who has led the way for her CDFI in helping very small borrowers access to the PPP program.

In 2020 and 2021, Self-Help made just under 2,800 PPP loans totaling $253 million in COVID-19 relief funding. 65 percent of their PPP borrowers were small businesses and nonprofits led by people of color. Self-Help is affiliated with the Center for Responsible Lending, a national nonprofit for research on policy organization dedicated to protecting home ownership and family wealth by working to eliminate abusive financial practices.

Thank you for joining us today, Ms. Ward.

Our second witness is Ms. Leslie Payne of Affinity Federal Credit Union in Basking Ridge, New Jersey. Ms. Payne is the credit union's Assistant Vice President for commercial lending and has been personally involved in the credit union's PPP lending. Her credit union has updated to the SBA direct forgiveness platform, so we look forward to hearing about her Members' experience. Today she is testifying on behalf of the National Association of Federally Insured Credit Unions.

Thank you for joining us today, Ms. Payne.

Our third witness is Ms. Marla Bilonick, the President and CEO of the National Association of Latino Community Asset Builders or NALCAB. She also serves as CEO of NALCAB's subsidiary asset management company, Escalera Community Investment. NALCAB is a nationwide network of over 130 mission-driven organizations that are encore institutions in predominantly Latino communities.

Ms. Bilonick brings over 20 years of expertise in small business development and community-based financial services with an emphasis on the U.S. Latino population.

Ms. Bilonick testified before the committee last Congress on issues related to underserved business development.

It is my pleasure to welcome her back to the committee.

The Ranking Member, Mr. Luetkemeyer, will now introduce our final witness.

Mr. LUETKEMEYER. Thank you, Madam Chair.

Our next witness is Mr. Robert Fisher. Mr. Fisher is the president and chief executive officer of Tioga State Bank located in Spencer, New York.

In addition to his leadership role at the century-old Tioga State Bank, Mr. Fisher is currently the Chairman of the Independent Community Bankers Association of America, also known as ICBA. Additionally, he is a Member of ICBA's Federal Delegate Board and its policy development and nominating committees, not to mention Mr. Fisher is a fifth generation community banker. He is also a graduate of the University of Notre Dame and a United States Air Force veteran.

Mr. Fisher, I want to thank you for taking time away from running your bank to join us today, and I want to thank you for your service to our nation.

I also want to thank the other witnesses for joining us and look forward to your questions. Thank you for doing all you can while we are in this pandemic era here, a unique time that we have been involved in this. Your testimony today is going to be very important to us to be able to understand some of the issues that you face and that we need to be addressing.

Thank you very much.

And with that, Madam Chair, I yield back.

Chairwoman VELÁZQUEZ. Thank you all for being here today. Ms. Ward, you are recognized for 5 minutes.

STATEMENTS OF MS. TRACY C. WARD, DIRECTOR OF THE SBA 504 LOAN PROGRAM, SELF-HELP VENTURES FUND; LESLIE PAYNE, ASSISTANT VICE PRESIDENT OF COMMERCIAL LENDING, AFFINITY FEDERAL CREDIT UNION, ON BEHALF OF THE NATIONAL ASSOCIATION OF FEDERALLY-INSURED CREDIT UNIONS; MARLA BILONICK, PRESIDENT AND CHIEF EXECUTIVE OFFICER, NATIONAL ASSOCIATION FOR LATINO COMMUNITY ASSET BUILDERS-NALCAB; AND ROBERT FISHER, PRESIDENT AND CHIEF EXECUTIVE OFFICER, TIOGA STATE BANK, CHAIRMAN, INDEPENDENT COMMUNITY BANKERS OF AMERICA (ICBA)

STATEMENT OF TRACY C. WARD

Ms. WARD. Thank you, Chairwoman Velázquez, Ranking Member Luetkemeyer, and Members of the committee. My name is Tracy Ward, and I represent Self-Help, a Community Development Financial Institution, and a PPP lender. Thank you for the opportunity to provide testimony today.

At the start of the pandemic, Congress came together to create the Paycheck Protection Program, delivering urgently needed funds to small businesses to limit mass layoffs and business closures. Congress designed PPP as a forgivable loan with the explicit promise that funds spent properly would not have to be repaid. Today we are asking for several fixes to PPP forgiveness to ensure that promise can be kept.

SBA implementation of this unprecedented program was remarkably fast, but it came with a complex and constantly changing set of rules, and Congress placed the burden of understanding these rules on small business borrowers, quite a challenge for small businesses in survival mode scrambling to access limited funds. As a result, many of the smallest businesses are not getting that promised forgiveness—even when they have spent every penny properly.

For example, an independent contractor in Illinois received a much-needed PPP loan of just under $20,000. Two days before he applied, SBA issued a new rule effective immediately that limited the way businesses like his could document the request, so now his loan is not forgivable, even though he completed his application in good faith and spent the funds properly. This Black-owned microbusiness instead of being able to recover is being held back by an unexpected $20,000 debt trap.

Congress and SBA have recognized and addressed some of the unintended challenges faced by the smallest businesses in accessing PPP loans. One significant change was an adjustment earlier this year in the loan amount calculation for most microbusinesses, sole proprietors, independent contractors, and self-employed individuals, the smallest of the small; but that change was not applied retroactively, denying thousands of businesses adequate relief.

One such business is a Black-owned child care in North Carolina, which received only $2,750 in PPP funding. Had this change been retroactive, she would have been eligible for an additional $14,000 to support her operations. And despite Congress making this exact same change retroactive for small farmers and ranchers, other microbusinesses, like this child care, were left out.

It is important to remember that these challenges are exacerbated for small businesses of color, which are overwhelming microbusinesses that entered the pandemic credit starved and with limited access to mainstream banking services due to structural limitations that have been well documented by our affiliate, the Center for Responsible Lending, and by others.

We propose several clear fixes to the forgiveness rules to ensure fairness and to avoid inadvertently causing further harm to the smallest businesses who are the least able to sustain it.

One, eliminate "gotcha" denials of loan forgiveness due to sudden changes in rules that were imposed without notice.

Two, rescind SBA's January 15, 2021 rule denying forgiveness to borrowers who made good faith errors.

Three, require lenders to opt in to SBA's direct forgiveness portal if they are unduly slow processing forgiveness or if they are unresponsive to their borrowers. The portal should expand the options for forgiveness, not limit it.

Four, alleviate unnecessary paperwork burdens for the smallest businesses by automatically forgiving loans of $25,000 or less.

These microbusinesses overwhelmingly should qualify for full forgiveness based on program rules.

Finally, improve and refocus SBA's loan review process to ensure that fraudulent activity is prosecuted and that businesses who applied in good faith are not harmed by uncertainty and delay.

In this ongoing crisis, small businesses deserve responsible follow-through on PPP's promise so they can get back to running their businesses and employing their communities. Without changes, the forgiveness stage of PPP will exacerbate preexisting inequities, and for many of the smallest businesses, will turn Congress' promise into a bait and switch.

Thank you for addressing this important issue, and I look forward to your questions.

Chairwoman VELÁZQUEZ. Thank you, Ms. Ward.

Ms. Payne, you are recognized for 5 minutes.

STATEMENT OF LESLIE PAYNE

Ms. PAYNE. Good afternoon, Chairwoman Velázquez, Ranking Member Luetkemeyer, and Members of the committee. My name is Leslie Payne, and I am testifying today on behalf NAFCU. I am the AVP of commercial lending at Affinity Federal Credit Union.

Over the last 18 months, I have been tasked with the implementation and day-to-day management of the PPP initiative at Affinity. I am proud of the work that we have done to help our Members through these challenging times, and I thank you for the opportunity to appear before you today to discuss the PPP forgiveness process.

Credit unions have gone above and beyond to ensure small businesses in their communities are taken care of during the pandemic. Though Affinity was already an SBA lender, many credit unions signed on as PPP lenders despite not having done SBA lending before.

An analysis of the SBA's PPP data shows that credit unions made loans in amounts much lower than the national average, and credit union PPP loans went to the smallest of small businesses.

Affinity provided 1,058 PPP loans in the first round of the program, totalling approximately $58 million in lending. We provided an additional 603 loans in the second round for approximately $38 million. Our overall average PPP loan was approximately $56,000, with over 90 percent of loans $150,000 or under. Our smallest PPP loan was approximately $700, while our largest was approximately $1.7 million. Borrowers have come to rely on their credit units to assist them through every phase of the PPP process, including forgiveness. The initial complexity of the PPP forgiveness process posed challenges for many small businesses who may not have the staff or the expertise for such a complex application.

We were pleased to see Congress enact a simplified forgiveness process for loans under $150,000. However, credit unions continue to grapple with simultaneously processing loan forgiveness applications while meeting the routine needs of their small business Members. Many credit unions, such as Affinity, have invested money to create a solution for Members to complete online applications and upload supporting documentation or work with a third-party vendor to streamline the overall process.

A primary source of frustration for credit unions on forgiveness has been the SBA's ongoing requests for additional documentation for applications under review even for small dollar loans. Still, almost 80 percent of our PPP loans at Affinity have been forgiven. For Affinity's forgiveness applications overall, it has taken on average 9 days from application submission to SBA approval. For forgiveness applications that have been placed under review, it has taken an average of 47 days.

SBA's recent introduction of the revenue reduction score is a welcome change will help expedite the forgiveness process. The SBA also recently launched the Direct Borrower Forgiveness Portal. At Affinity, despite the time and money invested in implementing solutions to process forgiveness applications in-house over the last year, we are one of many credit unions that have opted into the portal. Although the process streamlines the borrower's experience, it does not necessarily streamline the process for all lenders as many will have to monitor the SBA system and update their commercial lending platforms manually. However, the portal offers smaller credit unions that have not had the ability to leverage a third party vendor or lack the means to develop a streamlined in-house process, a simple solution to process forgiveness applications.

Despite many opting into the portal, credit unions generally feel it would have been more beneficial at the onset of the forgiveness process. Some credit unions are choosing to not opt into the program because they feel the systems they have created are more consumer friendly. Moreover, integrating the new portal is operationally burdensome.

There are also concerns that the SBA will not answer borrowers' questions in a timely or complete fashion. It was very difficult to get answers in a timely manner last year, and some credit unions fear that borrowers will use the portal and then come back to their lender with questions, but the lender has no control over the system and will not be able to assist the borrower.

At Affinity we have had some frustrations with the process, such as the SBA communicating directly with borrowers without alerting lenders, and the SBA not alerting Members that borrowers apply directly for forgiveness.

Two ways that Congress can take to improve the forgiveness process would be, one, increasing the loan size for the use of the portal and revenue reduction score and, two, urging the SBA to follow up on its commitment to focus its review on larger and higher risk loans. Adopting this approach to forgiveness reviews will conserve the SBA's resources and allow the agency to more efficiently allocate their finite resources to those PPP loans that warrant additional review.

In conclusion, we are proud of how we have been able to help our small business Members stay afloat and retain employees through the PPP. At Affinity, like at all credit unions, our priority is our Members. Our team has been and remains committed to guide our Members through the PPP experience successfully.

I again thank you for the opportunity to appear before you today, and I welcome any questions that you may have.

Chairwoman VELÁZQUEZ. Thank you, Ms. Payne.

Ms. Bilonick, you are now recognized for 5 minutes.

STATEMENT OF MARLA BILONICK

Ms. BILONICK. Thank you.

Good afternoon, Chairwoman Velázquez, Ranking Member Luetkemeyer, and Members of the committee. My name is Marla Bilonick, and I am the president and CEO of the National Association of Latino Community Asset Builders, otherwise known as NALCAB. It is my sincere honor to be addressing you today about Paycheck Protection Program forgiveness and speaking on behalf of NALCAB, our Member organizations, and the small businesses that they represent.

NALCAB is the hub of a national network of over 140 mission-driven organizations that are anchor institutions in geographically and ethnically diverse Latino communities across the nation.

Our vision is to dramatically scale the flow of public and private sector capital that responsibly meets the asset-building needs and opportunities in the communities we serve. As a grant maker and U.S. Treasury certified CDFI lender, NALCAB strengthens and coordinates the capacity of the NALCAB network to deploy capital.

We know that the strength of the U.S. economy relies on the fast-growing Latino communities' hard work, entrepreneurial experience, spending power, and leadership. While the Latino community in the United States is often heralded for starting small businesses at rates higher than other ethnic groups, the adverse economic effects of the pandemic have disproportionately impacted Latino business owners.

Stanford's Latino Entrepreneurial Institute surveyed 7,000 small business owners and cites that 86 percent of Latino-owned businesses suffered immediate negative financial impacts from the pandemic. At the same time, Latino business owners were successful at securing PPP loans at only half the rate of their White counterparts and only 3 percent of Latino-owned businesses received their full funding request.

NALCAB was called upon to provide capital to several Members to facilitate their PPP lending. As a CDFI in our own right, we ultimately loaned our Members close to $12 million for PPP loans which resulted in them making 640 loans to small businesses in their communities.

NALCAB Member CDFIs, including heavy hitters like Accion Opportunity Fund, Self-Help, LiftFunds, and CDC Small Business Finance, were able to provide business clients with PPP loans when banks could not or would not.

In fact, NALCAB Member and CDFI, Prestamos CDFI was the third highest PPP lender in the nation, including traditional commercial banks. Prestamos made close to 500,000 PPP loans averaging around $15,000 each, for a total of close to $8 billion in PPP lending. JP Morgan Chase and Bank of America topped the ranking with over $12 billion and over $9 billion respectively.

As of August 2021, roughly half of PPP borrowers had submitted forgiveness applications with the other half outstanding. Advances have been made to streamline PPP forgiveness, including the July launch of the Direct Forgiveness Portal which is an immediate and simplified clearinghouse for forgiveness applications attached to loans of $150,000 and below.

Discussions with CDFI Members of NALCAB point to the portal now being the primary channel available in seeking loan forgiveness for their small business clients. Between April and August, the forgiveness applications process practically doubled from the national number reported in April. This may be partially attributed to the Direct Forgiveness Portal.

Number three ranked PPP lender and NALCAB Member Prestamos CDFI reports that they are directing clients almost exclusively to the SBA PPP forgiveness portal and have found that to be a straightforward avenue for achieving forgiveness. However, they noted that they fear that some clients are missing out on loan forgiveness due to lack of awareness of the process and/or lack of access to technology to connect to the portal.

The additional CDFI Members we spoke with from coast to coast all reported the portal was now their primary channel for client forgiveness, even in the cases where they had developed their own technology ahead of the portal.

While only a sliver of NALCAB PPP lenders made loans over five figures, we are supportive of stretching simplified forgiveness process for loans up to $350,000. This would further ease the burden on even more small businesses that are doing their best to power through recovery. In addition, it would lighten the administrative load of lenders that have supported those businesses through their PPP journey. We agree that PPP loans of $350 thousand and above are in a different class and justify higher scrutiny.

Loans that were made in the initial stages of the Paycheck Protection Program in 2020, when there was some confusion regarding calculations around loan sizing, have resulted in good faith error that generated some PPP loans that exceeded borrowers' correct maximum amount. In January of 2021, the SBA's procedural notice informed PPP lenders of said excess loan amount errors. Particularly in cases of smaller amounts, small loan amounts, this seems like undue efforts to squeeze dollars out of the very borrowers that the PPP program was designed for, borrowers that most certainly used every cent of their PPP loan to ensure their businesses stayed afloat and to keep their employees on payroll.

I don't believe I have time to go into my recommendations, but they were outlined in the content of the testimony.

Chairwoman VELÁZQUEZ. Thank you.

Ms. BILONICK. Thank you very much for your time.

Chairwoman VELÁZQUEZ. Thank you, Ms. Bilonick.

Mr. Fisher, you are now recognized for 5 minutes.

STATEMENT OF ROBERT FISHER

Mr. FISHER. Chairwoman Velázquez, Ranking Member Luetkemeyer, and Members of the committee. I am Bob Fisher, president and CEO of Tioga State Bank, a $550 million community bank in Spencer, New York, and Chairman of the Independent Community Bankers Association of America. So thank you for the opportunity to testify at today's hearing.

The PPP was a natural fit for the business model of community banks. We are small business lending specialists with local knowledge and deep roots of the communities that we serve.

My bank's PPP lending is typical of a community bank. We made a total of 929 loans for $64.8 million, saving roughly 10,000 jobs. Our average loan was just under $70,000, and Tioga State Bank's 40-year history as an SBA 7(a) lender helped us to navigate sometimes challenging SBA channels on behalf of our borrowers.

Our largest PPP loan, $2.7 million, was to a southern tier independent center. They are a large not-for-profit in Binghamton, New York, dedicated to helping people with disabilities remain independent. The loan helped prevent staff layoffs and allowed the center to continue to provide critical services in our community.

Other community banks have similar stories and results. In aggregate, community banks made nearly 60 percent of the PPP loans which supported nearly 50 million jobs. What's more, community banks made over 80 percent of PPP loans to minority-owned and women-owned small businesses and nearly 70 percent of the PPP loans to veteran-owned small businesses. I am proud that my industry stepped up to support the survival of these diverse businesses in a time of crisis.

We are well into the forgiveness phase of the program, and this process must be as simple as possible for borrowers so that they can focus on operating their businesses in a still uncertain environment. We are grateful to this committee and Congress at large for its role in making statutory changes and advocating for a streamlined process.

As you know, the SBA has created the Direct Borrower Forgiveness Portal for PPP loans of 150,000 or less. My bank has a strong record of processing forgiveness applications and has chosen not to use the portal. Like many community banks, our true value proposition is relationship lending. We believe we owe it to our borrowers to ensure a smooth process from origination until full forgiveness. If there are technical or communication problems with the SBA—and this has, frankly, been a major concern—we want to use our expertise and relationship with the agency to resolve them. This is good business practice and best for our borrowers. We are working expeditiously and are as eager as our borrowers to obtain full forgiveness.

ICBA insists that SBA respect lenders' choice to not use the portal. Instead. The SBA has threatened to audit these lenders. What's more, the SBA suggests that lenders are deliberately delaying forgiveness to spread out fee income. That practice would be unacceptable and would cut against the grain of community bank relationship lending. I can assure you that no community bank that I know of is engaging in it.

Our strong record of PPP lending in a time of crisis must not be diminished by these accusations. My bank and other community banks choose to preserve our borrower relationships and not be cut out of the process by a direct SBA program. More broadly, bank underwriting and servicing is what makes SBA lending programs so effective and must not be displaced by direct programs.

As we conclude the PPP, reports of fraud and abuse have surfaced in the media. These problems must be reduced to the greatest extent possible not only in the PPP but in all SBA programs. My bank has experienced no PPP fraud and 100 percent forgiveness. Like other community banks, we own the consequences of our lending decisions and underwrite with great care. However, certain lenders with little experience in underwriting or with the SBA crowded into PPP. Safeguards were lowered in response to the crisis and, not surprisingly, these lenders may be subject to higher incidents of fraud.

As normal state returns, the SBA should proceed with great caution as it considers changes to existing programs. Tioga State Bank and many community banks highly value a robust and sustainable 7(a) program. Fraud puts all SBA programs at risk.

Thank you again for convening today's hearing and for the opportunity to offer my perspective, and I am happy to answer any questions you may have.

Thank you.

Chairwoman VELÁZQUEZ. Thank you, Mr. Fisher. Thanks to all of the witnesses for being here today and for your work and engagement on the PPP.

I will begin by recognizing myself for 5 minutes.

Ms. Payne, less than one-quarter of all PPP lenders have updated to the SBA direct forgiveness platform. Even though your credit union invested in its own platform, you also updated to the SBA platform.

Can you share with us any feedback your borrowers have had on the SBA platform?

Ms. PAYNE. Yes. Thank you for the question.

We have opted in, and largely we opted in, we have a system in place that has been working quite well. We jumped on the forgiveness quite early in the process and put things in place that we needed to do. We made our investments and such. We opted in because we want to give our borrowers every opportunity for forgiveness, so we have offered that.

To date, since the portal has opened, the Direct Forgiveness Portal has opened, we have seen approximately 12 percent of our borrowers go to the direct portal. So the majority of our Members are still coming to us to directly go to our portal for forgiveness.

But what we have heard from our Members is that, from their perspective, that the portal has been user friendly. From the lenders' perspective, this creates more manual process for us. As we do have our own process in place, we have to proactively go into the SBA portal and check the website, and then manually we are inputting data in the beginning of the process as well as at the end of the process.

So another concern that we have is in the early stages—we are still in the early stages, and there are still some unknowns with regard to the confusion and communication that our borrowers will get from the SBA and when they will get that communication.

Chairwoman VELÁZQUEZ. Thank you.

Ms. Ward, we have heard from borrowers that they are responsible for paying, with interest, excess loan amounts caused by PPP miscalculation from a lack of rules and clarity early in the program.

Should this excess loan amount be forgiven if loan proceeds were spent on forgivable purposes?

Ms. WARD. We believe they should. We have seen many borrowers that are facing issues where they applied, based on the current rules in place as they understood them; but because the rules were complicated: some businesses were able to include owner healthcare costs, some were not. Some could document payroll showing 941s, others had different methods that could be more complicated.

So we are seeing borrowers that are caught in this issue of having applied in good faith for a loan that they then used to keep their business operating, to keep their staff employed, and now at forgiveness, because the rule may have changed within days of when, they applied, they are not going to be able to get full forgiveness and they are caught in that.

Chairwoman VELÁZQUEZ. How is your institution handling these good faith errors?

Ms. WARD. So we are working with our borrowers when we find situations like this—I will say, luckily, we are not finding many situations like this within our own PPP borrowers. We had processes in place and worked closely—as Mr. Fisher said, community banks are very—have a relationship and work hard with our borrowers to try and make sure that they understand the loan they are getting and how to get this forgiveness.

Chairwoman VELÁZQUEZ. Okay.

Ms. WARD. We are hearing and seeing news reports about especially small lenders, small borrowers who are caught in this and are not going to be able to get forgiveness. We have been able—on a couple of cases where we have borrowers in this situation at Self-Help, we are working with them to try and identify are there other potential documents they have that might help us get them to full forgiveness.

Chairwoman VELÁZQUEZ. Thank you.

Ms. Payne, any comments on the PPP miscalculations?

Ms. PAYNE. Yes. I think we have experienced several loans. With the initial PPP guidance, it was continuously evolving. Both the Members and lenders were trying to get their arms around the guidance and the rules, a very stressful and chaotic time.

I think that each loan should be looked at on its own merits. If there was an error and it was made in good faith but the use of the funds was permitted, then I believe that these loans should be considered for full forgiveness.

Chairwoman VELÁZQUEZ. Thank you.

Ms. Bilonick, would you support increasing the qualifying loan amount to $350,000 to help SBA deliver forgiveness more efficiently and enable more small businesses to focus on their recovery?

Ms. BILONICK. Absolutely. I think anything that will reduce the burden on both the borrowers and the lenders is a positive and should be supported. This would bring the percent over 90 percent of PPP loans, and I think it is a sound recommendation.

Chairwoman VELÁZQUEZ. Thank you.

My time has now expired. The Ranking Member, Mr. Luetkemeyer, is now recognized for 5 minutes.

Mr. LUETKEMEYER. Thank you, Madam Chair.

And just to comment first, you know, whenever you see that basically one in six loans are made by fintechs and 9 out of 10 of those we are looking at as fraudulent and most of those loans are under

$350,000, and the OG report—IG report said that half the loans under $350,000 are probably where your theft, identity theft and fraud are, for us to not look at those is, like, the administration leaving $85 billion worth of military equipment behind in Afghanistan for no reason whatsoever.

This is nuts for us not to go after people who have intentionally gamed the system and are making away with dollars that the taxpayers have paid in and half the program would not be looked at. This is—I think it is a very, very wrong way to approach this.

Mr. Fisher, you talked about in your testimony something that is very, very concerning to me with regards to the SBA and their threat to audit entities, banks, credit unions, other entities that may do PPP loans if they don't participate in the portal.

What is your experience with this? What have you heard about this? Can you elaborate on it? I know you said in your testimony—I'm reading it as well. Would you like to elaborate just a little bit on that, please?

Mr. FISHER. Sure. We received communication from SBA on Monday that there was potential for audit if you did not participate in the portal, the forgiveness portal. And from day one, we decided we wanted to be that interface between our customer and the SBA because it is, it is a very confusing, complicated process. And we feel that we have got the expertise. The customer doesn't.

So we want to, you know, control that relationship and help our customer navigate through this whole forgiveness process, and we don't feel we should be—we have worked forgiveness very hard. In fact, we only have five loans from the first round that are still waiting for forgiveness, and it is not for a lack of effort on our part. We have been reaching out to those borrowers to get them to seek to apply for the forgiveness.

Mr. LUETKEMEYER. So it is a choice on your part how you want to approach forgiveness, and the SBA is trying to threaten you into making the choice, their choice, basically. Is that right?

Mr. FISHER. That is how it feels, yes.

Mr. LUETKEMEYER. Well, I would urge you if you find banks that have received this threat and then receive an audit as a result of that, please contact me and my office. We want to follow up on this. We want to hold SBA accountable for outrageous statements like this. This cannot go unchallenged. This cannot be allowed to happen. So, please, work with us if you see this happening within the banking community that you work and your association works with.

