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November 17, 2020

The Honorable Marco Rubio
Chairman
Committee on Small Business
U.S. Senate
Washington, D.C. 20510

The Honorable Benjamin Cardin
Ranking Member
Committee on Small Business
U.S. Senate
Washington, D.C. 20510

The Honorable Nydia Velázquez
Chairwoman
Committee on Small Business
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Steve Chabot
Ranking Member
Committee on Small Business
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Rubio, Ranking Member Cardin, Chairwoman Velázquez and Ranking Member Chabot:

On behalf of community banks across the country, with more than 52,000 locations, I write to express our serious concerns regarding the Small Business Administration’s (SBA’s) Loan Necessity Questionnaire for Paycheck Protection Program (PPP) loans of \$2 million or more. The questionnaire has led many borrowers to fear, with reason, that the SBA is effectively altering loan eligibility criteria after disbursement.

ICBA fully supports efforts to address fraud and abuse in the PPP program, particularly among larger borrowers. But these efforts should not cause alarm among borrowers who met the eligibility criteria at the time of disbursement. The last thing these businesses need is more distraction and uncertainty about the status of their PPP loans just as many governors are considering new restrictions on business operations.

Congress created the PPP in the CARES Act in response to the expected impact of the sudden and unexpected government-ordered shutdown of a wide swath of commerce. The early months of the pandemic were a time of extreme uncertainty, and the survival of millions of businesses and the jobs they sustain was in doubt. Community banks distinguished themselves by embracing the PPP, working overtime to process loan applications in recognition the importance of the program to the communities they served.

The Nation’s Voice for Community Banks.®



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To qualify for a PPP loan, an applicant had to certify in good faith that current economic uncertainty made the loan request necessary to support its ongoing operations. Millions of businesses obtained PPP loans based on this reasonable certification and had every expectation that the terms of the loan, including forgiveness based on allowable expenditures, would be honored. These loans have been critical to the survival of millions of small businesses and have helped them maintain their payroll.

Now the SBA appears to be considering changing the criteria for evaluating eligibility for borrowers with loans of more than \$2 million. In October, the SBA began distributing a questionnaire to evaluate the good-faith certification that economic uncertainty made the loan request necessary. Troublingly, the questionnaire asks borrowers for business information in the months after the loans were disbursed. This is a bait and switch with the potential to cause real harm. Borrower certifications were based on a good faith estimation of necessity at the time of application. Are borrowers now to be judged and potentially disqualified based on an evaluation of necessity in the period after the loan was disbursed?

We respectfully ask that you work with the SBA to clarify that PPP eligibility will continue to be determined based on the borrower's good faith estimate at the time of loan application, as provided in the CARES Act and the PPP application. While community banks recognize the need for vigorous oversight of the PPP program, especially with regard to larger loans, the uncertainty, fear and distraction among borrowers raised by this questionnaire must be addressed.

Thank you for your consideration.

Sincerely,

/s/

Rebeca Romero Rainey
President & CEO