Thank you so much for that.

You know, you made some great statements here, Mr. Fisher, as you were going through discussing the banks making the loans. You know, the banks have something called know your customer, and in doing that, I think we have found that——

And as I mentioned earlier, the fintechs don't have that sort of firewall and, as a result, they are the ones that are causing a lot of problems here, although there is not a lot of problems with PPP compared to, like, the EIDL program which has got almost a third of it which is the most fraudulent stuff.

But the underwriting that you are able to provide and the know your customer seems to be a real key in being able to minimize the fraud, minimize the abuse, and also set you up for being able to get forgiveness for your customers because you have done it right. Would you agree?

Mr. FISHER. I totally agree. I mean, that is—we know our community. We know our customers. And I think that is what made the process work for community banks and why we were able to do 60 percent of the PPP lending.

Mr. LUETKEMEYER. It is concerning to me that, you know, as we continue to go through this process here and we are looking at—and I don't believe to bring the EIDL program into the PPP discussion here unnecessarily, but I think it lends—the PPP program here, by having had the banks do the underwriting, be able to do the hard work of know your customer and prepare the loans to be able to be approved by SBA, showed that that is a template I think for being able to do things the right way and minimize fraud and abuse.

When you look at SBA's direct lending program, which is the EIDL program, and how fraught it is with fraud, it really sets up the contrast of does SBA really need to be in the direct lending business.

So would you like to address that question?

Mr. FISHER. We have always felt that, you know, with the 7(a) program and 504 programs that community banks—you know, we have that relationship with our borrowers, and I think it really has reduced fraud. As I said, we experienced zero fraud in our PPP lending, and I think that just shows how relationship banking works and how utilizing community banks to be the interface with small business is so effective.

Mr. LUETKEMEYER. Thank you very much for your testimony, Mr. Fisher. We certainly appreciate your thoughts and observations today.

Thank you.

With that, Madam Chair, I yield back.

Chairwoman VELÁZQUEZ. The gentleman yields back.

I now recognize the gentleman from Maryland, Mr. Kweisi Mfume.

Mr. MFUME. Thank you, Madam Chair. Thank you for calling this hearing.

Ms. Payne, I would like to just start with you, if I might. From your own perspective, what were some of the considerations that went into you offering your own PPP forgiveness platform as opposed to the SBA's?

Ms. PAYNE. Well, the first consideration was that there was no platform that the SBA was offering or putting out there. The forgiveness process was technically to start almost immediately. We took our first forgiveness application in September of 2020. So we needed to put something in place, and we did. We bought a software program, we trained our staff, and we pulled other resources. We wanted to be responsive. This was a temporary loan to help these businesses get through a very chaotic and traumatic time, and they needed to know that this was going to be forgiven, not that they had additional debt.

So so many wanted to get forgiven as soon as they could, so we responded to our Members' needs, and that is what we did. We initiated our own platform, and we invested the time and resources and money to do that to be responsive.

Mr. MFUME. So most of your credit union Members have used your platform rather than the SBA's platform. I would ask you, how would you evaluate the borrower outcomes? Are they comparable? Are there things that jump out at you that are cause for alarm?

Ms. PAYNE. No. We have not had too much cause for alarm. The process, I will admit, early on was slow as we were learning it, and we did not necessarily anticipate the number of loans going under review. When we started, they were taking 10 percent of our loans and putting them under review, and that creates very much the back-and-forth problem, and it is time-consuming for our Members and it is stressful.

They don't know why they are under review, and we can't—you know, we don't know if it is random or otherwise. But in that sense, that process started slowly; but once we got up and running and really hit stride, we haven't seen any major issues. It is just when we go under loan review, it can be very time-consuming; but we have per my testimony, we have submitted 80 percent of our portfolio has gone through the review process.

Not all are 100 percent forgiven, but there are some that have some partial forgiveness; but overall we have had very good success rate on behalf of our Members.

Mr. MFUME. Mr. Fisher, if I could turn to you for just a moment. You occupy a rather unique perch both as president of Tioga and as Chairman of the Independent Community Bankers of America. So far only about a quarter of all PPP lenders have opted in to SBA's direct forgiveness platform.

Do you think, sir—or what do you think could have been done differently to have made that platform more appealing to persons? And if you had your druthers—let's hope we never go through this again; but if we were to go through something like this again, what would you recommend?

Mr. FISHER. I think—you know, I think the issue is most banks had their forgiveness plan in place. We have already developed systems. We have a methodology of how we put customers through forgiveness, so SBA rolling this out late in the game has made it problematic.

So I think had they wanted this portal to be used, I think I would have rolled it out when forgiveness started. It is kind of late in the game to throw in another ancillary system when we already have it pretty down for our customers.

Mr. MFUME. Okay.

Thank you, Madam Chair. I have no other questions. I yield back.

Chairwoman VELÁZQUEZ. The gentleman yields back.

The gentleman from Texas, Mr. Williams, is recognized for 5 minutes.

Mr. WILLIAMS. Thank you, Madam Chair.

And before I get started, I want us, all of us across this country, to remember those 13 families that are—we are all praying for the loss of those young men and women and also remember those people who are still stranded in Afghanistan this morning.

I am a small business owner, have been for 51 years. My whole life has been done dealing with credit unions and community banks, and I can tell you that the main street America does it a heck of a lot better than the federal government. And I want to say thanks to all of the lenders for getting this program out, and it is interesting that all of a sudden the SBA wants to get involved in the program here of late with portals, and so forth, and now we have to have a hearing. So just, again, the government does it better—or the private sector does it much better than government.

When I talk to borrowers and lenders back in Texas, I constantly hear about communication issues with the SBA. Last week a lender told me there are some loans that have been submitted for forgiveness as far back as January, and we are hearing that this morning, that have yet to receive an update after 8 months.

When the bank calls the PPP hotline for updates, it no longer is even in service, and the SBA can't continue to leave small business owners and community banks in the dark when they are taking all necessary steps to recover from the pandemic, these small business owners.

So, Mr. Fisher, thank you for your service and what you are doing. I want to say, can you discuss your interactions with the SBA and describe how responsive they have been to your inquiries?

Mr. FISHER. Communication throughout the process has been difficult, especially early on in the process. We have got some great connections with our local SBA office, and those folks are greatly helpful, but they are also limited in some of the knowledge that they have and, obviously, this was a new program, constant guidance changes, and things like that. So it was—communication was very problematic throughout the process and continues to be somewhat problematic in certain areas.

I know of a local bank that I just heard a story yesterday that they had opted out of the forgiveness portal, yet their customers all received notices from SBA saying that they could apply through the portal, which was not active for the bank because they hadn't opted into the program, which caused chaos with their customer service center, so——

Mr. WILLIAMS. Well, we are hearing stories like this all over, and I can tell you firsthand, it is tough to communicate with them.

Lenders were given two options for PPP loan forgiveness: Either opt into direct forgiveness with the SBA or opt out and continue to process loans themselves. We are hearing about that that today. Most commonly bankers did not opt into direct PPP forgiveness for two main reasons. Lenders had already created an internal process, which we know that, or contracted this work out to a third party when they saw how important the forgiveness aspect of PPP would be in the future.

In addition, as we have heard today, many banks were reluctant to opt in because the SBA had not been the most reliable partner in the past, and that is an understatement. And, unfortunately, on Monday morning, as we have heard, the SBA sent a notice to all lenders that they would be under more intense scrutiny for their loans if they did not participate in the Direct Forgiveness Portal, and here they are coming in late and messing everything up.

So making this change so late in the process has caused confusion and even more headaches for the banks who make PPP so successful.

So, Mr. Fisher, you have touched on this, but I think we need to talk about it even more. Can you discuss the risks you may face due to the recent announcement from the SBA and why you choose and chose to opt out of the direct PPP forgiveness in the first place?

Mr. FISHER. Obviously, as I said before, they threatened potential audits, although they sent a follow-up email that maybe said that we wouldn't be audited, but I am not sure, you know, which letter to believe. But I think the reason we opted out is because we are relationship lenders. I mean, we want to be that interface between the lender and SBA because of—it is a complicated process, and we want to make sure that our customers are getting the correct information, that they don't have to learn the entire process. We know it.

We have been through it. We have worked with SBA for 40 years, so we want to be that interface, that relationship that we have with both the SBA and our customer. We want to enhance that.

Mr. WILLIAMS. Well, a heavy-handed government is never good, and we are seeing that here firsthand.

Just quickly, Mr. Fisher, can you elaborate on the importance of relationship banking for PPP forgiveness and how more government involvement may draw out this process?

Mr. FISHER. I just think relationship banking, that is the role—that is the key for community bank, how we interact with our customers, and I think it really cuts down on fraud. As I said previously, you know, we have had zero fraud. Most of the banks that I know have had zero fraud. So I think fraud and just having those relationships is critical.

Mr. WILLIAMS. Well, thank you for that, and the government cannot say that. So thank you for what you are doing.

And I take my time and I yield it back.

Chairwoman VELÁZQUEZ. The gentleman yields back.

I now recognize the congress lady from Georgia, Ms. Bourdeaux.

I would just like to also say to Mr. Fisher, when we had the first tranche of money that went out and in the first 2 weeks it was all gone, the data that we didn't get from the administration then showed that many small businesses in underserved communities and real small businesses were not able to access any PPP money because they didn't have preexisting relationships with banks.

The big banks didn't lend to those small businesses. It wasn't until we intervened and we demanded from the Secretary of the Treasury to set aside money for mission-based lenders, that those data, those numbers didn't change.

The same is true now with the great work that the SBA is doing in informing small businesses what they need to do in order to fill out the forms and take every step to be able to—for their loans to be forgiven.

Ms. Bourdeaux, you are recognized for 5 minutes. Thank you.

Ms. BOURDEAUX. Thank you, Chairwoman Velázquez, and I have a similar line of questioning to some of the points that you raised. And thank you, Ranking Member Luetkemeyer, for holding this hearing.

This access to PPP loan forgiveness is something I have been very concerned about since the moment I was sworn into Congress. In particular, we have heard a lot about discrepancies in loan forgiveness among underserved small businesses, particularly minority-owned businesses, in my community. And we did some informal surveys of who had gotten loan forgiveness and who hadn't and found that minority-owned businesses didn't know to ask, you know, didn't know how to follow up.

And I think the testimony of Ms. Bilonick raises some of these kind of unanticipated problems that often occur with some of these very entrepreneurial, very vibrant businesses that just don't have that traditional relationship with a lender.

This is one of the reasons I worked with the committee to submit additional views to the American Rescue Plan, encouraging the Small Business Administration to work to ensure equitable administration of emergency assistance, including PPP loan forgiveness.

The SBA I think took a very important step towards ensuring greater access to loan forgiveness by opening their portal to provide forgiveness to loans less than $150,000. Unfortunately, as has been discussed in this hearing, you know, there is a lot of—you know, this is also creating some tradeoffs.

But just to start off, Ms. Bilonick, can you just talk a little bit more—you raised some of the, kind of I wouldn't know, that I didn't know kind of issues that come up with some of the businesses in the Hispanic community. I have a very large Hispanic community. You know, when they are trying to approach working towards PPP loan forgiveness, what are some of the barriers that they face that we may not anticipate.

Ms. BILONICK. Absolutely. So I think one issue is just—and I don't think it is exclusive to the Latino community. I think for most individuals who applied, the process of forgiveness was kind of just a big question mark, so I don't think that anyone is opposed to relationship banking. In fact, I would say all CDFIs are heavily involved in relationship banking. That is the bread and butter of the CDFI industry. So I did take some exception to those comments.

I think also I wanted to just raise that I think the community-based lenders and the mission-based lenders have opted into the portal because, unlike higher resource financial institutions, the portal that the SBA is providing is actually an improvement over whatever sort of internal either portal or other system, maybe even the less sophisticated systems, that was being used internally.

So they are directing their clients almost exclusively to the portal because it is more straightforward, clearer, you know, just better overall versus what they could put together in-house.

But, yes, these challenges are real. I think—you know, just to add one more thing, just the access to technology, I mean, in order to access the portal, you have to have a means of accessing it.

One other thing that our CDFI Members reported was that it is very challenging to follow up with multiple clients. You know, I mentioned one of our Members made 500,000 PPP loans, so to individually follow up with each one of those borrowers would be impossible, and so if people change their phone numbers, close their business, or anything, you know, that is sort of really challenging to try and reach them and then connect them, you know, into the forgiveness process, period, let alone the portal.

Ms. BOURDEAUX. I thought that was an interesting point about I think of the housekeepers, and the landscapers, and just a ton of this kind of very vibrant entrepreneurial economy that we have, but often are not in, sort of, the traditional path in these relationships.

What can we do better in order to make sure that a lot of these small businesses know about the forgiveness program and, you know, are able to access this?

Ms. BILONICK. Well, one thing I want to say prior to being in this role, I actually was the head of a CDFI that is based in Washington, D.C. So during the pandemic, I was in that role. And I think what was critical to the success of either rolling out programs or following through with them, as is happening right now in the forgiveness process, was the direct line of communication between the SBA and the lender.

And, so, I think you see that most in the district offices where there is kind of a more direct relationship to the community. But I would just actually suggest that that continue, or, perhaps, that more resources be put behind that so that there is someone to call up when you have a question, and you are in a community-based organization it is just kind of a lot of red tape and paperwork that you may not be accustomed to working with.

So, I think having that direct tie to the SBA, and from my experience in New York and D.C., the SBA district offices are really knowledgeable and approachable. And I just think that is sort of a great way to connect into the overall mission of the SBA.

Ms. BOURDEAUX. Thank you so much.

Ms. BILONICK. Thank you.

Ms. BOURDEAUX. We work very closely with our SBA and SBDCs and groups like that to reach out to the broader community.

Thanks so much. And I yield back.

Chairwoman VELÁZQUEZ. The gentlelady yields back.

Now we recognize the gentleman from Minnesota, Mr. Hagedorn, for 5 minutes.

Mr. HAGEDORN. Thank you, Madam Chair.

I would like to follow up on the presentation made by our Ranking Member Luetkemeyer, and also Congressman Williams of Texas. First of all, I think we are very fortunate to have someone like Congressman Luetkemeyer who understands the community banking business and that sector so well. And he has made some good points, that there isn't a lot of fraud, if any, with most of the community banks. And the banks that have made these loans, they know their customers, they are attentive to their customers, they are concerned about their communities and small businesses. This is a pretty good model of maybe something we stumbled into, but looking at, perhaps, utilizing this for other SBA loans could minimize the fraud that we have seen and help the taxpayers and help businesses.

Second of all, Congressman Williams comes in and says, look, he has been in business for 50 years. He has interacted with both bankers in the private sector and then the SBA and others in government. There is a clear difference. I mean, one is attentive, one is trying to keep customers, one is trying to get business, and the other one is, well, if they get to it, they get to it. I mean, that is the way bureaucracies operate. The record of the SBA throughout this whole process was all good in some areas, but not so good in others. And I will tell you that the businesses and the banks that we talk to in this district, who have problems with SBA, they end up in our office. They end up with us calling SBA trying to get some resolution, trying to get people moving. And that really shouldn't be happening. The SBA should be handling these issues.

Now I will give you my perspective, I was a congressional relations officer at Treasury for 18 years. I have seen the bureaucracy a little bit. And I think this move by the SBA to try to gain some control back of the PPP program when it was actually run very well through the banks might be some, you know, and effort to retain their turf. They see the writing on the wall that if we turn over the EIDL loans and others to the banks where we can minimize fraud and do better for our customers, they are going to lose some of their power. So I think that this may be not so much to help everybody, but just as a bureaucracy, looking out for itself.

Now I would add, Madam Chair, I just want to do a couple of housekeeping items with you. When do you expect that we are going to get Secretary of Treasury Yellen to fulfill her duties and testify before our committee in person?

Chairwoman VELÁZQUEZ. We are working to get her to come as well as the Administrator to discuss the PPP forgiveness, but we are working on the reconciliation package right now. So, my guess is right after that, we are going to have the administration come in.

Mr. HAGEDORN. Well, to your credit, I know you have said in the past and you joined with our Ranking Member that you had wished she had testified a little earlier. And, so, I appreciate you are going to continue to try to encourage her to come before us, so we can have a hearing.

And secondly, and I know how important it is to forgive these loans and make sure small businesses can move on. Most of them have received these moneys and have utilized them, and have helped. But there are some small businesses still out there that this committee has an obligation to help. And they would, for instance, would be in the restaurant arena with the Restaurant Revitalization Fund. When the moneys were expended for that, almost $28.5 billion, they went to the people on a priority list that many of us viewed as discriminatory. And the people who are not on the priority list are sitting out there, well over 100,000 restaurant owners and they haven't received any money. And Congress hasn't done anything to follow that up to this point.

Chairwoman VELÁZQUEZ. I——

Mr. HAGEDORN. Well, if I could just say, I don't think that is fair, because people who are in the business are being helped, and other people who may be in trouble and needing help and going out of business are waiting. And I know the Ranking Member has a bill, I have cosponsored it, use reconstituted money, $60 billion. I think let's work together, please, and get the money to our restaurant owners. They really need it at this time.

Chairwoman VELÁZQUEZ. I wish—I hear you and many others express concerns about the fact that many underserved businesses and the very, very small businesses didn't get any access to PPP, even though they tried the hardest. I wish that you were out there compelling the big banks to provide access to those PPP. And, so——

Mr. HAGEDORN. I agree with you, Madam Chair. No, I agree with you. I am not a big fan of the big banks. And I think the one thing that has come out of the PPP program with underserved folks is they do now have a banking relationship with community banks and others. And they are in better position long-term in order to help their small businesses and to be successful. So for that, I think we should be——

Chairwoman VELÁZQUEZ.—that the numbers were there for the world to see.

Mr. HAGEDORN. Okay. All right.

Thank you, Madam Chair. I yield back.

Chairwoman VELÁZQUEZ. The gentleman yields back.

Now we recognize the gentlelady from California, Ms. Chu, for 5 minutes.

Ms. CHU. Yes. Ms. Ward, you state in your testimony that three quarters of the PPP loans issued in 2020 included no demographic information. This is something I pushed hard to correct, and even most recently, sent a letter to the Biden administration asking them to look into racial disparities in PPP. And the lack of information caused the L.A. Times to publish a report where they looked at Census tracts in LA. And they found out that businesses in majority White neighborhoods received loans at twice the rate that majority Latino Census tracts received 1.5 times the rate of businesses in majority Black areas, and 1.2 times the rate in Asian areas.

So, now we are in the forgiveness phase. So can you elaborate on why this kind of data transparency is necessary? And do you have recommendations on how to correct the data gap in the forgiveness process? If we don't have this kind of data, what do you feel businesses would stand to suffer?

Ms. WARD. Thank you. I think SBA has taken steps to do a better job having lenders collect demographic data. And I think that is really critical and important, because then we can see what communities are being served by these programs, and where we as lenders, SBA, Congress, need to do more to make sure that these dollars are distributed fairly and forgiven fairly.

I will say because of the crisis and the short time period to get a limited amount of funds, SBA was building this plane while it was already in the air. And there were constant changes, constant improvements made, constant clarifications, and that made it really hard for borrowers to keep up. But by and large, what we saw was an organization, an agency trying to get this product out as quickly as possible. I think they had this entirely new loan program available to small businesses within about 2 weeks of Congress passing this. That's unprecedented. So I really want to applaud SBA. With their resources, this became an overwhelming challenge. I am very happy to see that they have now been able to develop their own direct forgiveness portal, because there were lots of, especially the community lenders, and smaller lenders, CDFIs that did not have the resources to develop their own. And for those, SBA's direct portal is a significant improvement allowing a lot more borrowers quicker access to forgiveness.

For lenders that had already created their portals like Self Help, like some of the other lenders here today, limiting borrowers options to get forgiven is not the right way to go. So while I applaud SBA for creating direct forgiveness, I think that will help get more of these loans through the forgiveness process, lenders that are doing a good job should be able to keep working with their borrowers.

Ms. CHU. So Ms. Ward, but I was asking about demographic information. And so, you know, how can we correct this? And with the forgiveness portal, can we actually get that demographic information?

Ms. WARD. Yes, I apologize. I didn't mean to get off track with your question.

SBA has made changes to collect demographic information with the forgiveness process. So that is part of the information that SBA is trying to collect now on the forgiveness side that, in the early days and the loan application initially, those questions weren't asked and that makes it very hard to see where these funds were going.

Ms. CHU. Let me ask about sole proprietors, and micro businesses and the unique challenges that they face. I want to make sure that they get the full benefit of the programs, since so many were devastated. Can you speak how the SBA direct forgiveness portal would benefit the sole proprietors specifically? Is the portal more accessible for them than the ones operated by their lenders or not? And which of your recommendations in your written testimony would be most helpful for those sole proprietors or these micro businesses to access forgiveness and relief?

Ms. WARD. Well, I think in cases where sole proprietors have a lender that already has a portal or is already doing is good job processing forgiveness, that is probably their best place to keep going with the process. As you noted for sole proprietors, independent contractors, self-employed, the rules were pretty complex. And if you are a micro business, you are your accounting department, you are your legal team, you are your marketing team, and you are trying to run your business. So having your lender—if your lender is working with you, helping you understand these complex rules, as you are entering your forgiveness information—we think that is better.

Now SBA's direct portal SBA does have people manning and FAQs. But the nitty-gritty and details, especially for the smallest borrowers, we still think that is pretty complicated. And I still think the lender should be helping their borrower as they enter it, so there is not a lot of back and forth afterwards. We just think that is a smoother process, and hopefully, we will speed forgiveness for these smallest borrowers, too.

Ms. CHU. Thank you.

I yield back.

Chairwoman VELÁZQUEZ. The gentlelady yields back.

Now we recognize the gentleman from Minnesota, Mr. Stauber.

Mr. STAUBER. Thank you, Madam Chair. And thank you, Ranking Member Luetkemeyer, for holding this hearing. It is very important. And I will just say that one of the—I have really, really strong concerns about the leadership at the SBA under Administrator Guzman. I can tell you that when our small businesses get information stating that they should or better opt in, otherwise they are going to be subject to audits, et cetera, that is the heavy hand of the government that I will fight against tooth and nail. I know many of us on both sides of the aisle, that is not how we treat our small businesses that just coming out of COVID, just struggling to make it. And, so, I will just say that first, we can't rule, or have SBA and this administrator rule with a heavy hand.

And I wanted to say, earlier we talked about the PPP and some banking, my comment is our local lending institutions did a tremendous job with very little information upon the distribution of the PPP loans. With very little information, they did it in a quick way. But I just want to publicly thank our lending institutions that helped so many businesses stay afloat and helped people keep their doors open during the COVID crisis.

I will also say that Administrator Guzman who was in our great State of Minnesota at an event, and her partisanship showed very well. Myself and Congressman Hagedorn, we are both Members of this committee, weren't invited by her or any of her staff. And I will say that my staff, both in the district and in Washington, D.C. have been very, very concerned with the lack of effort and the lack of response that Administrator Guzman and her staff have given to us when we have requested information. Either they are late, slow or no response. And that is just simply unacceptable and the partisanship on her end must stop. Her actions speak loud and clear. I should say her partisan actions speak loud and clear.

So my question, Mr. Fisher, what has communication from the SBA been like for the lenders? Has guidance been clear, especially as it relates to forgiveness? And have you had difficulty getting answers to any of your questions? Mr. Fisher.

Mr. FISHER. It has been problematic throughout the whole process. And I don't want to—I mean, SBA did a good job building the system, as Ms. Ward said on the fly. We were basically flying from New York to L.A. building the plane as we were going. So I congratulate SBA on their efforts to put this all together.

But it has been problematic getting answers from SBA. And that is why we have always felt it is important to be that buffer between the customer and SBA, because we can—we have relationships with people at SBA. And even having those relationships, it has been difficult to get clarity and answers on complicated questions.

Mr. STAUBER. Thank you very much for that answer.

And are you concerned with new SBA direct forgiveness portal? And if you are, when would you instead like to see moving forward? And how might Congress help?

Mr. FISHER. I am not concerned with the portal. I think as far as having that portal, I think it is a great option for maybe some banks or other institutions that don't have a forgiveness method.

But I think, don't force people's hand into utilizing the portal. I think having those relationships with the borrowers is really, I think—you know, we create that buffer and we can help with those complicated questions. And I think even Ms. Ward alluded to the fact that some of our smaller borrowers—I mean, our smallest loan was $430, but some of those are some of the more complicated questions that arise. And so, if we can help answer those questions based on relationships we have had for 40 years, that is what we try and do.

Mr. STAUBER. Mr. Fisher, I appreciate those answers. And you are one of the institutions that helped keep our small businesses afloat. You know, as well as I do, 16, 17 months ago you didn't have the answers, and we didn't either, and so we were working through it. And our lending institutions across this nation deserve so much credit for helping us out, and helping get that capital where it was needed in a short period of time.

So with that, as we move forward here, I think that we ought to make sure that—we always talk about the economic drivers in our communities are our small businesses. And we need to take care of our small businesses. As Mr. Fisher said, that—know the customer, that relationship building is extremely important to—having been in small business for 31 years, I understand that relationship with the banking and the bankers and the institutions are incredibly important.

So with that, Madam Chair, I will yield back. Thank you.

Chairwoman VELÁZQUEZ. The gentleman yields back.

Now we recognize the gentleman from Pennsylvania, Mr. Evans, for 5 minutes.

Mr. EVANS. Thank you, Madam Chair.

I understand—Ms. Ward, I understand your CDC works with many borrowers who may require extra assistance when applying for PPP loans. What kind of challenges are these borrowers facing during the forgiveness stage?

Ms. WARD. Thank you. The biggest challenges we are seeing for our borrowers during forgiveness are borrowers who misunderstood the rules because they were changing rapidly at the time, and made good faith errors in calculating their loan amount. Borrowers were responsible for calculating their own loan amount and determining their own eligibility. And, so, we are seeing businesses that are—you know, they have spent these funds on their business with the understanding that this would be a grant. They made choices as to how they would keep employees staffed and paid based on the understanding that this was going to be a grant. You know, some tell us they wouldn't have taken it if they had known they would have to pay it back, because the last thing they need in an economic crisis is additional debt.

So, we really strongly feel that these smallest businesses especially that are suffering from good faith errors, that they be allowed the forgiveness that was intended, that they relied on. We also think for businesses in this size range, these micro-businesses, loans up to about $25,000, by and large, especially for one-person businesses—they would qualify for full forgiveness. And having them go through the paperwork burden of applying for a separate application for a business that small is a significant burden, and we think automatic forgiveness for those loans would be appropriate. We absolutely do not think that SBA should stop investigating fraud, and doing automatic forgiveness would not remove SBA's ability to investigate red flags, and fraud, and go after anyone who has lied about having a business or created false documents to try and bump up their loan amount, those should be prosecuted. But giving automatic forgiveness and taking this extra burden off the smallest businesses would not prevent SBA from investigating those cases.

Mr. EVANS. Let me follow up. What options exist for borrowers who PPP lending is not being responsive to forgiveness requests? What options would you say?

Ms. WARD. So I think SBA should absolutely be monitoring lenders to make sure that they are processing forgiveness applications within a reasonable timeframe. Borrowers should not be left—the worst thing in the world for a small business is uncertainty. And if they are stuck not being able to apply for months on end, or they are under review for months on end at SBA, that uncertainty is keeping those borrowers from knowing whether they will be forgiven, whether they have funds that they can spend to invest in new employees, to expand in their communities. If they don't know yet if they are going to be forgiven, they cannot make those investments.

It is critical that SBA focus its review on the larger and higher-risk issues when they are doing their manual reviews. Work on those so that those, too, can be processed more quickly, so that borrowers that applied in good faith are not penalized.

For the smaller loans, the SBA has a series now of red flags, things that flag fraud for them that can help them go back and look at those small loans that need SBA review.

Mr. EVANS. I thank you.

I yield back, Madam Chair. Thank you very much for this hearing and this opportunity, Madam Chair.

Chairwoman VELÁZQUEZ. The gentleman yields back.

Now we recognize the gentleman from Pennsylvania, Mr. Meuser.

Mr. MEUSER. Thank you, Madam Chair Velázquez, and thank you, Ranking Member Luetkemeyer, that you to our testifiers.

So, certainly, the PPP, I think we virtually all agree, saved livelihoods. It worked out well, certainly from my district throughout Pennsylvania, and the SBA staff in Pennsylvania was very helpful along the way. As a matter of fact, taking calls at 7:00 a.m. and sometimes 11:00 p.m. for a number of months there. And the SBA should be an advocate, I think, almost by definition, for small business. So the PPP was successful because it was created by the Trump administration Treasury Department, but was driven and administrated by the private sector, with the support of the SBA. So, you know, public-private partnership, if you will. And it certainly worked out well.

Now, the EIDL loans, and I know that is a challenging subject to bring up was a very different story, and was, in fact, run exclusively by the SBA. So the SBA is serving as an advocate for small business. Wouldn't, then, the SBA have checked with the community banks beforehand before sending out such a letter? And basically mandating and strongly encouraging the use of this direct forgiveness portal?

Mr. Fisher, were you or any of the community bank associations advised or asked for their input on the requirement to use a direct forgiveness portal?

Mr. FISHER. No, we were not advised that this was going to be mandatory or pushed down on the banks. I mean, forgiveness has been going on since September of last year.

Mr. MEUSER. Right, yeah. And this email was just received just this Monday morning, correct?

Mr. FISHER. Correct.

Mr. MEUSER. And did they explain at all why it was so important, that even though as we discussed, minimal fraud and problems, why this portal would be would be so necessary? Did they go over that with you?

Mr. FISHER. They have not, no.

Mr. MEUSER. And the letter, the email that came out for the direct forgiveness stating that many banks—it seemed that it was many, were managing their accounting and financials through 2022 as part of a better accounting plan for themselves. Is that something that has been discussed, or you think is a widespread issue?

Mr. FISHER. Not with the community banks that I know. We all want to get those loans off of our books and get the loans forgiven for our customers. That has been our plan since day 1. This was always deemed a short-term solution to help or small businesses customers and help our communities survive.

Mr. MEUSER. Right. And all of my community banks throughout my district, same thing. I mean, the needs of their customers certainly outweigh some, perhaps, improvement of accounting for 2022.

So, back to this email. You know, just looking at it here, the audits, as you quoted, SBA warned avoid, that wasn't in the letter, but avoid lender audits—to avoid lender audits, we encourage the direct forgiveness portal being utilized. Maybe I am paraphrasing. It wasn't really written like a small business advocate. What was your thought? What were you and your colleague's thoughts when you received that language?

Mr. FISHER. We hoped to have all of our loans forgiven from both rounds before the end of the year. So personally, I am not overly concerned about being audited. They are not going to find anything if they come in. But, I mean, nobody wants to get audited by the SBA. So I mean, it didn't sit well with me, especially because we had been working so hard on forgiveness for our customers.

Mr. MEUSER. Yeah. Okay. No, I would agree if I think if I was sitting in your seat.

I just think it is clear that the portal for direct forgiveness must remain an option with no perceived or implied penalties whatsoever, and certainly, we need to maintain a high level of integrity with the program.

With that, Madam Chair, I yield back. Thank you.

Chairwoman VELÁZQUEZ. The gentlemen yields back.

I don't think there are any other Members. Yes.

Ms. HOULAHAN. Madam Chair, I am here, Rep Houlahan.

Voice. Represent Tenney as well.

Chairwoman VELÁZQUEZ. Yes. I can see you.

I recognize the gentlelady from Pennsylvania, Ms. Houlahan for 5 minutes for questions.

Ms. HOULAHAN. Thank you, Madam Chair. And thank you very much to all of you for joining us today.

I have just a couple of really quick questions, and my first one is to Ms. Ward. I understand that in your written testimony, you shared that there is a need to alleviate unnecessary paperwork burdens for the smallest of businesses. And you shared that the need should be expanded to simplify forgiveness applications for loans all the way up to and including 350K. Would you be able to speak a little bit more in this forum in depth about that, and why we might need to expand the simplified forgiveness applications for PPP from what exists now at 150K to 350K?

Ms. WARD. Thank you. I think anything we can do to simplify the process for more small businesses is useful and helpful. I think expanding that up to 350 poses minimal additional risk to program funds, those loans are still reviewable, but it lessens the burden of submitting documentation, makes it more efficient because then all of that documentation does not have to be reviewed, and gone through, and back and forth with the lender and the borrower before it is even submitted to SBA. SBA maintains still the right on all loans to ask for underlying documentation if they choose. But bumping that up, we think, would just make this process easier for more businesses. We think that is appropriate. Automatic—sorry, go ahead.

Ms. HOULAHAN. Do you have an appreciation, or an estimate, for how many of the total number of loans would then represent with 350K and below?

Ms. WARD. I think—I shouldn't speak to one, because I probably don't have the right number in my head—I think if you go up to the 350,000 level, you are getting over 90 percent of our PPP loans that have been made through that more streamlined process. And that allows SBA's resources and lenders' resources to focus on the larger and higher-risk loans and make sure that those documentation, supporting invoices, supporting payroll documentation, is reviewed to protect these loans.

Ms. HOULAHAN. Thank you so much, Ms. Ward.

My final question was for Ms. Bilonick. I was also hoping that you would be able to elaborate and articulate on how the SBA can continue to improve the forgiveness process for those underserved borrowers, those specifically who may not have attorneys or accountants on staff to help them through that process. What else can the SBA be doing to be able to improve that process for them?

Ms. BILONICK. Well, if I could give my wish, I would say that if there could be support for those organizations that are working with the small businesses and funneling them through the portal, I think most CDFIs and other small businesses using nonprofits in the communities that my organization represents, they are not just giving folks sort of, Here is the website for the portal. They are really walking through and providing hand-in-hand support to the borrowers to, you know, understand what is being asked, understand—you know, upload documents, all of that.

So it is really not a hands-free kind of situation. So I think wherever resources could be put to support that extra labor, I think everyone has rolled up their sleeves during the pandemic to just do whatever it is that is necessary, but a lot of this work is not accounted for. And, you know, it is just kind of being provided without resources to back it up. So if there were anything like that.

And then just to repeat my prior point, you know, the district offices being a lifeline for community-based organizations to ask questions, to funnel any doubts, it is just very, very helpful to have that direct person that is answering a phone, rather than looking at FAQs, because each loan is so particular. I think all of our lenders on the call would agree. And, so, it is really challenging to have straightforward rules that apply to every deal.

And then, just really quickly, I just wanted to respond to the thing about the 350—raising it up to 350 would bring it up to 94.2 percent of all the PPP loans. So it is just an increase an increase, a bump-up of 7.7 percent.

Ms. HOULAHAN. Thank you. I really approach that that.

And with that, I yield back. Madam Chair.

Chairwoman VELÁZQUEZ. Thank you.

The gentlelady yields back.

Now we recognize the gentlelady from New York, Ms. Tenney, for 5 minutes for questions.

Ms. TENNEY. Thank you, Madam Chair. And also thank you to Ranking Member Luetkemeyer. I just really appreciate your holding this important hearing on PPP. It has been a lifesaver for my community. A small business community is what drives the economy in my region. And we are so grateful that we were able to have that program, and how effectively it was done through our small community banks and credit unions. And I know that working with our credit unions and banks, as a former bank attorney, and also as a small business owner, how critically important it was for us to have access to these unfortunately dwindling number of community banks and credit unions that we can build our relationships with. And that is why I am very concerned about the letter that was received, somewhat threatening letter from SBA, to—the email, I should say, from SBA to lenders to avoid lender audits, encouraging them to move into the direct forgiveness program, instead of working through their own institution, where they have originated the loan, where they have actually had the community bank. They have had the community relationship with these particular lenders in a business community where they know what the risks are, they know what the community needs. And they also understand the businesses in the community.

And my first question I would like to direct to Mr. Fisher. And I am so grateful that he is on, you know, a frequent guest and great expert on this issue. Also, our president of the Independent Community Bankers Association, so congratulations for that distinction as well. But, I know you have been asked this, but I want you to give us a little bit more of the real implications of this coercive letter, or email, that you received from SBA about encouraging your business customers and your businesses to move over to the

SBA portal, as opposed to using your bank and your system as the forgiveness site, because I am concerned about some of the privacy concerns and the liability of the bank in giving up that information. Could you maybe address that, Mr. Fisher?

Mr. FISHER. Yeah, I am not sure about the liability issue, but as far as just, you know, we have systems in place. We are actively working with all of our PPP customers pursuing forgiveness. We work with them. And back to one of the previous questions, you know, I think the easiest way to have customers, if they are having difficulty with PPP forgiveness, go to a community bank. We will gladly help you walk through the process. Even if it is not our loan, we will help figure it out for you so——

But being coerced to have to work it through a direct forgiveness portal with the SBA, I think that is problematic. I mean, they are not going to get the same level of service that they will get coming to my bank. I know that we know the customer. We live here. We work here. We work with them. And so, it is concerning that we are kind of being coerced to go down that path of sending our customers directly to SBA without having that interface that they can work through us and a get the solution through us.

Ms. TENNEY. Yeah. And as fellow New Yorkers, I am always concerned about when the government is interfering in these relationships that banks have. And you describe so eloquently the importance of character lending and community banking relationships. And those have been vital to many in our community who rely on those dwindling number of community banks. But you provide such a great resource to so many, whether it is a farmer, or another kind of small business owner, restaurant, some of the not for-profit that you described that you were doing PPP loans with. Those businesses are vital. And you, as a Member of the community, understand that. It is not like they call an 1-800 line. And for a bureaucracy in Washington to interfere in that process, that concerns me. And I think the efficiency that you pointed out earlier in the PPP program of using our community lenders is really—is worthy of commendation. That is a good move. And also, less reliance on the bureaucrats in Washington, and more reliance on people that are closer to our community. I really appreciate those comments that you made. And I would also like to echo the comments of my colleague, Mr. Stauber, on—my staff and many of our constituents have come to us concerned about the problems they have had with SBA. So to me the fact that we have wonderful institutions, like community banks, community credit unions, that serve customers so directly, I think that is a huge win. And I just think it is a mistake that they are using any kind of coercive tactic.

So I want to thank you for that. And thank you for also indicating that in your testimony, that you have zero fraud and 100 percent forgiveness rate and you are working through every one of these. So that is really important to know about the accountability aspect of this as well.

I don't know how much time I have left, but I wanted to just get a quick question to Ms. Payne about the credit union aspect of this, and some of the direct consequences, or some of the experiences you have had on the credit union side. If you can quickly tell me that, because I think I am running out of time.

Ms. PAYNE. Well, I would like to, then, quickly maybe, share a direct quote from one of our Members who was recently forgiven. And this is from an email. “Hopefully, you are able to hear our screams of delight. Thank you so much. This is an enormous relief. Please let everyone there know how important this is to us. Affinity’s communication systems responsiveness and empathy during really trying times was second to none. You guys rock.”

That is a relationship. And that is the critical piece here.

Ms. TENNEY. Yeah. Thank you so much. That is fantastic.

And I don’t mean to disrespect there are many great people that work for SBA, but who are on the ground with customers and you are relationship building, you depend on these people and they depend on you. And I think that the last thing we need is Washington bureaucrats to interfere with that. And I do think that this is a lit bit of mission creep for the SBA to move away from their job of helping small businesses to get into a banking relationship, and interfering in that important relationship with our small businesses community. And I have heard the same. I think this is a great program. And to end it, interfering in that ability to forgive these loans, which was intended as a grant program, as Mr. Fisher referred to in his testimony, it would be a mistake. And I think that going down the path of accountability, particularly with people like the small business—small community banks, small community credit unions, you have something at stake, you have skin in the game. And I think that is why you are so good at doing this. And that is why I think the program was so successful.

I want to thank all of the witnesses and everyone. This is really important. I hope you will continue it work hard on these issues and help our small business community. We are really grateful to you.

And thank you very much, Madam Chair, and Ranking Member Luetkemeyer. I yield back.

Chairwoman VELÁZQUEZ. The gentlelady yields back.

Now we now recognizes the gentleman from Minnesota, Mr. Phillips, for 5 minutes.

Mr. PHILLIPS. Thank you, Madam Chair. And greetings to my colleagues and to our witnesses. Gratitude for you all being with us.

My question is about the bank fees relative to the PPP program. And the Washington Center for Equitable Growth indicated that banks reaped about $18 billion in fees that were associated with processing PPP loan applications. And I would like to hear from you, whichever of our witnesses want to begin, to help describe the bank fee structure that was implemented through PPP to provide the incentives to issue the loans, and whether you think that in part, at least, it explains why some of the largest lenders were reluctant to push forgiveness through using the SBA’s direct forgiveness portal? Any thoughts from any of our witnesses on that subject?

Ms. WARD. I am happy to take the first slab to try and answer that. So first, I would say, I am not aware, and would be surprised to see that there are lenders trying to delay the process for purposes of when their fees are booked. I have not heard that and that would surprise me. If that is happening, SBA should be applying significant pressure on those lenders. That would just be unacceptable.

The fee structure that was put in place, really, initially, I think Congress made an effort to ensure that even the smallest businesses had access to PPP, but because Congress structured it with a larger percentage fee on the smallest loans. Unfortunately, even a larger percentage fee on a $5,000 loan does not give the lender the reimbursement for the resources they used to do that loan. So lenders that were able to do large PPP loans were able to generate large enough fees to offset their costs.

Lenders like community lenders, CDFIs, a lot of the lenders that worked primarily with the smallest businesses and micro businesses, probably did not receive enough fee income to cover their costs, depending on the volume that they did. Self-Help among CDFIs is a little unique in that we were able to work with over 70 percent of our loans were to those smallest borrowers, under $50,000. Our median loan size was just with over $20,000. But we also, because we were helping some of the nonprofits serving the community, we were helping some larger employers keep their employees on staff. We were able to do some of those larger loans to help offset costs.

But we had real concerns about the fee structure for community lenders and CDFIs that were working almost exclusively on those tiny loans, and Congress did address that when it brought out the 2021 PPP——

Mr. PHILLIPS. Right.

Ms. WARD.—by putting in a minimum fee amount for those lenders so they could cover costs.

Mr. PHILLIPS. I appreciate that.

Ms. Payne, Ms. Bilonick, any perspectives on the same question you want to share?

Ms. PAYNE. I would like to add that going into this in the environment that we were in with the pandemic, I don't know that, for us, it was really member-based. We needed to help our Members. The fee structure was basically secondary. We needed to get through this, and we needed to get through it together, and this is what we needed to do for our member base.

Mr. PHILLIPS. I appreciate that.

Before my time expires, I know that a number of borrowers were contacted by their bank saying that they received more than their allowable funding, and are responsible to pay it back, of course, despite having, in many cases, used the money for forgivable expenses. So at what stage do you think it would have been appropriate for that to be communicated to borrowers and by whom? Do you think it is the lender's job or the SBA? Any thoughts on that subject?

Ms. PAYNE. I can jump in to try to answer that. I don't know with the ever-evolving guidance and such what might have been a good time. It is hard to say.

Mr. PHILLIPS. Yeah.

Ms. PAYNE. But I do think from the beginning, the message to these borrowers was, if you use it the right way, you will be forgiven. And I think that is the message that, you know, that so many of us heard as the borrowers did.

Mr. PHILLIPS. Right.

Ms. PAYNE. This was temporary.

I think it depends for us, we are happy to give that message when it does happen, if there was partial forgiveness or something otherwise. We are happy to give that because we have the relationship and can fully explain it to our borrowers so that they understand, and then hopefully help them with any other needs that they may have going forward with that.

Mr. PHILLIPS. Hear, hear.

With that, I yield back. And I thank you all again for being with us today.

Chairwoman VELÁZQUEZ. The gentleman yields back.

Now we recognize the gentleman from New York, Mr. Garbarino, for 5 minutes.

Mr. GARBARINO. Thank you, Chairwoman. And thank you to the Ranking Member for having this hearing as well. Thank you to the witnesses that are here today. I have appreciated your testimony so far.

I want to start with Mr. Fisher, because it is sort of a follow up to what him and Ms. Tenney were talking about and how you have been dealing with customers looking for forgiveness and your Members have dealt with them all the way up through the processing application and whatnot. Have you come across any small business customers that have not opted to seek forgiveness?

Mr. FISHER. We have had some customers that are slow to seek forgiveness. But, you know, no, they all want to get forgiven. It is just, some are quicker to try and apply for it than others.

Mr. GARBARINO. Is that the same instance for you, too, as well, Ms. Payne, with your Members?

Ms. PAYNE. We have seen some, not many at all. Several of our borrowers have opted not to apply for forgiveness. The only input that we have heard from them is that they felt that they did not spend the money fully in line with the PPP guidance, and that is all I can really say on that.

Mr. GARBARINO. They don't think they qualify for forgiveness? Okay. All right. Thank you.

Mr. Fisher, back to you. How much staff have you dedicated to PPP, as well as how much staff do you have dedicated working on PPP forgiveness?

Mr. FISHER. Initially it was kind of all hands on deck. We probably—I mean, I have 100 FTEs at the bank, a little less than that. But we probably had 20 people that were working around the clock, weekends, trying to get PPP applications into the SBA. The forgiveness phase we have automated some of that. So we are really using about three people, two to three people to handle the forgiveness phase. And it has been very efficient and pretty effective for us.

Mr. GARBARINO. And Ms. Payne, your organization?

Ms. PAYNE. It is going to sound very similar. It was all hands on deck as well. And we actually brought on three temporary employees to help us through the PPP forgiveness process. And it has been working very well for us. And we have automated our platform as well.

Mr. GARBARINO. Okay. And finally, I guess what—PPP was big in getting funding out the door when it was first going. That was a big question to employers, how they are going to keep open and PPP was a big help. For many of the witnesses, Ms. Payne, Mr. Fisher, anyone, what are you hearing specifically now? Now that the PPP programs—what concerns are you hearing from small businesses now?

Mr. FISHER. I think the big concern right now is what is going to happen with this next wave, if it is going to lead to shutdowns. We are seeing mask mandates for schools and things like that. So I still think there is a lot of uncertainty with business, which is always problematic, so.

Mr. GARBARINO. Uncertainty over the regulations on how to handle it if there is another—I don't think there will be, but if there is another shutdown?

Mr. FISHER. Correct. Yeah.

Ms. BILONICK. I was just going to add that from our perspective there is lot concern around workforce. So there is just not available workforce for a lot of industries that were hardest hit, and that are now trying to reopen and reboot. And that is just something that is coming up very frequently.

Mr. GARBARINO. I have heard that a lot from every industry I think, from construction, to restaurants, manufacturing, to retail. Everybody is having trouble right now finding workforce. But as for programs, like PPP, is there something we could do better next time, you know, if there is another shutdown? Like, what should we address on how this program ran out, or how we ran this program compared to what we should have done? Like, what can we do better? For anybody?

Ms. WARD. I would say we at least have a template now, even if this exact same program was put in place, there is lot more clarity. That is a huge improvement. One of the biggest challenges was that almost daily, changes came through during the duration of this program, and it really made it impossible for borrowers to know whether they were eligible or how much they were eligible for. So that would be an improvement.

The funds could be—there could be other ways to deliver these funds to borrowers. I think, by and large, banks, big banks, community banks, CDFIs, even fintechs getting in got these funds out to a lot more borrowers, and allowed these funds to be funneled through a lot of sources so that more money could get out the door as quickly as possible to these businesses that needed it to survive.

Having clarity in the rules from the beginning, and having clear steps for forgiveness, delivering on that promise, taking away that uncertainty as to whether you are going to get these funds forgiven, or whether you suddenly have unexpected debt after you kept your staff on, those are the things that I think could be addressed to help more businesses if we, you know, hopefully don't, but if we ever had to go through something like this again.

Mr. GARBARINO. Thank you. My time is up. So I yield back.

Thank you, Chairwoman.

Chairwoman VELÁZQUEZ. The gentleman yields back.

Now we recognize the gentlelady from California, Mrs. Kim for 5 minutes.

Ms. YOUNG KIM. Thank you. Thank you, Chairwoman and Ranking Member. I also want to thank the witnesses for being with us today.

You have heard a lot from my colleagues about the PPP has been tremendous assistance in allowing small business owners. And in my district also, it has been a lifeline for them to weather the economic downturn caused by the COVID-19 pandemic and unprecedented lockdowns.

We are talking about now the next phase of PPP forgiveness, you know. The massive effort of distributing close to 12 million PPP loans and sustaining close to 50 million jobs could not have been possible without our partners, like the banks and credit unions. So I want to thank them and the partnership they have had with you guys.

But I was troubled to hear SBA was threatening—excuse me. I was really troubled to hear that SBA was threatening lenders to opt into the direct forgiveness program to avoid audits by the Office of Credit Risk Management. SBA later clarified that audits would focus on lenders that have yet to accept forgiveness for 2021 PPP borrowers, or those that are not actively reaching out, the damage has been done. And SBA must be careful not to vilify lenders moving forward.

And I also must stress that whether a bank or any other lending institution, obscene or not with the SBA's forgiveness quota has no bearing a borrower's opportunity to get their PPP loan forgiven. You know, many banks and lenders have already set up their own forgiveness platforms that are complementary to SBA and having really highly efficient.

So let me ask you, Mr. Fisher, I agree with your testimony that the SBA should not force lenders to opt into the direct forgiveness portal. And with the high number of review requests from the SBA which requires lenders to put resources aside to provide documentation, what should we expect if SBA decides to proceed with audit on lenders on top of all these review requests? And how is that going to divert your attention in serving your customers properly?

Mr. FISHER. It just diverts resources away from my mission of serving our local community and our customers in helping small business. If I am trying to provide documents and trying to deal with auditors from SBA, it just becomes problematic for us.

Ms. YOUNG KIM. Sure.

You know, Mr. Fisher, you also said in your testimony, you mention SBA's lending programs like the 7(a) and 504, they rely on bank underwriting and the expertise that lenders bring to the table. So can you explain to our committee what would change if SBA moved in the direction of direct-to-borrower programs at the SBA?

Mr. FISHER. I just—obviously, if you leave the bank out of it, you are subject to potentially more fraud. I think that has been brought up that the EIDL advances saw substantially more fraud in direct loans to SBA than the bank loans. So, I think looking at it from the standpoint of trying to reduce fraud, I think utilize your existing framework of community banks and banks to continue that lending through the S-7(a) program and 504 programs, and even

PPP was very successful, and I think limited fraud by utilizing the banking framework that we have.

Ms. YOUNG KIM. Well, thank you very much. I mean, I think the biggest concern that we have is the impact. And we want to make sure there was a prevention of waste, fraud, and abuse with those programs.

One more question. And I would like to direct this to Ms. Payne. Why do you believe that forgiveness review process by the SBA is challenging and time consuming? Are there certain steps that add extra days to the review?

Ms. PAYNE. When a loan goes on to—into loan review, it is a time-consuming process because it is not typically that we have that the lender has a direct communication with the SBA representative. It is basically an email is sent out, sometimes can be fairly vague, and then we are asking for additional documentation. Sometimes it is already been uploaded and they are repeating ourselves, sometimes we have to then reach out to the borrowers to get additional information, not always understanding what that is going to go do for the loan itself, in terms of the forgiveness review. So it does add days. It also add frustration, and confusion, and stress for the borrower in terms for the fear about why am I under review.

So there are a lot of factors. It does add time. And it can add other things, stress that a small-business owner does not need at this time.

Ms. YOUNG KIM. I have one other question to ask, but I think my time is up so I will yield my time back. Thank you.

Chairwoman VELÁZQUEZ. The gentlelady yields back. Now we recognize the gentlelady from Texas, Ms. Van Duyne.

Ms. VAN DUYNE. Thank you very much, Chairwoman Velázquez and Ranking Member Luetkemeyer for holding this hearing today.

As the driving force behind our economy, you know, an employer of nearly half of all American workers, the success of small businesses is critical to each of our communities. And this is no more apparent than during the pandemic. While government shutdowns forced many businesses closed, the Paycheck Protection Program delivered the emergency capital that small businesses needed to be able to keep their doors open. After providing almost $1 trillion to small businesses, we are finally nearing completion of the program.

As this massive relief program shuts down, we must continue to push for more rigorous oversight to protect American taxpayers.

I want to echo Congressman Hagedorn's request and express my disappointment that we are discussing complex policies yet again without an SBA representative present. There are questions that Members of this committee have that can only be answered by those actually running the program. So I hope we can have someone from SBA in front of the committee very, very soon.

That being said, I want to thank the witnesses that we do have here today.

Mr. Fisher, I appreciate all the work that you do in upstate New York. I think I actually used to have an account with your bank when I was up in college in Ithaca. So I know it is raining there today, but now is when I want to be there, because I am in Dallas, Texas, and it has been 100 degrees here today. So enjoy your summers and your falls because winter is coming soon.

But I do have a question for you. Despite many circumstantial setbacks and concerning amounts of fraud, the PPP program successfully kept small businesses afloat during the pandemic. So as we look ahead to preparing for the next major disaster, these problems are not unique to just PPP. And I know Congressman Garbarino had also asked a similar question. I am going to change it a little bit. How can we improve the PPP model to disperse the quickest aid, but also minimize fraud?

Mr. FISHER. I guess I would suggest not trying to go direct to the borrower. I think utilizing the network of banks that participated, utilizing banks that have a long history of 7(a) lending is definitely probably the way to go, because we have relationships with those businesses. We know the businesses, because it is down the street. I drive by it every day, versus somebody who is just, you know, seeing it in application, either on paper or virtually, trying to make that decision. I think we can be a great mutual aid to help get those dollars out and also curb fraud.

Ms. VAN DUYNE. That is good to know.

Ms. Bilonick, in your testimony, you state that in 2019, before the pandemic hit, that Latino-owned businesses had hit a record-breaking strive with their average annual revenue increasing 10 percent to over $525,000 per year. This is impressive, and it is the exact type of growth strategy I think that we are looking for in the business environment and we need to get back to that.

What would you attribute that success to back in 2019?

Ms. BILONICK. I think the success was reflecting the scaling of Latino-owned small businesses, so businesses that may have started 5 to 10 years ago that were going to the next level, expanding, adding additional locations, adding additional personnel. And, unfortunately, the pandemic is a setback, but I do think that we can harness that, you know, sort of growth mentality and perseverance moving forward, and it hopefully will just be a hiccup in the story of our entrepreneurship story.

Ms. VAN DUYNE. Were there any particular policies that you think that helped back in 2019 that we should either try to strengthen or, you know, bring back?

Ms. BILONICK. I don't know that I would point to a particular policy. I am not sure. I think—I really do think it was sort of was just maturity of the businesses that had taken off at that point. But I am open to suggestions of what policies you may be referring to.

Ms. VAN DUYNE. Well, I don't know. I mean, maybe tax cuts. I mean, were you looking at any other tax cuts in the Tax Cuts and Jobs Act, for example? Did that strengthen? Did that help? I mean, I know that right now we have got from the Biden administration a number of financial policies that are coming down that are talking about increasing taxes, you know, gut inflation, so in backing away on some of the policies that I think really helped grow the economy and were very positive, beneficial to small businesses, and I am just wondering if you are seeing the same thing.

Ms. BILONICK. I don't know that I would attribute it to that. I would say that I am not opposed to taxing those larger businesses. I think a business that is making under a million dollars is certainly not, you know, going to be targeted in that segment.

Ms. VAN DUYNE. No. But I am talking about specifically small businesses. Right?

Ms. BILONICK. Well, these are, I guess—would be probably a threat closer as a microbusiness in the $250 to $500 thousand range.

Ms. VAN DUYNE. Well, I thank you.

I yield back my time. Thank you.

Chairwoman VELÁZQUEZ. The gentlelady yields.

Now we recognize the gentleman from Florida Mr. Donalds for 5 minutes.

Mr. DONALDS. Thank you, Madam Chair, and thank you to the Ranking Member for holding this hearing.

I have got to tell you, I think SBA getting involved, as involved as they are trying to be with this forgiveness process and, frankly, you know, threatening community banks from doing what they kind of already been said to do I think is outrageous. It is outrageously wrong.

You know, in a prior life, I was a credit underwriter at a community bank. I had to deal with SBA when we were doing joint credit with them. And, to be frank, SBA would be late to the table often with respect to their lending decisions. We already knew it was good credit. It just took forever to deal with SBA. So for them to try and come in now and, in some respects, completely take over the forgiveness process, to me it just doesn't make much sense at all.

So, I guess, my question, my first question is to Mr. Fisher. Mr. Fisher, you are going through the process of forgiveness. What kind of data are you actually looking at in order to clear [cut out] forgiveness?

Mr. FISHER. We just make sure that it is a valid, you know, loan. We validated all the customers at the front end, so the forgiveness, we just have to ensure that they have all of the documentation required by SBA, and it goes through—we have an automated system that it goes through and submits directly to SBA, and we typically—right now we are getting forgiveness back very quickly from SBA, so it is a pretty smooth process for us right now.

Mr. DONALDS. Okay. And, Ms. Ward, my question for you is, what different or what value added is SBA bringing to the forgiveness process as to why they should be involved in it?

Ms. WARD. Well, I think the value SBA is adding is, in creating this Direct Forgiveness Portal, they are giving an easier, more efficient online access for some PPP borrowers that may not be getting that from their lenders, and in that case that is incredibly valuable. I am really happy to see that they have created the portal to fill that gap.

I agree, though, for lenders that have already created their portal or lenders that are efficiently processing PPP forgiveness, they should be allowed to keep using their own systems. I think SBA's direct portal should expand access to forgiveness and not limit different ways that borrowers can get forgiven.

I have worked as an SBA lender for over 15 years. I have worked with SBA on micro loans, 7(a) loans, 504 loans, and now PPP loans, and SBA works best, in my opinion, when it works in partnership with the lenders. Each has a role, and SBA can have drastically more impact working through the lending community. That needs to be expanded, more community lenders, credit unions, CDFIs, mission-oriented lenders that are making sure to hit underserved borrowers, but that is where I think SBA provides an incredible and unique service and much needed loans. These SBA loans of all types are part of why the U.S. has such a vibrant small business economy.

Mr. DONALDS. Ms. Ward, as a follow-up to that, I mean, like I say, somebody who has been in the community, actually done credit underwriting, with the amount of loans in the system, how would SBA actually go about dealing with loans that there might be early indications are fraudulent or that dollars were spent and maybe not in line with the PPP program and, as such, those dollars—a portion of those dollars or those dollars overall would not be forgivable, how would SBA deal with that?

Ms. WARD. So what we've seen that process include since the program got rolled out, I think initially in the speed to get these dollars out, a lot of the normal safeguards——

Mr. DONALDS. No. Ms. Ward, I have to reclaim my time real quick. I understand what you are saying about what happened on loans from now going forward.

What, frankly, special mechanism is SBA going to do if they see early warnings that there was, not so much even just fraudulent, but a misapplication of funds where those funds are now no longer subject to forgiveness under the various—and I know there have been a couple iterations of PPP. But what if those dollars were spent and none of those iterations that were allowable for forgiveness, what is SBA going to do? What would it ordinarily do to ensure those dollars are repaid to the taxpayer? [Audio cut out on his question]

Ms. WARD. So all of these go through SBA for the final determination. The bank, the community bank, or the lender submits our recommendation per SBA based on does this loan qualify for forgiveness or partial forgiveness, and then SBA bases its forgiveness on that. SBA also has the right to review those and ask for additional documentation.

And so they will keep doing that same thing. They will continue to review and make sure that forgiveness is appropriate. If the funds were not spent for the intended purposes, the business should be paying them back. The use was to keep your business operating and keep your staff employed. Businesses that didn't do that knew going in and should be held accountable for paying that back.

Mr. DONALDS. Well, Ms. Ward, thank you for that.

I know I am over my time. Madam Chairwoman, thank you so much more the indulgence, and I yield back.

Chairwoman VELÁZQUEZ. Thank you. The gentleman yields back.

Let me thank all of the witnesses for being here today. Your testimony has shown the progress we have made in forgiving PPP loans and also the challenges that small businesses still have——

Mr. LUETKEMEYER. Madam Chair, we have got one more witness—one more Member. Mr. Fitzgerald from Wisconsin is still on.

Chairwoman VELÁZQUEZ. Well, he has his camera off and——

Mr. LUETKEMEYER. No. He is on.

Chairwoman VELÁZQUEZ.—he has had his camera off throughout the hearing.

Mr. FITZGERALD. Madam Chair, I am not sure if I—I just have a quick one if I could sneak in.

Chairwoman VELÁZQUEZ. Sure. But we have always said that while you are in a hearing to please to keep the video on. So, sir, you are recognized now for 5 minutes.

Mr. FITZGERALD. All right. And thank you, thank you.

Just real quick, and I don't want to be redundant. I know that the hearing has gone on.

So to Mr. Fisher and probably to Ms. Payne, there is kind of this—these stories that have been swirling for some time now that there was kind of this cottage industry that was created basically because PPP loans were available. There were accounting firms, as well as law firms, that were starting to market, if you will—and I am trying to keep this at a 30,000-foot level—market the idea that, hey, if you want to apply for a PPP loan, don't worry about it, we will take care of the paperwork. This is what you are eligible for. And then once the PPP loan was granted, then on the back end, you know, there would be legal fees that were charged for some of these or, certainly with some of the CPA firms, you know, there was billings that were done on the back end.

And I bring this up—and like I said, I am trying to keep this—I am not necessarily making the accusation, but it is out there. It is very much out there. And I would just say, this is one of the problems I think with just loan forgiveness is you, once again, take down one of the hurdles that, you know, otherwise legitimate businesses would look at and say, well, wait a minute, if I have got to pay this back in the end, no, I am not going to take that $25,000 loan. I am not going to take it because it is going to be a burden on me later. But if I know that it is going to be forgiven anyways, sure, what the heck, you know, let's make this arrangement now with a law firm or CPA firm. And, you know, suddenly you find yourself in a bad spot.

And I am just worried that this cottage industry was created and that, you know, if we don't try and keep this in check, it could go wild. And I wonder if you have any comments on that, if you saw any of this type of practice going on. You know, in my mind, you know, it sounds like criminal activity but very hard to define and very hard to delve out.

Mr. Fisher and Ms. Payne, I would ask either one of you who had direct involvement with these loans to just—have you seen anything like this?

Mr. FISHER. You know, we did have, you know, accounting firms and lawyers that were working with customers, but they were all customers that were known to us. We actually brought in I think 40 percent of the first round of SBA—or PPP loans were new customers to our bank; but most of those were not necessarily referrals from attorneys or accounting firms. They were, you know, the borrowers coming to us directly. I think there was—we had a couple of accounting firms that maybe referred a deal over, and I think they thought they were entitled to some of the fee that was being generated from the PPP loan, but we didn't have any type of an agreement signed with them for, you know, sharing those fees.

So we didn't really see anything that you are talking about as far as fraudulent or, you know, the type of activity that I think you are talking about, I haven't seen it, so, I don't know——

Ms. PAYNE. And I would add, we really didn't see any of that, and we didn't have anything from accountants or anything of that nature. We talked more to accountants more on the forgiveness end of things than the early stages because of the complexity sometimes of the documentation that they had to provide for forgiveness. But we didn't really see anything of what you are speaking to. We didn't have any familiarity with that.

Mr. FITZGERALD. Ms. Ward, are you aware of anything along those lines?

Ms. WARD. We really didn't see that in our PPP lending either. We saw a lot of technical assistance being provided by accounting firms and small business technical assistance providers. Third-party payroll processing companies we saw step up and provide reports for their customers to help them calculate the loan amount. We saw a lot of different industries really doing what I think all of you and all of we and, you know, all of these businesses did, it was all hands on deck.

I am—I suspect you are right that there are organizations that took advantage of that fear and that desperation, and to the extent they can be found out and held accountable for that, I would applaud that; but most of what we saw, fortunately, was organizations trying very hard to help the businesses and the nonprofits in their communities keep their doors open.

Chairwoman VELÁZQUEZ. The gentleman's time has expired.

Mr. FITZGERALD. Madam Chair, I am just worried—yes, Madam Chair, I think this is something we have got to be aware of, and I appreciate the time.

Chairwoman VELÁZQUEZ. Thank you.

Again, thank you to all of our witnesses for being here today. As I mentioned before, your testimony has shown the progress we have made in forgiving PPP loans and also the challenges that small businesses still face.

While the small business economy has made tremendous progress toward recovery over the past 17 months, we are entering another precarious state with the spread of the Delta variant. For small businesses that struggled for over a year, even minor setbacks can instill monumental trouble. That is why our committee must work to ensure that small businesses can achieve maximum loan forgiveness.

This hearing has provided significant insight into the obstacles that PPP borrowers still face. I look forward to working as a committee to achieve policy solutions that ensure entrepreneurs obtain the forgiveness they are entitled to.

I would ask unanimous consent that Members have 5 legislative days to submit statements and supporting materials for the record.

Without objection, so ordered.

If there is no further business to come before the committee, we are adjourned.

Thank you.

[Whereupon, at 3:15 p.m., the committee adjourned.]

APPENDIX

Testimony of Tracy C. Ward
Director, SBA 504 Loan Program
Self-Help Ventures Fund

Before the House Committee on Small Business

"What Comes Next? PPP Forgiveness"

September 1, 2021

I. Introduction

Good morning, Chairwoman Velázquez, Ranking Member Leutkemeyer, and members of the United States House Committee on Small Business. Thank you for the opportunity to provide testimony today. My name is Tracy Ward, and I am Director of the SBA 504 Loan Program at Self-Help Ventures Fund, part of the Self-Help family of nonprofits. Self-Help is a leading national Community Development Financial Institution (CDFI) with a mission of creating and protecting economic opportunity for all. We help drive economic development and strengthen communities by providing responsible financial services; lending to individuals, small businesses and nonprofits; developing real estate; and promoting fair financial practices. Since 1980, Self-Help has provided over $9 billion in financing, and while our work benefits communities of all kinds, our focus is on those who may be underserved by conventional lenders, including people of color, women, rural residents and low-wealth families and communities. Through our affiliate, the Center for Responsible Lending, we engage in research and policy to protect homeownership and family wealth by working to eliminate abusive practices in financial markets.

Self-Help has offered small business loans to underserved and economically disadvantaged borrowers since the early 1980's, and we have partnered with the U.S. Small Business Administration (SBA) to offer SBA loans for over 30 years. As a community lender, Self-Help works closely with our borrowers, originating around 150 small business loans a year. In 2020 and 2021, Self-Help made almost 2,800 Payroll Protection Program (PPP) loans – about 1,750 during the 4½ months the program was available in 2020, and just over 1,000 more during the 4½ months it was available in 2021. Our median PPP loan size was $20,800; over 70% of our PPP loans were under $50,000.

On behalf of our borrowers, we are grateful that Congress came together to create PPP and that we and so many other lenders – especially CDFIs and community lenders focused on underserved businesses – were able to marshal resources and staff to meet the unprecedented volume of pandemic-related need in the communities we serve.

Congress came together on a bipartisan basis to create PPP to deliver urgently needed funds to small businesses, nonprofits, Veterans' organizations, and Tribal businesses, as well as self-employed individuals and independent contractors – collectively the backbone of the U.S. economy. The program was designed to deliver rapid relief for small businesses that had seen their revenues disappear literally overnight as COVID-19 forced an unprecedented economic shutdown across the country. Suddenly faced with the economic uncertainty of a pandemic, businesses were forced to make tough decisions as to how long they could continue paying their employees; nonprofits likewise faced tough decisions as to whether they could continue offering critically needed services in their communities.

Congress acted quickly to prevent mass layoffs and business closures by creating PPP, a grant program structured as forgivable loans to small businesses and nonprofits. Implemented by SBA and distributed through SBA's network of financial institutions, PPP was designed to provide an immediate cash infusion to allow businesses to continue paying their workers and certain fixed operating costs, with the promise that funds spent properly would not have to be repaid. PPP was a lifeline to the struggling small businesses and nonprofits who were able to access this critical funding.

While PPP was a much-needed and unprecedented program, the challenges of accessing PPP funding – especially for microbusinesses, rural businesses and businesses owned by people of color – were numerous and well-documented.[1] SBA did outstanding work to get an entirely new loan program of this scope up and running within approximately two weeks of Congress creating it; nevertheless, the initial rules for the program were incomplete and confusing. Rules for microbusinesses were especially unclear and changed regularly throughout the time PPP loans were available. To date, SBA has issued over 30 Interim Final Rules ("IFRs") for PPP, more than 90 Frequently Asked Questions (FAQs) across two separate documents, and several Notices, many of which clarified or changed earlier rules – and some of which continue to note that they do not yet incorporate all changes.[2]

Many of these changes were issued by SBA late at night, and in almost every case, were effective immediately upon issuance, rather than following the standard 30-day delayed effective date under the Administrative Procedure Act, and in the case of significant changes, the 60-day delayed effective date for major rules under the Congressional Review Act.[3] Given the short duration and limited funding of the program, the intent of Congress under the CARES Act to issue relief expeditiously, and the urgent need for small businesses to obtain loans quickly, dispensing with the standard 30-day (and in cases of major rules, 60-day) delayed effective dates was necessary and appropriate for rules implementing explicit CARES Act language or expanding earlier SBA interpretations. In these cases, immediate effective dates benefited small businesses by allowing lenders to develop internal systems, policies, and procedures and begin offering PPP loans as quickly as possible. For changes that limited the broad language of the CARES Act, or clarifications that restricted SBA's initial program rules, however, immediate effective dates caused significant harm to PPP borrowers by denying them a reasonable period to review and understand the changes.

Immediate effective dates for rules that restricted program parameters are especially troubling given that PPP was designed by Congress and SBA to put the burden of certifying eligibility and loan amount calculations on the small business borrower. Implementing restrictive changes

---

[1] For further discussion of the structural inequities in the PPP program, *see* Testimony of Ashley Harrington, Center for Responsible Lending, Before the U.S. House Committee on Small Business Regarding "*Paycheck Protection Program: Loan Forgiveness and Other Challenges*," (June 17, 2020), https://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl-testimony-harrington-house-smallbusiness-17jun2020.pdf.

[2] *See, e.g.,* Small Business Administration, Paycheck Protection Program: Frequently Asked Questions. Available at https://www.sba.gov/sites/default/files/2021-07/FINAL%20FAQ%20Update%207.29.21-508.pdf.

[3] *See, e.g.,* the Comments and Immediate Effective Date provisions of each PPP Interim Final Rule; the Administrative Procedure Act at 5 U.S.C. 553(d)(3); *and* the Congressional Review Act at 5 U.S.C. 808(2).

with an immediate effective date directly prevented small businesses from understanding the terms and conditions of their PPP loans, and as a result, is now preventing many PPP borrowers from receiving the full forgiveness Congress intended. If small businesses lacked capacity and expertise to review, analyze and understand changes to the rules that resulted in their ineligibility or in a miscalculation of their PPP loan amount, they now are required to repay all or a portion of their PPP loan. Even in cases where the small business borrower used PPP funds entirely for eligible purposes, they will not be fully forgiven. While immediate effectiveness was necessary and laudable in the case of beneficial changes, in the case of restrictive changes, immediate effectiveness was deeply unfair and harmful to borrowers. This is especially true for microbusinesses, which did not have the resources to access the accountants, lawyers or third-party payroll processing service providers larger businesses relied on for interpretations of PPP rules.

As the PPP program progressed, Congress, the Treasury Department and SBA recognized the inequities that proliferated in the early roll-out of the program, preventing many microbusinesses and economically disadvantaged applicants from accessing this critical relief, and made beneficial changes to help improve the final stages of PPP. It is now vitally important to ensure that the loan forgiveness stage of the program does not unintentionally harm these same underserved and economically disadvantaged businesses.

This is my over-riding message to you today: Several clear fixes to the forgiveness rules are necessary to ensure fairness, to provide the critical support to America's small businesses that Congress intended and upon which businesses and their employees relied, and to avoid inadvertently hurting the smallest businesses that are least able to sustain further harm.

My testimony will explain the following recommendations, which we believe are necessary to correct inequities in the PPP forgiveness process:

- **Avoid "gotcha" denials of loan forgiveness due to sudden changes in SBA rules imposed without advance notice** by requiring SBA to retroactively apply a standard 30-day grace period for effectiveness of PPP rules changes that made eligibility or loan amount calculation more restrictive. Implementing this change to rules that imposed limitations on broad CARES Act provisions or added clarifying restrictions to previously issued rules would significantly reduce forgiveness denials for microbusinesses that applied in good faith under PPP rules in place within a reasonable time of their application, fully expecting the loans would be forgiven. This is an issue of fundamental fairness that should apply to all borrowers impacted by these sudden changes, whether or not they have already submitted their forgiveness application to SBA.

- **Rescind SBA Procedural Notice 5000-20078 (issued on January 15, 2021), which requires borrowers to return PPP loan amounts received due to "borrower or lender error made in good faith"** even where the borrower spent the funds for eligible purposes in good faith reliance on promised forgiveness. Given that ambiguities in the initial rules and the chaotic program roll-out made good-faith errors inevitable, SBA should forgive all borrowers who acted in good faith but were confused into unintended errors, provided they spent their funds properly. It is especially crucial that this grace be extended to microbusinesses – those with loans of $150,000 or less – that lacked access to the assistance of legal and accounting professionals to help them avoid mistakes, that are least able to repay moneys already spent to survive the pandemic, and that are most likely to be forced to shut down if they are burdened with unexpected debt.

- **Improve borrower access to the SBA's Direct Forgiveness Portal** by requiring opt-in to the SBA portal by lenders that (a) do not have their own online forgiveness portal; (b) have not submitted applications for forgiveness for at least 75% of their PPP loans within twelve months of the loan disbursement date; or (c) have been found by the SBA to have regularly failed to be responsive to borrower requests for submission of their loan forgiveness application.[4]

- **Alleviate unnecessary paperwork burdens for the smallest businesses** by expanding the use of simplified forgiveness application Form 3508S to loans of up to $350,000 and by implementing automatic forgiveness for loans of $25,000 or less.

- **Improve SBA's loan review process to ensure fraudulent activity is prosecuted and borrowers who applied in good faith are not unfairly penalized** by focusing SBA's manual review efforts on larger loans. SBA should balance the incidence and severity of likely fraud against the harmful impact of extensive delay and uncertainty on small businesses and nonprofits that acted in good faith.

II. Ensuring Equity in Small Business Lending

A. Small Businesses of Color Entered the Pandemic Credit Starved.

Business ownership is a proven mechanism for wealth-building, with economic benefits that extend beyond the individual business to the entire community. Unfortunately, there are profound disparities in how business owners fund their enterprises, with businesses of color having less access to loans from financial institutions. Research from the Federal Reserve found that in the previous five years, 46% of white-owned businesses with employees accessed credit from a bank, and 6% accessed credit from a credit union. During that same time, just 23% of Black-owned employer firms accessed credit from a bank, and 8% from a credit union; 32% of Latino-owned employer firms accessed credit from a bank, and 4% from a credit union.[5] A recent study by the National Community Reinvestment Coalition found

[4] It is worth noting that requiring unresponsive lenders to opt in to SBA's Direct Forgiveness Portal would not let unresponsive lenders off the hook – lenders remain responsible for reviewing the borrower's forgiveness application and supporting documentation and submitting a forgiveness decision to SBA, even when the borrower applies for forgiveness through the SBA's Direct Forgiveness Portal. SBA must continue to monitor PPP lenders and hold them accountable to ensure they are complying with PPP requirements.

[5] Small Business Credit Survey: Report on Employer Firms (2020).

steep reductions in SBA 7(A) lending to Black businesses between 2008 and 2016.[6] That same study also found that Black and Latino testers applying for loans were required to produce more documentation to support their loan application than white testers, and received less information about fees and less friendly service when visiting a small business lender.[7] Additional research found that business owners of color are more likely than white business owners to feel discouraged from seeking loans.[8]

Research from the Federal Reserve also found that business owners of color were more likely to rely on personal funds and personal credit scores to finance their business. Twenty-eight percent of Black and Asian owners and 29% of Latino owners relied on personal funds as the primary funding source for their business, compared to 16% of white business owners. Black and Latino business owners were also more likely to use their personal credit scores when obtaining financing with 52% and 51% doing so, respectively, compared to 45% of white and 43% of Asian business owners.[9] In addition, in SBA's fiscal years ending September 30, 2019 and 2018, for all SBA 7(A) loans made, only 5% were made to Black-owned businesses, and only 9% were made to Latino-owned businesses.[10]

B. The Paycheck Protection Program was not implemented equitably.

Lack of access to credit can be harmful in the normal course of business, but in the midst of a pandemic, lack of access can have disastrous consequences for microbusinesses, the owners, and employees who depend on them for their livelihoods. Notably, as recently reported by the Federal Reserve, "the smallest firms ... also tend to be the most vulnerable to economic downturns such as the one sparked by the COVID-19 pandemic." [11] Yet as set forth below,

[6] National Community Reinvestment Coalition. (2019). "Disinvestment, Discouragement and Inequity in Small Business Lending." Available at https://ncrc.org/wp-content/uploads/2019/09/NCRC-Small-Business-Research-FINAL.pdf.
[7] *Ibid.*
[8] *See* McManus, 2016. ("Research also finds that minority business owners are more likely to feel discouraged from seeking private loans. In a Census survey, only 16% of nonminorities felt discouraged from seeking a loan, while almost 30% of minorities felt the same way. These, in combination with other reasons, may be why minority business owners have a heavier reliance on personal finances.") (citing Christine Kymn, U.S. Small Business Administration, Office of Advocacy, Access to Capital for Women- and Minority-owned Businesses: Revisiting Key Variables, January 2014, https://www.sba.gov/sites/default/files/Issue%20Brief%203%20Access%20to%20Capital.pdf).
[9] Federal Reserve (2019) "Small Business Credit Survey: Report on Minority-Owned Firms." Available at https://www.fedsmallbusiness.org/medialibrary/fedsmallbusiness/files/2019/20191211-ced-minority-owned-firms-report.pdf.
[10] Small Business Administration, SBA Business Loan Approval Activity Comparisons for Fiscal Years 2012 to 2019, for the Period Ending 08-30-2019. Available at https://www.sba.gov/sites/default/files/aboutsbaarticle/WebsiteReport_asof_20190830.pdf.
[11] Federal Reserve (2021) "Small Business Credit Survey, 2021 Report on Firms Owned by People of Color." Available at https://www.fedsmallbusiness.org/medialibrary/FedSmallBusiness/files/2021/sbcs-report-on-firms-owned-by-people-of-color.

microbusinesses faced hurdle after hurdle in accessing PPP funds, and under current rules, continue to face obstacles accessing promised forgiveness. "[T]he majority of small employer firms across each racial and ethnic group employed fewer than five workers. Seventy-six percent of Black-owned firms employed fewer than five employees, the largest share of any group, followed by Hispanic-, Asian-, and white-owned firms (69%, 60%, and 52%, respectively)."[12] Indeed, firms of 19 employees or less constitute 94% of all Black-owned firms and 93% of all Latino-owned employer firms.[13] Because the majority of businesses of color are microbusinesses, every hurdle faced by microbusinesses in the PPP process disproportionately harms businesses of color.

Small businesses of color were mostly locked out of the initial funding of $350 billion. The design of the program, which relied on banks to originate the loans, unfairly put microbusinesses and businesses of color at a distinct disadvantage in attempting to access PPP funds when so many already lacked access to capital. Banks prioritized customers with whom they had an existing banking relationship; as noted previously, Black businesses are less likely to access credit through a bank. Many banks also appeared to prioritize larger PPP loans to maximize fees, leaving the smallest businesses without access to relief.[14]

The effect of the crisis on small businesses has been profound. As of mid-August 2021, over 68% of businesses reported moderate or large negative effects from the pandemic.[15] The pandemic and economic downturn have had a particularly large impact on the smallest businesses and self-employed individuals. These businesses struggled to access PPP funds, especially during the critical first rounds in 2020. The majority of loans under $150,000 occurred in 2021, after Congress and SBA implemented changes to help address program inequities. Self-employed business owners, sole proprietors and independent contractors could not even apply during the first week of the first round of the program. Researchers also estimate that (i) half of the jobs lost as a result of the delay in receiving PPP funding and the flawed PPP implementation were in firms with fewer than 10 employees, and (ii) if the program had been designed and implemented more effectively to reach the smallest firms,

---

[12] *Ibid.*
[13] *Ibid.*
[14] For further discussion of the structural inequities in the PPP program, see Testimony of Ashley Harrington, Center for Responsible Lending, Before the U.S. House Committee on Small Business Regarding "Paycheck Protection Program: Loan Forgiveness and Other Challenges," (June 17, 2020), https://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl-testimony-harringtonhouse-smallbusiness-17jun2020.pdf.
[15] "Small Business Pulse Survey – Survey Response Detail" (Updated August 26, 2021, reflecting data gathered form August 16-22, 2021), https://portal.census.gov/pulse/data/#data. The survey target population was all nonfarm, single nonfarm, single-location employer businesses with between 1-499 employees and receipts of $1,000 or more in the 50 states, District of Columbia, and Puerto Rico. Some industries were excluded, a complete list is provided in the survey methodology available at https://portal.census.gov/pulse/data/#methodology. The Small Business Pulse Survey may be subject to non-response bias, as businesses that have closed due to COVID-19 may not be receiving the invitation to participate and unable to respond.

more jobs would have been saved more cost effectively.[16] Further, at the onset of COVID-19, job loss was greater for the self-employed than for small business employees. SBA's Office of Advocacy issued a report noting that:

> The total number of people who were self-employed and working declined by 20.2 percent between April 2019 and April 2020. The Hispanic group experienced a higher decline, at 26.0 percent. The highest declines were experienced by the Asian and Black groups, with a decline of 37.1 percent for the Asian group and 37.6 percent for the Black group.[17]

While PPP was extended by Congress for the hardest-hit small businesses, the program expired on May 31, 2021, leaving hundreds of thousands of small businesses without access to full relief.

1. Ongoing failures to equitably serve the smallest businesses.

In addition to other documented flaws in the PPP, microbusinesses – the vast majority of whom file their business income taxes on IRS Form 1040, Schedule C or Schedule F – largely received little or no PPP relief in the first rounds of the program, because SBA initially calculated PPP loan amounts as a percentage of Schedule C or Schedule F taxable "net profit." For many microbusinesses, this resulted in PPP loans of minimal amounts or no PPP loan at all. In December 2020, Congress addressed this issue for Schedule F microbusinesses engaged in farming or ranching by requiring loan amounts to be calculated as a percentage of "gross income" instead of taxable "net profit." This simple change provided a much more realistic measurement of the relief promised under the CARES Act.

Recognizing the inequity of making this change so late in the program, Congress appropriately applied it retroactively for Schedule F filers, allowing farming and ranching microbusinesses that had earlier received inadequate PPP funding to receive the amount they deserved. However, no similar provisions were enacted for Schedule C filers. Following calls from over 100 organizations seeking equitable treatment for all microbusinesses,[18] SBA implemented this same simple change for Schedule C microbusinesses in March of 2021.[19] As a result, Schedule C microbusinesses, sole proprietors, independent contractors, and self-employed

[16] Doniger, Cynthia L., and Benjamin Kay (2021). "Ten Days Late and Billions of Dollars Short: The Employment Effects of Delays in Paycheck Protection Program Financing," Finance and Economics Discussion Series 2021-003. Board of Governors of the Federal Reserve System, available at https://doi.org/10.17016/FEDS.2021.003.
[17] Wilmoth, Daniel. March 2021. "The Effects of the COVID-19 Pandemic on Small Businesses." US Small Business Administration, March 2021. Available at https://cdn.advocacy.sba.gov/wp-content/uploads/2021/03/02112318/COVID-19-Impact-On-Small-Business.pdf.
[18] See: https://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/coalition-letter-to-sba-treasuryreqs-for-sched-cfilers-feb2021_0.pdf
[19] See: https://www.sba.gov/sites/default/files/2021-03/SBA%20PPP%20IFR%20Loan%20Amount%20Calculation%20and%20Eligibility%20%283-3-21%29-508.pdf

individuals who applied for PPP relief after mid-March 2021 had the opportunity to receive meaningful PPP relief. Neither SBA nor Congress provided a retroactive remedy for Schedule C filers, however, and tens of thousands of microbusinesses were never able to access the full relief they deserved. This will result in an even greater decline in microbusinesses and the employment they provide.

Consider these specific examples of how microbusinesses were affected by the failure to provide this change retroactively:

- A Black woman-owned childcare microbusiness in North Carolina received only $2,750 in PPP funding for a first PPP loan under the old formula; if the formula had been applied retroactively, she would have been eligible for an additional $14,456 to support her business.
- A teacher in Chicago who supplemented her income by working as an independent contractor for Lyft received a PPP loan of only $1,085 under the old formula; if this change had applied retroactively, she instead would have been eligible for $6,336 in needed PPP support.
- A Latino-owned auto repair microbusiness in California with one employee (in addition to the owner) received only $4,680; under the new formula he would have been eligible to receive $23,216 to support his business.

Perhaps most frustrating were the thousands of microbusinesses that received a PPP loan under the old formula when the program reopened in January 2021. Microbusinesses that received their PPP loan in January or February did not receive the critical increase and were left significantly vulnerable to permanent closure. For example, an Asian-American woman-owned childcare microbusiness in California received a PPP loan on February 1 for only $2,302; under the new formula, she would have received $14,659. Denying her – and all other microbusinesses in this same situation – the critical relief they needed to survive was unacceptable.

In the CARES Act, Congress allocated funds to all small businesses, including sole proprietors, independent contractors, and self-employed individuals, and explicitly directed SBA to prioritize businesses owned by socially and economically disadvantaged individuals. The majority of small businesses in America are non-employer businesses (80.5%) and 17.4% have 20 or fewer employees.[20] Further, 95% of all Black-owned businesses and 91% of all Latino-owned businesses are non-employer firms.[21] It is critical

[20] "2018 Small Business Profile." Small Business Administration Office of Advocacy, 2018. Available at https://www.sba.gov/sites/default/files/advocacy/2018-Small-Business-ProfilesUS.pdf?fbclid=IwAR2mlIFlyWGX0RwJtDR6CDT21cpreCyXtS15N2XJgHNlJ7n8SVYKBcxfd7U.

[21] "Small Business Credit Survey: Report on Nonemployer Firms." Washington, DC: Board of Governors of the Federal Reserve System, 2019. https://www.fedsmallbusiness.org/medialibrary/fedsmallbusiness/files/2019/sbcsnonemployer-firms-report-

that Congress keep the promise it made in the CARES Act to provide meaningful support to microbusinesses – especially those owned by socially and economically disadvantaged individuals. Schedule C microbusinesses were not given the same treatment as Schedule F farming and ranching microbusinesses. The program has closed, and PPP funds are no longer available to right this wrong.

At a minimum, SBA and Congress should not exacerbate this wrong by denying forgiveness to these same borrowers. Making the changes to forgiveness that we are requesting today (including retroactively applying a 30-day grace period for restrictive PPP changes, reversing SBA's denial of forgiveness to businesses who made good faith errors on their applications, and automatic forgiveness of loans of $25,000 or less) would help prevent additional harm.

2. Lack of data and transparency in small business lending.

The PPP also highlighted the dearth of data on small business lending that has been a major obstacle for ensuring equity for decades. An analysis of SBA's PPP data shows that over three-fourths of the 5.2M loans made in 2020 contained *no demographic information.* Just 9.5% reported proprietor race or ethnicity information, 16.2% reported proprietor gender, and 14.5% reported whether the proprietors were veterans.[22] SBA has made improvements in its requirements for PPP data collection since its implementation of the program, but by collecting so little information initially, SBA made it nearly impossible to fully evaluate their own success in extending relief to vulnerable communities. Thus, utilization of other data and surveys, such as those discussed previously, was required to demonstrate that the delivery was clearly inequitable.

The limited data masks the lack of equitable investment of taxpayer-supported funds and access to business capital for communities of color and those in rural markets. Infact, in addition to data collection being one of the much-needed improvements to the PPP program, robust data collection is also needed for existing laws enacted to incentivize community investment and job creation through access to business capital. Without publicly available data, it is difficult to prove or disprove, or adequately address, discrimination and inequities in small business lending.

Ten years ago, Congress took steps to address this issue through Section 1071 of the Wall Street Reform and Consumer Protection Act, requiring the collection of key data elements, including demographic data, with respect to applications for small business loans. We are pleased that the CFPB is now movingforward implementing section 1071 and preparing to issue Notice of Public Rulemaking today or on the next few days. It is essential that the CFPB press forward and complete this rulemaking by the middle of next year.

19.pdf.

[22] CRL analysis of SBA PPP data.

Beyond data collection and transparency, it is imperative that SBA, Treasury, CFPB and the prudential regulators (i) establish, monitor, and enforce an affirmative duty to fairly serve all small business borrowers, and (ii) establish affordable small business lending goals for all credit providers. The prudential regulators should require financial institutions covered by CRA incorporate a robust small business community reinvestment requirement that includes loans approved for small businesses and for business owners where the business credit runs through their personal credit profile. It is critical for equitable small business lending to be considered in CRA evaluations.

III. Recommendations

Current implementation of the loan forgiveness rules threatens to exacerbate inequities, especially for microbusinesses. To minimize further inequities, we offer the following recommendations.

A. Avoid "gotcha" denials of loan forgiveness due to sudden changes in SBA rules imposed without advance notice.

Frequent rule-changes without advance notice have tripped up some businesses, particularly microbusinesses, and now threatens to require them to return funds already spent in good faith, for proper purposes.

To be fair, it is understandable that SBA had to build the PPP plane after it was already in the air. Time was of the essence – small businesses needed the promised relief of PPP quickly and waiting for a fully developed set of program rules would have doomed many small businesses. Getting the rules out fast – even incomplete rules – was the right call. In addition, the work Congress and SBA did to continue to clarify PPP rules and to make the program more flexible throughout the period PPP funds were available is greatly appreciated and has resulted in significantly more businesses obtaining the forgivable funds they were promised by Congress.

Unfortunately, new IFRs and FAQs were frequently issued by SBA late at night, and in almost every case, were effective immediately upon issuance, rather than following SBA's standard 30-day grace period. While immediate effectiveness was necessary and laudable in the case of beneficial changes, it was unfair and harmful in the case of changes that made PPP relief more restrictive. As a seasoned SBA lender, Self-Help watched for each new rule change from SBA, and implemented changes as quickly as possible so we could provide guidance to our borrowers and give them the best chance of getting a PPP loan that would ultimately be forgiven. But it is not realistically possible for a lender to implement a more restrictive change the minute it is issued. Following each rule change, lenders had to review the new rules, understand how they restricted the existing rules, update internal processes, and train staff – all while moving quickly to get an unprecedented volume of desperate applicants approved for funds that were literally running out.

Further, it is critically important to remember that Congress and SBA designed PPP to place the burden on the small business borrower to understand eligibility and loan calculation rules.[23] Imagine you are not an SBA lender with experience reviewing and implementing SBA rules, but a microbusiness trying to apply for the funds to support your staff and keep your business going through the pandemic. You are responsible for reviewing, understanding and keeping up with changes to PPP rules. For these smallest businesses, without the luxury of accountants or attorneys on their payroll and without the resources to hire these professionals, the expectation that they would be able to understand and follow repeated changes to PPP rules, immediately upon issuance, is especially unrealistic and has resulted in denial of promised relief.

It is in this context that we ask Congress and SBA to make an important change: require SBA to apply its standard 30-day grace period for effectiveness of all PPP rule changes that made eligibility or loan amount calculation more restrictive and apply this grace period retroactively to allow businesses that have already applied for PPP forgiveness to be made whole. Implementing this change would have a significant impact on forgiveness denials for microbusinesses who applied in good faith and were eligible under PPP rules in place within a reasonable time of their application.

For example, a Black independent contractor in Illinois submitted his PPP application to a lender on April 22, 2020 and received SBA approval on April 28, 2020 for a PPP loan in the amount of $19,469. These funds helped replace desperately needed lost income for his product design microbusiness. He completed and documented his SBA application based on SBA rules that specifically stated sole proprietors, independent contractors and self-employed individuals were eligible and could document their payroll amount by submitting "payroll processor records, payroll tax filings, or Form 1099-MISC, or income and expenses from a sole proprietorship. *For borrowers that do not have any such documentation, the borrower must provide other supporting documentation, such as bank records, sufficient to demonstrate the qualifying payroll amount*."[24] On April 20, 2020, however, SBA issued an updated rule, which stated that this type of microbusiness must calculate its payroll amount based on line 31 (net

[23] See SBA's PPP FAQ #1: "Providing an accurate calculation of payroll costs is the **responsibility of the borrower**, and the borrower attests to the accuracy of those calculations on the Borrower Application Form (SBA Form 2483 or SBA Form 2483-C for First Draw PPP Loans and SBA Form 2483-SD or SBA Form 2483-SD-C for Second Draw PPP Loans). **Lenders are expected to perform a good faith review, in a reasonable time, of the borrower's calculations** and supporting documents concerning average monthly payroll cost. For example, minimal review of calculations based on a payroll report by a recognized third-party payroll processor would be reasonable. In addition, as the PPP Interim Final Rules indicate, **lenders may rely on borrower representations, including with respect to amounts required to be excluded from payroll costs**." (emphasis added)
[24] IFR #1, RIN 3245-AH34, April 15, 2020 (emphasis added).

profit) of its Schedule C, noting *"[i]f this amount is zero or less, you are not eligible for a PPP loan."*[25]

Under the new rules, which became effective immediately upon issuance by SBA, this microbusiness was not eligible for any PPP relief; as a result, he will be required to repay his $19,469 loan if full. Had he submitted his application only a few days earlier, his documentation would have supported the full forgiveness promised by Congress. This microbusiness – instead of being able to start the process of getting back on its feet – is being held back by almost $20,000 of unexpected debt.

B. Rescind SBA Procedural Notice 5000-20078 (issued on January 15, 2021), which requires borrowers to return PPP loan amounts received due to "borrower or lender error made in good faith."

To add insult to injury, complex and ever-changing PPP rules resulted in many good faith errors by small businesses as well as lenders. Instead of acknowledging what was, even if understandably, the bumpy roll-out of a complex program, SBA issued Procedural Notice 5000-20078 on January 15, 2021, stating that any borrower who received a larger loan amount than they were eligible to receive due to a "borrower or lender error made in good faith" must repay the excess amount. SBA determined that the "borrower may not receive loan forgiveness for any amount that exceeds the correct maximum loan amount," regardless of "whether the excess loan amount was caused by borrower error or lender error."

As noted in recent media reports, multiple microbusinesses received PPP loans in amounts that were approved by SBA and their lender, and used those loans for eligible purposes, yet are now being required to repay all or a portion of their loans.[26] We believe many of these issues would likely be resolved by allowing SBA to apply the standard 30-day grace period for implementation of restrictive changes, as noted above. It is important to note, however, that a grace period alone would still leave many microbusinesses out in the cold. As has been extensively documented, PPP rules were complex and were constantly changing. News articles and pundits frequently misinterpreted and misstated the rules.

Businesses, especially microbusinesses, were doing all they could to keep operating through a pandemic, while frantically searching for lenders who would accept their applications before time ran out. In the midst of this crisis, to expect these smallest businesses to fully understand over 30 Interim Final Rules, more than 90 FAQs across two separate documents, and several Notices issued by SBA and get their loan request exactly right is unreasonable and deeply unfair. Even larger small businesses that could afford to engage accountants and lawyers found

---

[25] IFR #2, RIN 3245-AH36, April 20, 2020 (emphasis added).
[26] See The Intercept, *Banks are Reversing Course on PPP Loans to Small Business Owners.* Available at https://theintercept.com/2021/07/12/covid-banks-sba-ppp-loans/.

PPP rules challenging. Microbusinesses that did not have these resources were, by and large, on their own. While many lenders and small business technical assistance providers jumped into the fray to try to understand and explain the ever-changing rules, the program was operating at warp speed with funds running out and scared businesses doing all they could to apply for relief.

Now many of these microbusinesses that made an honest error in trying to follow the encyclopedic set of PPP eligibility and loan calculation rules are being required to repay the loans that they were promised would be forgiven – even if they used the funds exactly as intended by the program. This places a crushing burden on the backs of microbusinesses who now have the heavy burden of unexpected debt payments as they try to get their business back on its feet.

In the context of the bumpy roll-out of the program, a good faith error should not penalize the borrower. If a small business made a good-faith error calculating their loan amount, but used the funds as required by program rules, SBA should be required to forgive the entire PPP loan. To be clear, a good faith error does not include a knowing misstatement. Borrowers or lenders who knowingly lied on the PPP application or submitted false supporting documentation to get or increase a PPP loan are, and should be, subject to prosecution for fraud. Businesses and nonprofits should not be penalized, however, for good faith errors implementing an extremely confusing program during a frantic rush to get promised relief before funding ran out. **To address this harsh unfairness, we ask Congress and SBA to reverse SBA Procedural Notice 5000-20078.**

C. Improve borrower access to the SBA's Direct Forgiveness Portal.

Self-Help applauds SBA's decision to implement a Direct Forgiveness Portal. For borrowers whose PPP lender has not been able to offer an online option, SBA's Direct Forgiveness Portal should be a major improvement over manually completing and processing the application. For borrowers whose PPP lenders had already provided an online option, however, in most cases it would be confusing and counterproductive to change the process and require use of SBA's portal for everyone at this late date. It is important to note that SBA's Direct Forgiveness Portal only allows borrowers to <u>start</u> the forgiveness process – it does not change the requirement that the lender must review the information and supporting documentation submitted by the borrower. This means that use of SBA's Direct Forgiveness Portal, under current rules, would not change the outcome on any PPP loan. If a borrower is not eligible for forgiveness under SBA rules for the program, the lender must recommend denial of forgiveness to SBA.

It is also important to note that many microbusinesses need support to enter their information correctly. For instance, nowhere in SBA's Direct Forgiveness Portal does it explain to self-employed borrowers that they must choose an 11-week Covered Period if their PPP loan was used – as is permitted – for their own lost income. Likewise, it does not appear to provide detailed guidance explaining employee maintenance rules and exceptions – and potential reductions to the requested forgiveness amount – applicable to borrowers with loans over $50,000. It actually would be counterproductive for small businesses to enter their information incorrectly – they either would not be granted full forgiveness or would have to endure additional back-and-forth with their lender and SBA to change their incorrect submission. By working directly with PPP borrowers through our own online portals, PPP lenders have the opportunity to provide much-needed guidance to ensure small businesses are not making mistakes that prevent them from getting the maximum amount of forgiveness they are eligible to receive.

Finally, requiring all PPP borrowers to apply for forgiveness through SBA's Direct Forgiveness Portal would significantly increase the volume of applicants in SBA's portal – straining SBA's capacity and delaying access for the small businesses whose lenders do not have an online option. Lenders who are diligently working with their borrowers to get PPP forgiveness processed are the best resource for those small businesses.

We do have concerns, however, in cases where small businesses are facing unnecessary delays in applying for forgiveness due to unresponsive PPP lenders, or where PPP lenders do not have the capacity to process forgiveness applications in a timely fashion. To address these issues equitably, without causing unintended harm to small businesses, SBA could implement the following requirements:

- Require lenders to opt-in to SBA's Direct Forgiveness Portal if the lender does not have an online forgiveness portal. This would allow all PPP borrowers to choose to apply using an online system versus completing the application manually.
- Require lenders to opt-in to SBA's Direct Forgiveness Portal if the lender has not submitted at least 75% of their PPP loans within 12 months of the loan disbursement date. This would encourage lenders with online portals to continue to devote reasonable resources to process borrower forgiveness applications. Since borrowers do not incur interest charges as long as they submit their forgiveness application within 10 months of the end of the maximum 24-week Covered Period (approximately 15½ months from each borrower's loan disbursement date), implementation of this rule would provide small businesses with a 3-month period to apply for forgiveness to meet this timeline. Note, borrowers can apply at any time before their PPP loan matures, but no small business or nonprofit should be forced to pay PPP interest if they have not been given the opportunity to apply within this 15½ month timeline.
- Require lenders to opt-in to SBA's Direct Forgiveness Portal if SBA determines that the lender has regularly failed to be responsive to borrower requests to apply for forgiveness.

D. Reduce the paperwork burden on small businesses.

Form 3508S: SBA's creation of the simplified Form 3508S forgiveness application, which allows borrowers with PPP loans up to $150,000 to apply for forgiveness without submitting supporting documentation, has proven to be a real improvement in the process for these small businesses, saving a significant amount of time for the business, the lender, and SBA. Program integrity remains protected against cases of fraud due to SBA's right to require supporting documentation as part of its review of any loan, either as part of a random review or due to flags noted in the application.

SBA could increase the impact of Form 3508S by increasing the threshold for using this form up to $350,000. SBA could further improve Form 3508S by including clear instructions, for eligible borrowers with loans over $50,000, concerning calculation of any required reductions to their forgiveness amount. Currently small businesses and nonprofits with loans larger than $50,000 that are eligible to use Form 3508S must nonetheless refer to the longer, more complicated Form 3508 to make these complex calculations.

Automatic forgiveness for the smallest PPP borrowers: In October of 2020, SBA provided a much-needed exemption for PPP borrowers with loans of $50,000 or less, relieving these borrowers from the burdensome requirement to document maintenance of employee numbers and wages.[27] SBA rightly determined this exemption to be *de minimis*, since the majority of loans of $50,000 or less were to microbusinesses with no employees other than the owner, making employee maintenance requirements inapplicable.

Similarly, SBA should provide a *de minimis* exemption for the smallest borrowers – those with loans of $25,000 or less – relieving these microbusinesses from the burden of applying for forgiveness of their PPP loans. The vast majority of borrowers with loans of $25,000 or less are one-person businesses (self-employed, independent contractors, and sole proprietors) that have already faced excessive obstacles to obtain their PPP loans, including delayed and limited access to program funds, confusing and changing program rules, and, for Schedule C microbusinesses that applied prior to mid-March 2021, loan amounts that SBA later agreed were an inadequate measure of their lost payroll. After facing a time-consuming uphill battle to obtain a PPP loan, they should not now be further burdened by the requirement to complete a forgiveness application.

For one-person businesses, loan amounts were based on owner "payroll" (the business income) and as such are fully forgivable (one-person microbusinesses may use their entire PPP loan to replace their lost income). Requiring these microbusinesses to yet again navigate a confusing process in order to obtain the full forgiveness they are entitled to receive is unnecessary and serves no legitimate purpose. Indeed, it may unfairly cause some of these smallest businesses to be forced to repay their PPP loan, despite their eligibility for full forgiveness.

For example, while only a small fraction of Self-Help PPP borrowers have failed to respond to our repeated outreach to apply for forgiveness, of those, 75% are loans of $25,000 or less.

[27] IFR RIN 1505-AC71. Available at https://home.treasury.gov/system/files/136/PPP--IFR--Additional-Revisions-Loan-Forgiveness-Loan-Review-Procedures-Interim-Final-Rules.pdf.

These microbusinesses are focused on the survival of their business and are overwhelmed, and further administrative burdens pose an unnecessary hardship. In many cases, due to the impact of the pandemic and their limited resources, they no longer have the same contact information provided to their lender when they applied for a PPP loan. Yet if they do not complete the forgiveness process, their PPP loan will become an unexpected debt. In our experience, and based on PPP rules, the vast majority of these microbusinesses are eligible for full forgiveness.

The SBA should provide a *de minimis* exemption to PPP borrowers with loans of $25,000 or less exempting them from the requirement to submit a forgiveness application to obtain forgiveness of their loan.

E. Improve SBA's loan review process to ensure fraudulent activity is prosecuted and borrowers who applied in good faith are not unfairly penalized.

SBA should balance the incidence and severity of likely fraud with the impact of extensive delay and uncertainty on small businesses and nonprofits that acted in good faith by focusing its manual review efforts on larger loans. Based on our informal survey of community lenders and media reports, of the PPP loans SBA has chosen to manually review, over half appear to be small loans under $50,000. In addition, many PPP borrowers with larger loans have been under an SBA manual review for weeks or months past SBA's promised 90-day process, with no clarity on whether their loan will be forgiven. This level of uncertainty is harmful to small businesses and nonprofits in the best of times, but combined with the continuing economic uncertainty caused by the on-going pandemic, it is especially damaging, as it prevents small businesses and nonprofits from making investments in their operations, their workers, and the communities they serve.

While evidence of knowing misstatements and false documentation should be prosecuted regardless of loan size, SBA's focus should be rooting out fraud on larger loans where significantly more taxpayer dollars are at risk. Refocusing its efforts to larger loans would allow SBA to process these reviews more expeditiously. As SBA has rightly noted, the vast majority of PPP funds supported American small businesses and their hardworking employees in dire need of economic relief. While SBA should continue to protect taxpayer dollars by holding bad actors accountable, its efforts must be balanced with decreasing the level of uncertainty for the vast majority of small businesses and nonprofits who acted in good faith and took Congress at its word.

IV. Conclusion

A bipartisan Congress came together to create the Paycheck Protection Program to deliver urgently needed relief to American small businesses. As a grant program structured as a forgivable loan, the fair execution of the forgiveness phase of the program is as important as was fair access. Several fixes to the forgiveness portion of the program are needed so that the businesses that were denied fair access at the program's outset are not disproportionately saddled with unanticipated debt on the back end. By eliminating "gotcha" rules and undue bureaucratic burdens, Congress and SBA can deliver on the program's promise, ensuring that all small businesses and nonprofits - and especially microbusinesses and other underserved and economically disadvantaged business owners - emerge from the pandemic on a solid foundation with an opportunity to rebuild.

Testimony of

Leslie Payne
Assistant Vice President of Commercial Lending
Affinity Federal Credit Union

On behalf of
The National Association of Federally-Insured Credit Unions

"What Comes Next? PPP Forgiveness"

Before the
House Committee on Small Business

September 1, 2021

Introduction

Good afternoon, Chairwoman Velázquez, Ranking Member Luetkemeyer, and Members of the Committee. My name is Leslie Payne, and I am testifying today on behalf of the National Association of Federally-Insured Credit Unions (NAFCU). I am the Assistant Vice President of Commercial Lending at Affinity Federal Credit Union, headquartered in Basking Ridge, New Jersey. I have more than 30 years of commercial lending experience, with a focus on community small business lending. Over the last 18 months, I have been tasked with the implementation and day-to-day management of the Paycheck Protection Program (PPP) initiative at Affinity, and I am proud of the work we have done to help our members through these challenging times. Thank you for holding this hearing today. I appreciate the opportunity to share our experience with the PPP and provide feedback on how the forgiveness process can be further improved and streamlined.

With more than 20 branches across the tri-state area, Affinity is the largest credit union headquartered in the state of New Jersey, proudly ranking in the top two percent of all credit unions in terms of asset size. We are a full-service, not-for-profit, member-owned financial institution with a wide array of personal and business accounts available to meet the needs of more than 185,000 members through each step of their financial journeys.

Background on Credit Unions

Credit unions serve a unique function in the delivery of necessary financial services to Americans. Established by an act of Congress in 1934, the federal credit union system serves as a way to promote thrift and make financial services available to all consumers, many of whom would otherwise have limited access to financial services. Every credit union is a cooperative institution organized "for the purpose of promoting thrift among its members and creating a source of credit for provident or productive purposes" (12 § USC 1752(1)). Congress established credit unions as an alternative to banks and to meet a precise public need, and today credit unions provide financial services to over 125 million people. Since President Franklin D. Roosevelt signed the *Federal Credit Union Act* (FCUA) into law over 85 years ago, two fundamental principles regarding the operation of credit unions remain every bit as important today as in 1934:

1. Credit unions remain totally committed to providing their members with efficient, low-cost, personal financial services; and,
2. Credit unions continue to emphasize traditional cooperative values such as democracy and volunteerism.

The nation's approximately 5,000 federally-insured credit unions serve a different purpose and have a fundamentally different structure than traditional banks. Credit unions exist solely for providing financial services to their members, while banks aim to make a profit for a limited number of shareholders. As owners of cooperative financial institutions, united by a common bond, all credit union members have an equal say in the operation of their credit union – "one member, one vote" – regardless of the dollar amount they have on account. These singular rights extend all the way from making basic operating decisions to electing the board of directors, something unheard of among for-profit, stockholder-owned banks. Unlike their counterparts at banks and thrifts, federal credit union directors generally serve without remuneration, epitomizing the true volunteer spirit permeating the credit union community. Credit unions are also limited by their field of membership on who they can serve.

Credit Unions and the PPP

As member-owned and relationship-driven cooperatives, credit unions have been on the frontlines working with their members during these times of economic uncertainty. Credit unions have gone above and beyond to ensure small businesses in their communities are taken care of, and their response through the PPP was tremendous. Despite the uncertainty surrounding the PPP as it launched and the associated challenges, credit unions did all they could to ensure their existing and new small business members were taken care of. According to a NAFCU survey, 87 percent of NAFCU members reported providing PPP loans to new members and businesses that were turned away by other lenders and came to their credit union to apply for a PPP loan. Moreover, compared to other types of lenders, credit unions disproportionately helped the smallest of small businesses. An analysis of the Small Business Administration's (SBA) PPP data shows that credit unions made loans in amounts much lower than the national average. In 2020, the average credit union PPP loan was under $50,000, while the average PPP loan overall was over $100,000.[1] In 2021, the average credit union PPP loan was $33,869, while the average PPP loan overall was $42,000.[2] Furthermore, according to NAFCU's analysis of SBA's PPP data, a full 75 percent of credit union PPP loans went to businesses with fewer than five employees.

At Affinity, we take tremendous pride in how we have been able to help our members with the PPP over the last 18 months. When the PPP was created by the *Coronavirus Aid, Relief, and Economic Security Act* (CARES Act) in March 2020, we immediately pulled together a team to start the planning process so we could issue these loans. While we were already an SBA lender, our planning process still entailed creating a new loan product in our operating system, establishing a workflow for the PPP lending process, training staff members on E-Tran and other SBA systems, and communicating to our members that we were participating, both through blast emails and a designated PPP page on our website. Our members were able to submit their basic information through a link on our website, and our team followed up on those to send out an application and begin the process. All teams worked very long hours and sometimes through the night, particularly to get loans submitted through E-Tran. For the second round of PPP lending, we contracted with nCino – our commercial lending platform vendor – to make the collection of information and analysis more efficient. We adjusted our processes throughout to make the process easier for our members. We also continuously updated our members on updates and changes to the PPP program.

In all, Affinity provided 1,058 PPP loans in the first round of the program, totaling approximately $58 million in lending. We provided an additional 603 loans in the second round for approximately $38 million. Our overall average PPP loan was approximately $56,000, with over 90 percent of loans $150,000 or under. Our smallest PPP loan was approximately $700, while our largest was $1.7 million.

We have heard from numerous small businesses that our commitment to working with them to ensure they received the PPP money they were due enabled their businesses to survive. Affinity

[1] DuPlessis, Jim, "PPP Helps Businesses and Credit Unions," *Credit Union Times* (June 15, 2021), available at https://www.cutimes.com/2021/06/15/ppp-helps-businesses-and-credit-unions/.
[2] Small Business Administration, Paycheck Protection Program (PPP) Report (May 31, 2021), available at https://www.sba.gov/sites/default/files/2021-06/PPP_Report_Public_210531-508.pdf.

helped businesses from a variety of industries, including physicians, dance studios, pet groomers, restaurants, retailers, and so many more. One story that stands out to me was how we were able to help the owner of a gymnastics studio. The owner was struggling early in the pandemic and was not getting a response from the bank where she had her business account. She reached out to Affinity because she had her personal accounts with us. She was desperate and, as she later recalled, quite short with our team member who took the original call. Our team member worked with her to earn her trust and get her through the PPP application process. The woman apologized for being short, explaining that her mother had COVID and was not expected to make it. She shared with us, "COVID is going to take my mom and my business." When she heard that she was approved for her PPP loan, she broke down sobbing. She moved her business accounts to us, wished she could hug us all, and promised to take our team member who worked with her to lunch when it was all over.

Another example that comes to mind is one of our members who retired from his 30-year career in 2019 and always dreamed of having his own business. He took his retirement savings and invested in a food supply business for schools. His first meaningful revenues started in January 2020. With the shutdowns and closures of schools, he saw his entire life savings disappearing. He was panicked and physically sick over his situation. Affinity was able to help him get a first round and second round loan, which helped him survive until he could continue operations and adjust his business model with varying revenue streams. Without the PPP this business most likely would not have survived and this member's life savings would have been lost.

Credit Unions and PPP Forgiveness

After the PPP program successfully provided a lifeline to small businesses struggling through unprecedented lockdowns, the attention quickly turned to the forgiveness process and its challenges. It soon became clear that the complexity of the forgiveness rules and application posed challenges for many small businesses who may not have the staff or expertise for such a complex application, especially with pandemic-induced economic challenges. We were pleased to see the SBA take steps to address this with the creation of the 3508EZ form, but challenges remained for some small businesses, including the ability to verify expenses and provide supporting documentation to ensure that they met the lender requirements.

NAFCU's member credit unions heard concerns from their small business members about the time and cost of correctly completing the forgiveness application. Many of those small businesses had to seek outside assistance to help them with the form. That is why NAFCU supported, and was pleased to see Congress enact, a simplified forgiveness process for loans of $150,000 or lower, which led the SBA to issue the 3508S form.

Despite these steps to simplify the PPP forgiveness process, credit unions continued to grapple with simultaneously processing loan forgiveness applications and focusing on meeting the routine needs of their small business members. Some credit unions shifted staff to accommodate both functions, while others hired temporary staff to assist them through the remainder of the PPP program. Many credit unions have invested money to build out a solution for members to complete online applications and upload supporting documentation or have worked with a third-party vendor to streamline the overall process since borrowers had the ability to submit forgiveness applications.

At Affinity, we again contracted with nCino for a program to assist in processing forgiveness applications. We developed a process as well as reporting and documentation procedures to support modifications in the event loans were not forgiven. We updated our website to link to the forgiveness portal so our members could apply and upload supporting information directly. The lenders who handled the decision-making on the PPP loans were now also responsible for taking on the forgiveness applications as they came in.

During the forgiveness process, a primary source of frustration for credit unions has been the SBA's ongoing requests for additional documentation for loan forgiveness applications under review, regardless of loan size. Credit unions report forgiveness review requests for PPP loans as small as $1,400, and reports of review requests for loans under $10,000 are not uncommon. Additionally, credit unions report that once they upload the requested documents, the agency takes an excessive amount of time to complete its review or come back with additional questions. Moreover, the documentation requests from the SBA are often repetitive of previous requests, and the credit union has already uploaded the requested documentation, or the request is inconsistent with and unnecessary for the use of PPP funds. Credit unions are working to get supporting documentation to the agency as required by the existing guidance, but the total review time has taken several months for some loans, including small dollar loans.

At Affinity, we initially experienced a high number of review requests from the SBA, with 10 percent of our submissions being reviewed. Dealing with loans under review is highly labor intensive involving a lot of back and forth with the members to provide the supporting documentation requested by the SBA. Often for a loan under review, the SBA makes multiple requests for documentation beyond what was originally requested in the notice of loan review, and sometimes the documentation requested does not make sense for the situation. For example, we had the SBA request documentation for utility bills for borrowers who utilized PPP funds solely for payroll. As you can imagine, this process is frustrating for us as the lender and for our members, who are already under enormous stress running their businesses during these uncertain times.

With the forgiveness process taking considerably longer and entailing more work than anticipated, we brought in temporary employees to assist at Affinity. The temporary employees worked solely on forgiveness so that the lending team could focus on the second round of PPP. Our first temporary employee came on in late January, and two more team members were added several months later. These individuals all had to be trained on our systems and educated on the PPP program, including the nuances of each round.

As of August 24, almost 80 percent of our PPP loans have been forgiven, with approximately 6 percent under review. For Affinity's forgiveness applications overall, it has taken an average of 9 days from application submission to SBA approval. For forgiveness applications that have been placed under review, it has taken an average of approximately 47 days. We have less than 20 loans from the first round and less than 350 loans from the second round that still need to be submitted for forgiveness.

Recent Changes to the PPP Forgiveness Process

The SBA issued an interim final rule (IFR), that became effective July 28, making several changes to the PPP forgiveness process, including allowing lenders to use a COVID Revenue Reduction Score at the time of forgiveness to document the revenue reduction of a second draw PPP loan and establishing a PPP Direct Borrower Forgiveness Portal. Generally, credit unions viewed the Revenue Reduction Score as a welcome change that will help expedite the forgiveness process.

On August 4, the SBA launched the PPP Direct Borrower Forgiveness Portal, providing a streamlined and enhanced PPP forgiveness process for loans under $150,000. Despite the time and money invested in implementing solutions to process forgiveness applications in-house and the additional manual tracking component added, a number of credit unions are opting-in to the Direct Borrower Forgiveness Process to alleviate strains on human capital and streamline the guarantee purchase process. Although the process streamlines the borrower's experience, it does not necessarily streamline the process for all lenders as many will have to monitor the SBA's system and update their commercial lending platforms accordingly. However, the Direct Borrower Forgiveness Process offers smaller credit unions that have not had the ability to leverage a third-party vendor or lack the means to develop a streamlined process in-house a simple solution to process forgiveness applications, especially given that an overwhelming majority of credit union PPP loans were under $150,000.

Additional changes to the forgiveness process at this time could create some confusion. Borrowers have come to rely on their credit unions to assist them through every phase of the PPP process, including forgiveness. Even though a number have opted-in to the portal, credit unions generally feel the new option would have been more beneficial at the outset of the forgiveness process. Moreover, the forgiveness process differs from the process of obtaining a PPP loan where the borrower solely dealt with their credit union and the SBA previously directed borrowers to engage with their lenders. However, we appreciate that the SBA is directing borrowers to contact the agency with any questions related to the Direct Borrower Forgiveness Process.

Some credit unions are choosing to not opt-in to the program because they feel the systems they have built out are more consumer-friendly – for example, they automatically populate all the borrower's loan information. Moreover, integrating the new Direct process is operationally burdensome. There are also concerns that the SBA will not answer borrower questions in a timely or complete fashion given the staffing constraints the agency has experienced. It was very difficult to get answers in a timely manner last year, and some credit unions fear that borrowers will use the Direct process and then come back to their lender with questions, but the lender has no control over the system and will not be able to assist the borrower, frustrating the process and harming the credit union's reputation.

At Affinity, we have chosen to opt-in to the Direct Borrower Forgiveness Process, despite the time and resources we spent to develop our own forgiveness process, because we want our members to have every option available to them to get forgiveness. We updated our website to link directly to the SBA's PPP Direct Borrower Forgiveness Portal and have included other helpful links. We also notified our PPP borrowers about this new option through a blast email. We are committed to handling calls from members looking for help and status updates after using the Direct process, even though we have limited control over the process.

We view this as a service to our members and are committed to helping them through it; however, we have some frustrations with the process thus far. First, the SBA has been communicating directly with the borrowers about the Direct Borrower Forgiveness Process, which has caused some confusion. If we knew when the SBA was going to send direct communications to borrowers, we could have timed our communications so that our borrowers understood they could still submit their loan forgiveness application directly through us or through the Portal. Second, the SBA has not adjusted their system to send information through the API that we utilize. Instead, we need to manually monitor the SBA's site to know when a member has applied directly to the SBA. In order to track this in our system for reporting, we manually update our forgiveness software program (nCino) with data from the member's direct submission application. Because we already have a process in place with nCino as far as payments are concerned, we do get updates on the forgiveness status once the payment is processed from the SBA.

How to Improve the PPP Forgiveness Process

As the Committee looks for ways to improve and streamline the PPP forgiveness process, we have a couple of recommendations.

First, we would support legislation that would allow for the PPP Direct Borrower Forgiveness Portal and COVID Revenue Reduction Score to be used for PPP loans up to a higher amount than the current upper limit of $150,000, such as $350,000. As stated above, the Direct process is especially helpful for small lenders that have not been able to leverage a third-party vendor or lack the means to develop a streamlined process in-house. Allowing more loans to be processed through the Portal will expedite forgiveness of more loans that are still relatively small. Similarly, raising the loan limit to $350,000 for the COVID Revenue Reduction Score will further help expedite the forgiveness process.

Second, the SBA continues to place a substantial number of loan forgiveness applications under review, resulting in processing backlogs of loan forgiveness applications. While the SBA stated they were revamping their process to focus on larger and higher risk loans, credit unions have not seen a meaningful reduction in the volume of loan forgiveness applications placed under review. We ask the Committee to urge the SBA to follow through on its commitment to focus its reviews on larger and higher risk loans. A focus on larger loans is consistent with the SBA's approach to other aspects of the PPP, including the exemption from loan reductions for loans under $50,000 and the simplified forgiveness process for loans under $150,000. Moreover, the SBA has previously stated that the agency's approach to reviewing the necessity of loan requests is based on larger loans as it is more cost-effective.[3] Adopting this approach to forgiveness reviews will conserve the SBA's resources and allow the agency to more efficiently allocate their finite resources to those PPP loans that warrant additional review.

Next Steps to Help Credit Unions Help Small Businesses

The economic impact of COVID-19 and the credit needs of small businesses will be with us beyond the short-term bridge provided by the PPP. While increasing the scope of other SBA programs will help with the recovery, we need to ensure that small businesses have access to as many potential sources of capital as possible. With that in mind, we believe that Congress should consider legislation to exclude credit union member business loans made in response to COVID-19 relief from the credit union member business lending (MBL) cap, such as H.R. 1471, the *Access*

[3] Small Business Administration, Paycheck Protection Program Loans Frequently Asked Questions (FAQs), Question 46 published May 13, 2020, available at https://home.treasury.gov/system/files/136/Paycheck-Protection-Program-Frequently-Asked-Questions.pdf.

to Credit for Small Businesses Impacted by the COVID–19 Crisis Act of 2021, introduced earlier this year in the House by Representatives Brad Sherman (D-CA) and Brian Fitzpatrick (R-PA).

When Congress passed the *Credit Union Membership Access Act* (CUMAA) (P.L.105-219) in 1998, it put in place restrictions on the ability of credit unions to offer member business loans. Credit unions had existed for nearly 90 years without these restrictions. Congress codified the definition of a member business loan and limited each credit union's member business lending to the lesser of either 1.75 times the actual net worth or 1.75 times the minimum net worth of a well-capitalized credit union (12.25 percent). CUMAA also established, by definition, that business loans above $50,000 count toward the cap. This number was not indexed and has not been adjusted for inflation in the more than 20 years since enactment, eroding the de minimis level. Where many vehicle loans or small lines of credit may have been initially exempt from the cap in 1998, many of those that meet the needs of small business today are now included in the cap due to this erosion. To put this in perspective relative to inflation, what cost $50,000 in 1998 costs $84,000 today, an inflation change that is completely ignored by current law and greatly hamstrings a credit union's ability to meet its members' needs.

It should be noted that the government guaranteed portions of SBA loans do not count toward the member business lending cap, but the non-guaranteed portions do. This could ultimately lead to a situation where a credit union may be an excellent, or even preferred, SBA lender but have to scale back participation in SBA programs as they approach the arbitrary MBL cap. This would likely hit SBA Express loans first, as those have lower guarantees and thus may have a bigger impact on money available below the cap. So many credit unions were able to help with the PPP partially because of the complete SBA guarantee. Another way to provide credit unions with relief from the arbitrary cap would be to provide a full guarantee on other SBA lending programs for a period of time post-pandemic. We would urge Congress to support legislation to provide relief from the arbitrary cap on credit union member business lending, so that credit unions can continue to help small businesses recover from the pandemic.

Congress can also help ensure that credit unions have the necessary tools to help small businesses in the wake of the pandemic by providing relief from the outdated 15-year general maturity limit in the FCU Act for most credit union loans. This cap prevents credit unions from extending safe and sound loan products that their members want and need. For example, credit unions frequently hear from small businesses that a 20-year loan would be preferable in terms of a lower monthly payment, but because of the 15-year maturity limit, small businesses often turn to banks in order to get those loans. However, with credit likely to be constrained for the foreseeable future, these loans will be harder to get. We ask that you give credit unions this flexibility so they can work with their members and provide them with the funds they need as we face the recovery ahead.

Conclusion

In conclusion, we are proud of how we have been able to help our small business members stay afloat and retain employees through the PPP. At Affinity, like at all credit unions, our priority is our members. Our team has been committed to guiding our members through this experience successfully. We have helped our members with applications, technology, and other obstacles all while lending an empathetic ear as our members dealt with illness, fear, and desperation. We understood the need to help in any way we could because our business members needed to spend their time trying to keep their businesses afloat through the pandemic. While the PPP has not been without its challenges, we would do it all again if it means helping our members through these uncertain times.

I thank you for the opportunity to appear before you today, and I welcome any questions that you may have.

NATIONAL
ASSOCIATION FOR
LATINO
COMMUNITY
ASSET
BUILDERS

Testimony of Marla Bilonick
President & CEO of the
National Association for Latino Community Asset Builders-NALCAB
Provided to the House Small Business Committee
September 1, 2021

Good afternoon, Chairwoman Velasquez and members of the Committee. It is my sincere honor to be addressing you today about Paycheck Protection Program forgiveness and what comes next. I am speaking on behalf of the National Association for Latino Community Asset Builders (NALCAB) and our member organizations that support small, Latino-owned, and other underserved businesses across the nation. I am also representing the experiences of their small business clients that were able to utilize PPP as a tool to weather the adverse economic effects of the COVID-19 pandemic and that are now seeking loan forgiveness.

NALCAB Background

NALCAB is the hub of a national network of over 140 mission-driven organizations that are anchor institutions in geographically and ethnically diverse Latino communities across the nation. Members of the NALCAB network invest in their communities by building affordable housing, addressing gentrification, supporting small business growth, and providing financial counseling on issues such as credit-building and homeownership. A majority of the people served by the NALCAB network are low-to-moderate income individuals who are immigrants, or the children of immigrants.

NALCAB's vision is to dramatically scale the flow of public and private sector capital that responsibly meets the asset building needs and opportunities in the communities and families we serve. As a grantmaker and US Treasury certified CDFI lender, NALCAB strengthens and coordinates the capacity of the NALCAB Network to deploy capital. NALCAB also supports our membership through grantmaking, capacity-building, and training.

Since 2007, NALCAB has provided our network members with over $20 million in grants and a wide range of technical assistance. NALCAB has also trained more than 1,000 practitioners and graduated 137 next generation Latino leaders from the Pete

Garcia Community Development Fellowship. With NALCAB's support, member organizations have secured more than $400 million for affordable housing, small business and financial capability programs. NALCAB has also influenced how local and federal government agencies are deploying hundreds of millions of dollars for community development and disaster recovery. We know that the strength of the US economy relies on the fast-growing Latino community's hard work, entrepreneurial spirit, spending power, and leadership

Economic Impact of COVID-19 on Latino-owned Small Businesses

While the Latino community in the United States is often heralded for starting small businesses at rates higher than other ethnic groups; the adverse economic effects of the pandemic have disproportionately impacted Latino business owners. Stanford's Latino Entrepreneurship Institute surveyed 7,000 small business owners and cites that 86% of Latino-owned businesses suffered immediate negative financial impacts from the pandemic. At the same time, Latino business owners were successful at securing PPP loans at only half the rate of their white counterparts, and only 3% of Latino-owned businesses received their full funding request.

Latino-owned businesses have a strong presence in industries that have been hard-hit by the pandemic such as the restaurant industry. Industries that were mostly shielded from the effects of the pandemic, such as finance and information are led by and/or employ some of the lowest percentages of Latinos. At the outset of the pandemic Latinos (and specifically Latinas) showed the highest unemployment rates in the nation.

In 2019, before the pandemic hit, Latino-owned businesses had hit a record-breaking stride, with their average annual revenue increasing 10% to over $525,000 per year. We are hopeful that this upward trajectory can be harnessed again in the future. This will partly be achieved through the success of programs such as PPP and subsequent PPP loan forgiveness.

NALCAB and PPP

Just as Latino-owned small businesses face challenges to accessing capital; when it came time for NALCAB member organizations to secure additional capital in order to make PPP loans, they also faced challenges. Therefore, NALCAB was called upon to provide capital to several members to facilitate their PPP lending. As a CDFI in our own right, we ultimately loaned our members close to $12 million for PPP lending which resulted in them making 640 PPP loans to small businesses in their communities (at an average loan size of $18,750).

NALCAB member CDFIs including heavy-hitters like Accion Opportunity Fund, Self-Help, LiftFund, and CDC Small Business Finance were able to provide business clients with PPP loans when banks could not, or would not. In fact, NALCAB member and CDFI, Prestamos CDFI/Chicanos Por La Causa was the third highest PPP lender in the nation, including traditional commercial banks. "Prestamos made close to 500,000 PPP loans, averaging around $15,000 each for a total of close to $8,000,000,000 in PPP lending. JP Morgan Chase and Bank of America topped the ranking with over $12,000,000,000 and over $9,000,000,000 respectively."

Observations on the PPP Forgiveness Process To Date

As of August, 2021; 11,492,021 PPP loans had been made from 2020-2021 and just 5,604,139 applications for forgiveness had been submitted. So, roughly only half of PPP borrowers had submitted forgiveness applications, with the other half remaining outstanding.

In April of this year, House Republicans requested clarity on the SBA's backlog of PPP forgiveness applications, despite the SBA having provided decisions on 2.7 million PPP loans at that stage of their review. Advances have been made to streamline PPP forgiveness, including the July launch of the *Direct Forgiveness Portal* which is an immediate and simplified clearinghouse for forgiveness applications attached to loans of $150,000 or below. Discussions with CDFI members of NALCAB point to the Portal now being the primary channel for their work in seeking loan forgiveness for their small business clients. The figures cited above demonstrate that between April and August the forgiveness applications processed practically doubled from the number reported in April. This may be partially attributed to the *Direct Forgiveness Portal.*

Members we spoke to noted that, for the borrowers that do not submit forgiveness applications within the group of their CDFI's PPP loans made; there is a significant risk of imposing a large-scale administrative burden on CDFIs that will need to begin collecting payments on said loans. CDFIs have ultimately out-performed their $15 PPP billion set-aside from congress by making over $30 million in PPP loans.

The implied administrative burden of non-forgiveness would only add to the out-sized administrative load that CDFIs have borne through their more intensive work with small business clients to help them first to obtain PPP loans and now to shepherd them on the path to PPP loan forgiveness. NALCAB CDFI members report extensive investments of time and effort on activities ranging from communications to borrowers, support on filling out forgiveness forms, and liaising between clients and the SBA when there are issues with forgiveness applications or missing documentation discovered during CDFI portfolio audits.

The SBA's Direct Forgiveness Portal
#3-ranked PPP lender and NALCAB member, Prestamos CDFI (based in Phoenix, and providing PPP loans nationwide), reports that they are directing clients almost exclusively to the SBA PPP Forgiveness portal and have found that to be a straightforward avenue for achieving forgiveness. However, they noted that they fear some clients are missing out on forgiveness due to lack of awareness of the process and/or lack of access to technology to connect to the portal. This challenge, of course, disproportionately affects LMI and/or minority-owned businesses in the very communities that NALCAB members serve. With almost half a million PPP clients in their portfolio, the ability for Prestamos CDFI to follow-up directly with each PPP borrower is a nearly impossible challenge.

The good news is that, as of the end of July, only 18% of 2020 PPP borrowers nationwide had not submitted their forgiveness applications, implying that over 80% of 2020 borrowers had, in fact, submitted forgiveness applications.

The Latino Economic Development Center-LEDC, a CDFI based in Washington, DC shared that they are funneling all clients to the portal now. They noted that they feel their business clients that received PPP loans from banks are having trouble receiving guidance on forgiveness because their loans are too small to warrant the bank's attention. LEDC and other CDFI members of NALCAB report that they are supporting these businesses through the forgiveness process, even in the cases when the loans were not made through their CDFI but, rather, by an external lender.

$350,000 Threshold for Simplified PPP Loan Forgiveness
While only a sliver of NALCAB member PPP loans were even over five figures, we are supportive of stretching the simplified forgiveness process for loans up to $350,000. This would further ease the burden on even more small businesses that are doing their best to power through recovery. In addition, it would lighten the administrative load of the lenders that have supported those businesses through their PPP journey. We agree that PPP loans of $350,000 and above are in a different class that justifies higher scrutiny.

The most recent data states that 86.5% of PPP loans were made at the $150,000 and below range. Expanding simplified forgiveness to apply for loans up to $350,000 would widen the tent and cover an additional 7.7% of loans made, bringing the total up to 94.2%.

Excess Loan Amounts
Loans that were made in the initial stages of the Paycheck Protection Program in 2020---when there was some confusion regarding calculations around loan sizing---have resulted in good faith errors that generated some PPP loans that exceeded borrowers' correct maximum amount. In January of 2021 the SBA's Procedural Notice informed PPP lenders of said excess loan amount errors.

Unfortunately, the responsibility has fallen on borrowers to repay and/or not be granted forgiveness on excess loan amounts. While we do not support the forgiveness of fraudulent loans, we do not think it is correct to penalize borrowers for good faith errors that they, or especially their lenders, made in misinterpreting the original PPP lending guidance. Especially in cases of small loan amounts, this seems like undue effort to squeeze dollars out of the very borrowers that the PPP program was designed for---borrowers that most certainly used every cent of their PPP loan to ensure that their business stayed afloat and to keep their employees on payroll.

Recommendations
As a member of the Opportunity Finance Network's (OFN) Board of Directors, I would be remiss if I did not underscore a key point from their May, 2021 Memorandum to Administrator Guzman requesting **universal loan forgiveness for all PPP loans made at $50,000 and below.** NALCAB supports this level of automatic forgiveness. Blanket forgiveness for those borrowers on the lower end of the loan scale would alleviate the pressure on the very mom-and-pop small businesses that the PPP product was intended for, such that they can turn to continued focus on stabilizing and growing their businesses.

NALCAB would also like to endorse **raising the bar for loans eligible for simplified loan forgiveness (form 3508S) up to loans of $350,000 and below.** This would allow for over 90% of PPP borrowers to streamline and accelerate their loan forgiveness. It would also benefit lenders by eliminating significant administrative pressures.

Lastly, NALCAB supports determining a maximum loan amount for leniency for those early-stage PPP loans that were made where good faith efforts resulted in accidental excess loan amounts. Our members have seen cases where excess loan amounts are not being forgiven for amounts under $5,000. It doesn't seem practical, let alone fair, for small-dollar PPP borrowers to be held accountable for repaying excess funds that were loaned to them (by a lender that was operating in good faith, but simply misinterpreted calculation methods). *Many thanks for your time this afternoon. I look forward to discussing these recommendations with you today.*

INDEPENDENT COMMUNITY
BANKERS of AMERICA

Testimony of

Robert Fisher

President and Chief Executive Officer

Tioga State Bank

Spencer, New York

On behalf of the

Independent Community Bankers of America

Before the

United States House of Representatives

Committee on Small Business

Hearing on

"What Comes Next? PPP Forgiveness"

September 1, 2021

Washington, D.C.

Opening

Chairwoman Velázquez, Ranking Member Luetkemeyer, and members of the Committee, I am Robert Fisher, President and Chief Executive Officer of Tioga State Bank, a $550 million community bank in Spencer, New York, and Chairman of the Independent Community Bankers of America, an association representing more than 52,000 community bank locations. Thank you for convening this hearing titled: "What Comes Next? PPP Forgiveness."

The Paycheck Protection Program (PPP) has been a lifeline for small businesses in the communities I serve. While the Small Business Administration's implementation of PPP, including loan forgiveness, has fallen short in critical aspects, there is no denying that it has succeeded in its fundamental purpose of rescuing small businesses and their employees in an historic health and economic crisis. As the Coronavirus continues to weigh on the economy, PPP borrowers need and deserve to be free and clear of their loans as intended so that they can focus on their businesses in a still-challenging environment. A simple, easy-to-use forgiveness process is essential to the success of the Program.

I am pleased to provide our perspective to this important discussion. My comments reflect not only my own experiences but my conversations with literally hundreds of community bankers from around the country.

Our Story

Tioga State Bank has deep roots in the communities of Tioga County and surrounding counties in the "Southern Tier" of upstate New York. Founded by my great-great grandfather in 1884 to provide much-needed banking services to local businesses and individuals, Tioga State Bank has weathered the Great Depression and numerous recessions since that time. I am a fifth-generation community banker, proud to carry on our commitment to local prosperity. Today, we have 11 offices and approximately $550 million in assets. We specialize in consumer mortgage and small business lending. Our footprint is largely rural, but we also have offices in the urban and suburban communities of Binghamton. Many of the communities we serve depend on us as the only financial institution with a local presence. These smaller communities are simply not on the radar of the megabanks or larger regional financial institutions. Without the presence of community banks, many of these communities would become stranded in financial services deserts.

Tioga State Bank has partnered with the SBA for over 40 years. I'm proud to note that we received the SBA Southern Tier Small Community Lender of the Year award in 2014, 2017, and 2018. The 7(a) program is invaluable in allowing us to support local small businesses that would not otherwise qualify for conventional credit. As discussed below, our experience with the 7(a) program gave us a leg up over other lenders in navigating a sometimes tortuous PPP. We are committed to the 7(a) program's integrity and long-term sustainability and deeply appreciate this committee's support for it.

Paycheck Protection Program

The Paycheck Protection Program has rapidly and effectively deployed critical funding to small businesses, not-for-profits, churches, schools, and other borrowers nationwide. The Program has helped these entities to maintain their employment and survive the economic shutdowns of 2020 and early 2021.

We are in a better place today because of the PPP. I thank this committee for your role in crafting the Program and your ongoing oversight of it.

The Program was a natural fit for the business model and geographic footprint of community banks. We are small business lending specialists, and our strength is personal relationships in our communities and direct knowledge of local economic conditions. We were pre-positioned to help borrowers navigate the application process. Our network of branches made us more accessible than other institutions. There are countless stories of small businesses in desperate need that, unable to secure a PPP loan from a larger bank in a timely fashion, turned to a community bank where they were promptly and effectively served, despite sparse and often conflicting guidance from the SBA. Community bankers worked around the clock to meet an overwhelming demand for PPP loans from existing as well as new customers. Federal Reserve Governor Michelle Bowman described community banks as "irreplaceable" during the pandemic.[1]

The data tells the story: Community banks were the predominant PPP lenders to local small businesses. Their 4.7 million PPP loans worth $429 billion served 55.8 percent of all PPP recipients and accounted for nearly 60 percent of the program's total loan amount. These loans supported the retention of nearly 49 million jobs, accounting for over 58 percent of the program total. Moreover, community banks made nearly 87 percent of the PPP loans to minority-owned small businesses, 81 percent of the PPP loans to women-owned small business, and nearly 69 percent of the PPP loans to veteran-owned small businesses. A new analysis by the Conference of State Bank Supervisors found that state-chartered banks provided 65 percent of PPP funding to small businesses in rural areas and half of program funding in low-to-moderate income areas.[2] I am proud that my industry stepped up to support the survival of these diverse businesses in a time of crisis.

My bank's PPP lending is typical of a community bank. We made a total of 929 loans for $64.8 million, saving roughly 10,000 jobs in the Southern Tier. Our average loan amount was just under $70,000. In other words, our PPP lending is disproportionately helping the smallest businesses. This is an enormously positive impact in the communities we serve and has staved off outright collapse. Tioga State Bank's long history as a 7(a) lender helped us to navigate

[1] Greely, Brendan. "How US community banks became 'irreplaceable' in the pandemic." Financial Times. August 30, 2021.
[2] "New Analysis Shows State-Chartered Banks Played Major Role in PPP Lending." Conference of State Bank Supervisors. August 25, 2021.

sometimes confusing SBA channels on behalf of our borrowers. I know that other community banks have had similar results.

Two loans in particular illustrate the positive impact of Tioga State Bank's PPP lending. Our largest PPP loan, $2.7 million, was to the Southern Tier Independence Center, a large not-for-profit in Binghamton dedicated to helping people with disabilities remain independent. Early in the Covid crisis, the Center's management was concerned they would need to lay off staff because they were unsure about both State and Federal Funding. We worked with them to apply for a PPP loan, and they were able to utilize the money to keep their staff employed throughout Covid and provide critical services in our community.

The second borrower I will mention is a popular local restaurant that employs about 25 people. The restaurant applied for PPP of $150,000 in the first round and an additional loan of $212,257 in the second round. This money was critical to keeping them in business and keeping their staff employed. I will never forget the moment when we told the owners that their loan had been forgiven, one of whom was literally in tears thanking us for helping them stay in business and hold onto staff. We have many similar stories of small businesses that we helped with PPP, but this one in particular stands out as a deeply gratifying and moving experience for our staff. Stories like these make me proud to be a community banker.

Challenges of the PPP

While the PPP has been effective in its fundamental purpose, we must acknowledge that it created significant frustration for borrowers and lenders, particularly in its early phases. A surge in applications overwhelmed the technological capacity of the SBA, for which it cannot of course be faulted. An agency accustomed to working with some 1,500 lenders had to scale up at short notice to accommodate some 5,000 lenders. Program guidance was vague and shifting, causing lenders to engage in guess work and repeatedly readjust their processes. Answers to basic program questions were sometimes hard to find. Of course, these criticisms should be held in perspective. The SBA was dedicated to making the program work and continued to adapt to circumstances and improve their processes. Community bank lenders were persistent because they knew how much was at stake for borrowers, and these frustrations were eventually overcome.

PPP Forgiveness

The value of a PPP loan lies in the opportunity for forgiveness. If conditions are met, a PPP loan is essentially a grant. The front-end process of approving applications and deploying funds for qualified borrowers is followed by a back-end process of determining whether a borrower qualifies for forgiveness in full or in part and documenting that determination. Ideally, this process should be minimally burdensome for the borrower, especially for smaller loans. This is how the success of the Program must be measured: straightforward, relatively simple processing of loans and forgiveness for qualified borrowers with minimal fraud.

At Tioga State Bank, all but eight of the 540 loans we made in the first round of PPP have been forgiven, and we are currently working on processing forgiveness applications from the second round. We have experienced no cases of fraud or default in the 929 loans we have made. We recognize and appreciate the progress the SBA has made in streamlining the forgiveness process over time. The Agency has worked under extraordinary circumstances. We are grateful to this committee and Congress at large for its role in making statutory changes and advocating for streamlined processes.

As you know, the SBA has created the Direct Borrower Forgiveness Portal to provide a streamlined process for borrowers with PPP loans of $150,000 or less. The Portal began operation on August 4. Since then, well over 1,000 lenders have opted into the Portal which has received some 600,000 submissions. It's good to see that the SBA has been proactive in providing relief, though I have not yet heard substantial feedback regarding the facility of using the portal. Nor am I aware of data, broken out by lender type, on the population of lenders that are using the Portal and cannot provide an estimate of the number of community bank lenders that have used it.

At Tioga State Bank, we have been successful in processing forgiveness applications for our PPP borrowers and have chosen not to use the Portal for our borrowers. We will continue to process forgiveness applications in-house. Like many community banks, our true value proposition is relationship lending. We believe we have a responsibility to our borrowers from loan origination until the loan has been successfully repaid. We want to ensure that the process works well for our borrowers from beginning to end. If there are technical or communications problems with the SBA, we want to use our expertise and relationship with the Agency to assist the borrower in resolving them. This is more time consuming and costly for us, but it is best for our borrowers. We believe it is good business practice and good for our communities that rely on our borrowers for employment and services. This type of relationship lending explains why community banks have higher satisfaction ratings among small business borrowers than other lenders.[3] Our processing of forgiveness applications in house has not and will not delay the forgiveness process. We are working expeditiously and are as eager as our borrowers are to obtain full forgiveness so that they can focus on operating their businesses.

ICBA insists that the SBA respect lenders' choice to not use the Portal. On Monday, we and other PPP lenders received an email from the SBA informing us that to "avoid lender audits" we are "encouraged" to opt into direct forgiveness. We resent the coercive tone of this email. What's more, the SBA suggests that lenders are deliberately delaying forgiveness in order to manage

[3] For example, the 2021 "Small Business Credit Survey," conducted by the regional Federal Reserve Banks, found that 81 percent of community bank small-business loan applicants were satisfied with their experience, compared with 68 percent at large banks, 60 percent at finance companies, and 43 percent at online lenders.

recognition of fee income. That practice would be unacceptable and would cut against the grain of community bank service and relationship-oriented lending. I can assure you that no community bank that I know of is engaging in it. We appreciate the wide recognition we have received for our outstanding PPP lending and take offense at accusations that would diminish it.

Tioga State Bank and other community banks choose not to be cut out of the process by a direct SBA program. We are acting in the best interest of our borrowers for the reasons described above. More generally, the flagship SBA lending programs, 7(a) and 504, rely on bank underwriting, and the expertise that we bring and should continue to do so. Bank involvement is what makes these programs successful.

That said, the PPP and the subsequent Direct Forgiveness Portal were created under extraordinary circumstances that will hopefully never be repeated. Many of the participating lenders had no history with the SBA or with their new PPP borrowers. We support the creation by the SBA of the Portal an additional option for these lenders and hope that it is successful. But it must remain optional and free of coercion. Moreover, we hope that the Portal does not signal a trend in the direction of direct-to-borrower programs at the SBA. Community banks and other private sector lenders add significant value to their programs.

Moving Forward: Integrity Must Be Safeguarded in the PPP and Other SBA Programs

Moving forward, it is critical that both the PPP and future SBA lending programs aim to reduce fraud and abuse to the greatest extent possible. Safeguarding taxpayer dollars is essential to sustaining public support for future SBA lending programs.

At Tioga State Bank, we did our due diligence and, as noted above, have experienced no fraud and 100 percent forgiveness. This is typical of community bank PPP lenders. We own the consequences of our local lending decisions and underwrite with great care.

Unfortunately, reports indicate that fraud has been a significant problem in PPP. While certain safeguards were temporarily lifted for the sake of speed and efficiency in response to an emergency, as the environment returns to normal, the SBA should proceed with great caution as it considers changes to existing SBA programs. As PPP was implemented, numerous lenders with little experience in underwriting and no experience with the SBA crowded into the PPP and processed loan applications with limited due diligence versus what a community bank would apply. Not surprisingly, these lenders may be subject to a higher incidence of fraud.

Fraud puts all SBA programs at risk. Tioga State Bank and many community banks highly value a robust and sustainable 7(a) program. Under more normal circumstances, the 7(a) program generates sufficient revenue through fee collections and recoveries of collateral on purchased, defaulted loans to not require appropriations to issue new loan guarantees. This structure usually requires no appropriation of taxpayer dollars.

We are grateful for this committee's strong support for the 7(a) program. Significant reforms to this successful program must be taken with great caution and care. A high volume of poorly underwritten loans could cause the 7(a) program to prematurely exceed its lending cap and shut down, leaving applicants stranded.

SBA programs play a critical role in supporting small businesses and employment. Fraud has the potential to undermine these programs.

Conclusion

Thank you again for convening today's hearing and for the opportunity to offer the community bank perspective on the Paycheck Protection Program.

I'm happy to answer any questions you may have.

TESTIMONY BEFORE THE UNITED STATES HOUSE COMMITTEE ON SMALL BUSINESS FOR A HEARING ON 'WHAT COMES NEXT? PPP FORGIVENESS'
BY
LUZ URRUTIA, CHIEF EXECUTIVE OFFICER
ACCION OPPORTUNITY FUND

Chairwoman Velázquez, Ranking Member Luetkemeyer, and Members of the Committee:

I am honored to provide my testimony on the Paycheck Protection Program (PPP) loan forgiveness process to the House Small Business Committee.

My name is Luz Urrutia, the CEO of Accion Opportunity Fund, one of the leading non-profit Community Development Financial Institutions (CDFI) providing affordable loans, coaching and support networks to small businesses, mostly owned by people of color, women and immigrants. Since our inception, we have deployed more than $1 billion in capital to underinvested entrepreneurs and low-income communities. I have served as an expert in small business and consumer finance on a number of government-appointed boards and commissions, including the Consumer Financial Protection Bureau Consumer Advisory Board and the Consumer Advisory Council of the Federal Reserve Bank. My entire career has been focused on financial services, with the bulk of my experience devoted to serving underinvested populations across all parts of society.

As you are aware, PPP loans were designed to help small businesses, but as we all saw, certain disbursements skewed toward preferred or established customers of large banks. According to press reports, some of the big banks that facilitated the bulk of PPP lending focused on serving existing customers with active business accounts and active credit. This meant that larger businesses with these kinds of relationships — and the accountants and lawyers to help apply — were at the front of the line for the PPP loans. At the same time, many women and entrepreneurs of color were not then—and are not now—in a position to have a strong business relationship with a bank because of certain inequities in our financial system. While PPP wasn't designed to be exclusive, because it was originally relying on the traditional financial system for deployment, the program became a challenge for countless small businesses that needed the help the most.

Because of this unequal distribution of PPP funds, the government began looking toward CDFIs—the economic first responders—like Accion Opportunity Fund to deliver relief loans to hard-to-reach small business owners. As one of the nation's leading CDFIs focused on small business lending and supporting diverse communities, I have seen in real-time how Accion Opportunity Fund has helped resilient entrepreneurs weather the challenges of these past 18 months. For our part, Accion Opportunity Fund has facilitated over 2,100 PPP loans totaling approximately $34.5 million. Our average PPP loan size was over $16,000 — less than one-third the average loan size of $59,000 across the program. Approximately 64% of our PPP borrowers are entrepreneurs of color and 45% are women. This is indicative of the size and diversity of businesses that we were able to reach and support.

While we were happy to help the businesses we could with PPP loans, it became increasingly evident that PPP struggled to reach underserved businesses with few to no employees or those that didn't have existing relationships with banks. Throughout the process, due to its size and scale, the program guidance provided by the Small Business Administration (SBA) changed frequently with shifting requirements for originating and securing loans, as well as often changing the terms and conditions, documentation requirements, and more. As a result, smaller businesses without resources, like costly accountants to assist them with their application, were left to navigate a chaotic and tricky process as best they could.

Despite the frenetic origination process, the forgiveness process has been somewhat smoother. This is in part due to changes implemented by the SBA, including the risk score created to look at second round PPP loans, which was helpful in simplifying the documentation needed for forgiveness, and expanding the 3508S form to include loans up to $150,000. At the same time, Accion Opportunity Fund was very thorough with our underwriting process from the onset, which made for a much easier forgiveness process. During origination, we collected ample information from our customers to ensure that we would have all the necessary information needed for SBA approval. Because we were able to help our clients through every step of the process, 99% of our PPP clients can qualify for the SBA's simplified plan.

Accion Opportunity Fund offers PPP loan forgiveness primarily through a third-party platform that we use to originate, service, and process loan forgiveness, and through some engagement with the SBA's Direct Forgiveness portal. The following are our forgiveness statistics as of September 16, 2021. You will see important differences between Phase 1 and Phase 2 loans:

- The majority (88%) of our Phase 1 PPP loans have been received or processed for forgiveness, 12% have yet to submit their application for forgiveness.
- Of our Phase 2 PPP loans:
    - 31% have not started an application.
    - 24% have started an application.
    - 45% have been submitted to SBA for approval.
- Accion Opportunity Fund currently has 96 loan forgiveness applications submitted through SBA platform (borrowers applied directly) and 1,277 through our third-party platform.

Our third-party platform provided ease-of-use as it had the proper SBA APIs and infrastructure in place for processing loans early on, and was available prior to the creation of the SBA forgiveness portal. Additionally, customer information and loan history is saved on this third-party platform, and we are able to edit the customer's file and help with their application in ways that the SBA Direct Forgiveness portal does not allow. While the SBA platform is similar to the third-party platform in scope and is helpful to smaller CDFIs without a dedicated system of their own, we value the added benefit of being able to better support our customers through the simplified forgiveness processing that our third-party platform offers. Ultimately, because of this ease of use and built-in access to customer information and history, the process would be more difficult for us and the small businesses we serve if the SBA required us to stop using the third-party platform and mandated the sole use of the SBA forgiveness platform.

In our experience with the forgiveness process, we have found that our most pressing challenge has been borrower engagement. We have achieved high participation in the forgiveness process by emailing, issuing newsletters, calling, and even sending overnight courier letters to our borrowers to remind them of upcoming SBA deadlines. Our anecdotal evidence demonstrates that some borrowers have not engaged with the forgiveness process either because they lack the relevant information, or they may simply be intimidated by the process. This pain point may exist for a variety of reasons, such as: business owners utilizing the system but not seeing a reason to seek forgiveness as they anticipate that the funds will be charged-off; borrowers submitting incorrect documentation and not recognizing or responding to efforts to correct it; or some borrowers may simply just be intimidated by the process.

With all of this in mind, our recommendation to the SBA would be to engage more strongly in communicating their process to small businesses, as a great number of CDFI's are often limited in their abilities to communicate the loan forgiveness process efficiently and effectively due to resource constraints. We also recommend that the SBA allow all versions of the PPP forgiveness forms to be submitted. For example, in early 2021, some borrowers submitted the 3508EZ, 3508, or 3508S simply because they didn't understand the process. Many of these borrowers likely think they have applied for loan forgiveness, but we haven't been able to submit their application because they do not meet current SBA standards. This exemplifies why borrower engagement is such a significant priority for the forgiveness process as a whole.

In closing, I would like to offer a very telling AOF client statement: *"[PPP] kept my doors open at a time when I had no other options. Today, I just signed my first new client in one year. It's a nonprofit mental health service, and now I will bring free mental health services to the Latino community. The impact is reaching far more people than you or I will ever see."*

To its credit, the PPP provided a vital lifeline for millions of small business owners across the country, but it also shone a spotlight on how many Americans, particularly women, people of color and immigrants, have been left behind by our mainstream financial system. We all have a lot to learn and a lot of work to do if we are going to improve financial inclusion in this country and rebuild our economy. As the pandemic drags on, it is crucial that the public, private and government sectors work together to provide the resources small businesses need to rebuild and regenerate our Main Streets. Small businesses are the fabric of our communities. The rewards of investing in underinvested small businesses are significant: increased financial stability for the owners and employees, job creation, and increased economic activity in communities across our country. Accion Opportunity Fund is a willing and eager partner in working toward this important bi-partisan goal.

Thank you,

Luz Urrutia
CEO, Accion Opportunity Fund

C·A·M·E·O·

1 Hallidie Plaza, Ste 715
San Francisco, CA 94102

CAMEOnetwork.org
cameo@CAMEOnetwork.org
ph 415.992.4480

CAMEO – California Association for Micro Enterprise Opportunity

Committee on Small Business
"What Comes Next? PPP Forgiveness."
Wednesday, September 1, 2021

Comments for the Record

Chair Velazquez, Ranking Member Luetkemeyer, and Members of the Committee, thank you for the opportunity to submit testimony for the record on this important issue. CAMEO is California's statewide micro-business network made up of more than 300 members dedicated to furthering micro-business development in California. Annually, our network serves around 84,000 very small businesses with training, credit assistance, and loans. These firms – largely start-ups with less than five employees – support or create more than 101,000 new jobs in California and generate a total of $7.5 billion in economic activity.

As mentioned during the hearing, more than $800 billion dollars in critical Paycheck Protection Program (PPP) support was provided to small businesses by the Small Business Administration (SBA) throughout the ongoing COVID-19 pandemic. CAMEO supported the *Paycheck Protection Program Flexibility Act of 2020* and other legislative initiatives over the past year that have improved the ability of our nation's smallest businesses to access PPP and the forgiveness process.

Businesses in underserved communities, especially those owned by women and minorities, were less likely to receive assistance through the PPP and other programs administered by the SBA. Their unique challenges in applying and receiving PPP loans required microlenders, non-traditional financial institutions and technical assistance (TA) providers to increase their engagement with these communities. We urge the SBA to continue its partnership with TA providers and lending institutions to increase the flow of capital to underserved communities throughout the forgiveness process. Businesses in underserved communities need additional assistance on the backend of this process, much like they needed at the front end. We believe that TA is the first step in the capital access process and this extends to PPP.

CAMEO is encouraged by SBA's efforts to streamline the forgiveness process by launching their own portal for borrowers. Many lending institutions also have set up their own portals to process forgiveness. Some small business owners are confused whether or not to use the SBA forgiveness portal verses those of lending institutions. While the program continues to make changes to improve, smaller business owners may have issueskeeping up with these changes. We urge additional engagement by SBA and its partners to work with these communities to clarify the process.

C·A·M·E·O·

1 Hallidie Plaza, Ste 715
San Francisco, CA 94102

CAMEOnetwork.org
cameo@CAMEOnetwork.org
ph 415.992.4480

Many of the nation's smallest businesses have struggled to obtain the full amount they requested for a PPP loan. Latina and black-owned businesses have been especially impacted. In many cases, this additional capital would have helped businesses retain staff and continue to operate. We suggest allowing businesses to reapply for the gap funding they sought initially if they still need the capital, so that they can contribute to their communities, whether it be in the PPP program or through another forgivable loan program. We remind the Committee that the pandemic is not over. With the emergence of the Delta variant, consumer hesitancy to shop and dine indoors is still a factor in small business survival.

As the program continues to undergo much needed changes, we urge you to continue to find ways to ensure that businesses located in underserved communities receive PPP loans. As mentioned in the Chair's statement, SBA has already received 5.6 million loan forgiveness requests and made over 5.2 million forgiveness payments, which is about 46% of all PPP loans.

CAMEO appreciates continued Congressional support for small businesses during the pandemic. Additional assistance will be required to help businesses continue to recover in the coming months. We stand ready to help. Please feel free to reach out to CAMEO CEO Carolina Martinez at cmartinez@cameonetwork.org or 415-992-4480 with any questions.

CONSUMER BANKERS ASSOCIATION

August 31, 2021

The Honorable Nydia M. Velázquez, Chair
U.S. House Committee on Small Business
2361 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Blaine Luetkemeyer, Ranking Member
U.S. House Committee on Small Business
2361 Rayburn House Office Building
Washington, D.C. 20515

Dear Chair Velázquez and Ranking Member Luetkemeyer:

On behalf of the Consumer Bankers Association ("CBA"), I write to share our views on the forgiveness portion of the Paycheck Protection Program (PPP) in advance of the House Committee on Small Business hearing entitled "What Comes Next? PPP Forgiveness." CBA member banks were 13 of the top 15 PPP lenders in 2020 and led the effort to protect more than 90 million jobs. The products and services offered by our members provide access to credit to millions of consumers and small businesses. Our members operate in all 50 states, serve more than 150 million Americans, and collectively hold two-thirds of the country's total depository assets.

When COVID-19 hit our communities, millions of small business owners were forced to implement staffing changes or shutter their operations altogether at no fault of their own. Fortunately, through the PPP, the nation's leading banks were able to administer more than 4 million loans worth more than $400 billion – over half the total dollar amount lent through the program – helping drive our economic recovery forward and ensure small businesses could keep their doors open, their lights on, and employees on the payroll.

The banking industry partnered with the SBA to stand up and administer the PPP in a very short time by devoting significant resources and allocating employees' focus from other areas within the bank to prioritize PPP lending and help struggling small businesses at the height of economic uncertainty. Banks reallocated significant internal resources to administer the program. It was an all-hands-on-deck effort, with employees of all levels within the bank, rolling up their sleeves to process loans. Through PPP and the hard work of the banking industry, millions of small businesses and their employees' jobs were saved, ensuring that hardworking Americans could continue to put food on their tables.

As PPP loans were made to businesses, it became apparent that the forgiveness process was going to become a complicated undertaking for small businesses and lenders. CBA proudly led a coalition of more than 100 trade associations representing businesses and lenders who worked with Congress to pass legislation that would streamline the process for PPP loans of less than $150,000 upon the borrower's completion of a simple, one-page document to be forgiven. We thank Congress for passing legislation to simplify the forgiveness process for loans that are $150,000 or smaller, helping many small businesses refocus on running their businesses and serving their customers.

As with any program of this magnitude, coupled with the change in Administration, issues arose with the forgiveness process that led to confusion and delays. America's leading banks worked with SBA to resolve these issues. To date, more than 80 percent of PPP loans administered in 2020 have completed the forgiveness process.

1225 New York Avenue, NW, Suite 1100, Washington, DC 20005
consumerbankers.com

CONSUMER BANKERS ASSOCIATION

What comes next?

As we look forward to 2021, our banks remain fully committed to assisting PPP borrowers seeking forgiveness and utilizing new tools like the COVID Revenue Reduction Score to streamline this process even further. Some participating banks have developed their own streamlined forgiveness portals to provide a "one-stop-shop" for PPP borrowers. These lenders have well-established relationships with their customers and are following the same guidance and forgiveness rules as those banks using the SBA's direct portal. Regardless of whether a forgiveness application is sent through a lender's portal or the SBA's direct portal, lenders are still required to review a submitted forgiveness application before the SBA reviews and issues a forgiveness payment. Customers using a bank portal benefit from the significant technological investments banks have made over the last year to provide a familiar and simplified online platform for borrowers.

Furthermore, CBA applauds the recent change to further simplify and streamline the forgiveness process for Second Draw PPP loans of $150,000 or less by providing borrowers an optional method to document revenue reduction through the COVID Revenue Reduction Score. As more small businesses who received Second Draw PPP loans look to begin the forgiveness stage, this measure will provide for a less burdensome process – enabling small businesses to focus their time and energy back into their business and communities.

The ever-changing rules and guidance were difficult for both borrowers and lenders, especially at the onset of the program, causing confusion when calculating the qualifying loan amounts. Lenders must follow guidance from the SBA directing lenders on how to resolve excess loan amount issues that arise, regardless of the portal utilized to process the forgiveness application.

Thank you again for your decisive actions and leadership on this topic and we look forward to continuing to work with you to ensure the best possible outcome for consumers and lenders.

Sincerely,

Richard Hunt
President and CEO

1225 New York Avenue, NW, Suite 1100, Washington, DC 20005
consumerbankers.com

Small Business Finance

Sep 23, 2021

Committee on Small Business
2361 Rayburn HOB
Washington, DC 20515

Comments on the Paycheck Protection Program (PPP) – By E-mail Only

Chairwoman Velasquez:

CDC Small Business Finance (CDCSBF) appreciates your leadership in calling for a hearing on September 1, 2021, to review the Paycheck Protection Program (PPP).

CDC Small Business Finance PPP Efforts
CDCSBF provided nearly 6,000 PPP loans for over $275 million dollars over the various rounds of the program. Significant efforts were made in hiring and restructuring staff, which required a considerable upfront investment by the organization. CDCSBF also supported the efforts of other Community Financial Institutions (CFIs) in standing up their PPP programs, sharing our proprietary software to others and training their staff in the processing of the loans. We also held daily live webinars on how to apply for PPP loans, which were attended by thousands of small business owners over the course of the pandemic. These webinars eventually evolved into "how to apply for forgiveness" information sessions. Further, we partnered with several community groups, including the National Association of Latino Community Asset Builders (NALCAB) and the US Hispanic Chamber of Commerce in processing their members and constituents PPP applications.

This resulted in 73.4% of our PPP loans being made in majority non-white zip codes.

SBA Direct Forgiveness Loan Portal
CDCSBF is not participating in the SBA's PPP Forgiveness portal, although we are supportive of the portal and its use by smaller CFIs and community lenders. If SBA had launched the Forgiveness Loan Portal soon after Round 1 (2020) of the PPP, CDCSBF may have participated. However, CDCSBF spent considerable resources in developing its own portal of loan forgiveness for itself and the clients of its software program, called Ventures+. We have also developed a comprehensive strategy of reaching out to small businesses who are not responsive in initiating their forgiveness application. Using technology and people, we are at 93% of processing forgiveness application for the 2020 rounds of PPP. For the 2021 round of PPP loans, we have already processed 58% of the loans for forgiveness, in just three months! To us, that indicates that the streamlined forgiveness introduced this year has made a substantial impact in processing the applications.

2448 Historic Decatur Rd, Suite 200, San Diego, CA 92106
800.611.5170 F: 619.758.9468 www.cdcloans.com

We are also supportive of the SBA applying the simplified forgiveness process to all loans under $350,000. 94% of our loans were $150,000 and under and less than one-half one one-percent of our loans were over $350,000. We believe our statistics are reflective of the CFI industry and simplifying forgiveness for loans under $350,000 would have a very positive impact on small businesses owned by entrepreneurs of color.

Other Recommendations

We support the request of Opportunity Finance Network (OFN) for universal forgiveness for all loans $50,000 and under. For CDCSBF, that represented nearly 75% of all the loans we funded.

As noted above, we would also recommend the use of form 3508S, simplified forgiveness, for all loans $350,000 or under.

Early in the program a number of loans were made to small businesses who needed the funds immediately and the loans were processed in good faith and under the rules and guidelines provided by the SBA at the time.

Earlier this year, SBA issued Procedural Notice 5000-20078 on January 15, 2021, stating that any borrower who received a larger loan amount than they were eligible to receive due to a "borrower or lender error made in good faith" must repay the excess amount. SBA determined that the "borrower may not receive loan forgiveness for any amount that exceeds the correct maximum loan amount," regardless of "whether the excess loan amount was caused by borrower error or lender error."

We strongly believe this punishes small businesses who acted in good faith in trying to protect their business and provide for their employees. Which small business could rightfully navigate and understand over 30 interim rules and nearly 100 FAQs, when larger businesses with accountants and a legal team had issues understanding the program! We recommend that Congress and the SBA rescind SBA procedural Notice 5000-20078.

The PPP certainly assisted and supported millions of small businesses across the country. We understand that the SBA was placed in a difficult position and did its best to respond to the pandemic and the needs of its small business constituents. For that, they should be commended. Nonetheless, as this particular program winds down, there are still some changes which should be made in the interests of our country's small businesses, and which will also position us with guidance for when the next great event jeopardizes our economic well-being.

Sincerely,

Ellis Carr
President & CEO
CDC Small Business Finance
Capital Impact Partners

March 17, 2021

Isabel Guzman
Administrator
United States Small Business Administration
409 3rd St., SW
Washington, DC 20416

Re: Issues of Concern to Charitable Nonprofits Eligible for the Paycheck Protection Program

Dear Administrator Guzman:

Sincerest congratulations on your confirmation to serve as Administrator of the Small Business Administration. We appreciate the leadership and knowledge you bring to the SBA, particularly during the crisis caused by the pandemic. We look forward to working with you, given the increased and critical importance of the programs that SBA administers that include eligibility for nonprofit organizations, especially the Paycheck Protection Program (PPP).

Recognizing the SBA has traditionally had more involvement with private-sector businesses, we greatly appreciate your efforts to better understand the specific needs and differences of charitable nonprofit organizations in general. We are particularly interested in partnering with you to make the PPP work more effectively and efficiently for both the SBA and the nonprofits, ensuring that nonprofit organizations are viable and able to serve communities across America.

Charitable nonprofits of all sizes play a significant role in the U.S. economy as the country's third-largest private-sector employer. Faith-based and charitable organizations are working on the front lines in every community across America to fight the coronavirus, provide support and relief to its many victims, and adapt their services to respond to community needs throughout the duration of the pandemic and afterwards. They are providing childcare services so health care workers and first responders can go to work, feeding the millions of newly unemployed persons and their families, and delivering other critical physical, educational, spiritual, and mental health services and supports.

Additionally, there are other important issues that merit your attention in relation to the current PPP application deadline of March 31, 2021. The year-end COVID relief law extended the Paycheck Protection Program to more applicants, created the Second Draw process, and established the Shuttered Venue Operators Grants (SVOG) program, yet it also set a very quick deadline of March 31 for applying for PPP loans. The American Rescue Plan Act, if enacted, will further expand eligibility for forgivable loans and add additional funds to the PPP and SVOG programs. But employers will have, at best, fewer than three weeks to apply for these loans unless Congress extends the application period. Because the American Rescue Plan Act does not extend this deadline, the SBA needs to position itself to allow applications — especially the applications from the newly eligible nonprofits — to be submitted immediately after enactment of the bill.

The nonprofit community also asks the Small Business Administration and Department of Treasury, as appropriate, to take action so that charitable nonprofits can maintain and expand their operations, including hiring additional workers, to address critical needs that are growing exponentially due to the pandemic. Please note the following issues of concern and the corresponding proposed remedies:

1. **Nonprofits with Multiple Locations:** We start with this new issue for SBA that is made urgent because of recent congressional action. Section 5001 of the American Rescue Plan Act extends PPP eligibility to charitable nonprofits that operate at multiple locations and employ not more than 500 employees per physical location. It is imperative that the SBA clarify several questions as soon as possible, including how "physical location" is defined, how nonprofits should allocate employees who work out of or report to more than one location, and what, if any, special rule should apply to employees, such as home health workers, who regularly work in the homes of clients and do not physically report to an office of the nonprofit.

2. **Ownership:** Provide guidance on how charitable nonprofits dedicated to the public good should answer the application question about ownership or alter application forms in recognition that nonprofits do not have individual owners.

3. **Alternative Size Standard:** Extend the revenue-based alternative size standard (< $15 million in assets; < net revenues of $5 million – 2-year average) to charitable nonprofits retroactively to March 2020.

4. **Employee Count:** Adopt a nonprofit-specific rule for counting part-time and full-time employees on the basis of full-time equivalents. Exempt federal government contract employees from the employee count.

5. **Accounting for Government Grants in Employee Count:** Provide guidance on how jobs funded under government grants are to be counted in the eligibility headcount and for loan forgiveness. Further clarity is needed to assist nonprofits in accounting for salaries covered by PPP loans and to ensure nonprofits are not subject to "claw back" of funds at the federal or state level due to the interplay of PPP loans and grants.

6. **Forgivable Unemployment Expenses:** Provide guidance clarifying that payments by reimbursing employers for unemployment claims and premiums to third-party insurers are treated as forgivable payroll costs on par with forgivable taxes paid by contributing employers.

7. **Nonprofit Affiliation Rule:** SBA reviewers routinely misapply affiliation restrictions to certain nonprofit organizations across the country, placing increased burdens and demands on nonprofit applicants and delaying loan application processing. SBA should provide clear direction to reviewers that local organizations with separate EINs, 990s and by-laws are fully eligible for a PPP loan under the stated eligibility terms. These incorrect assumptions have created additional long and stressful processes for legitimately eligible organizations, such as local Boys and Girls Clubs, Girl Scout councils, YMCAs, YWCAs, among others.

Nonprofit organizations value their partnership with the Small Business Administration. We look forward to meeting with you at the earliest possible opportunity to discuss the nonprofit sector and how our organizations are both similar to and different from some of the SBA's traditional private-sector clients.

The following organizations contributed to this letter, will stay in communication as further needs are identified, and stand ready to work with the SBA to provide additional information and assistance in implementing the recommendations. To follow up, please contact David L. Thompson of the National Council of Nonprofits via email dthompson@councilofnonprofits.org or phone 202-962-0322.

Respectfully submitted,

American Alliance of Museums
American Cancer Society Cancer Action Network
Americans for the Arts
American Heart Association
American Lung Association
Association of Art Museum Directors
Boys & Girls Clubs of America
California Association of Nonprofits
Council on Foundations
Ducks Unlimited
Girl Scouts of the USA
Girls Inc.
Goodwill Industries International, Inc.
Habitat for Humanity International
Independent Sector
Jewish Federations of North America
League of American Orchestras
Lutheran Services in America
Mental Health America
National Council of Nonprofits
National Health Center
National Human Services Assembly
The Leukemia & Lymphoma Society
Union of Orthodox Jewish Congregations of America
United Way Worldwide
Volunteers of America
YMCA of the USA
YWCA USA

Job Creators Network

September 1, 2021

Members of the House Committee on Small Business,

The Paycheck Protection Program (PPP) acted as a financial lifeline for millions of small businesses during the pandemic. Without the program, it's likely that so many more Main Street businesses would have folded during the past year and a half—making economic recovery efforts all that more challenging. The Job Creators Network (JCN) has worked in concert with small business owners across the country during this period to help them share their stories.

Below are several examples:

> **Rick Pogue, owner of Arrowhead Building Supply and JCN member:** "My business applied for a forgivable loan immediately following the program's launch—and was notified the next business day that we were approved for funding. The news was met with a wave of relief that moved throughout the company. The future of the business, as well as the livelihoods of our employees and contractors, was in jeopardy. And now with the relief, certainty can return and we may continue to operate and support our staff." *(April 24, 2020)*
>
> **Dr. Chris Stansbury, co-founder of West Virginia Eye Consultants and JCN member:** "The Paycheck Protection Program provides businesses with needed cash and, more importantly, helps us retain our workers. It is impossible to mitigate the impact of the coronavirus fully, but this program will keep many businesses open that otherwise would have folded." *(April 21, 2020)*
>
> **Lena Epstein, General Manager of Vesco Oil Corp. and JCN member:** "The situation would be even worse without the Paycheck Protection Program (PPP) that is keeping many small businesses like mine afloat." *(June 22, 2020)*
>
> **Jim Shubert, co-owner of Shubert Design Furniture and JCN member:** "The Paycheck Protection Program gave my business and millions of others a running start into the post-pandemic economy. My wife and I are thankful our business can continue to pay our workers, serve our customers, and help the Show-Me State make a quick recovery." *(June 5, 2020)*

Job Creators Network

Polly Lawrence, owner of Lawrence Construction in Colorado and JCN member: "I am grateful to the lawmakers in both parties who voted for the PPP Flexibility Act... Their leadership is helping my business stay open and will potentially save millions of jobs." *(June 10, 2020)*

Dina Rubio, owner of a restaurant in West Palm Beach, FL and JCN member: "[M]y restaurant has been able to stay open thanks to the Paycheck Protection Program. The PPP is a lifeline to businesses with 500 or fewer employees, providing forgivable loans for critical business expenses including payroll, interest on mortgages, rent and utilities. This helps businesses retain employees and keep the lights on." *(June 10, 2020)*

These are just a handful of small businesses that benefited from the PPP and a snapshot into the big impact it had on entrepreneurs and their employees. Now we need to get them over the finish line by ensuring PPP loans are forgiven. It's important to keep a close eye out for fraud and waste, but policymakers should avoid over-the-top government red tape that slows the forgiveness process for legitimate small business owners who are still struggling to recover.

Sincerely,

Alfredo Ortiz
President & CEO
Job Creators Network