INDEPENDENT COMMUNITY
BANKERS of AMERICA®

March 16, 2021

The Honorable Ben Cardin
Chairman
Committee on Small Business
& Entrepreneurship
United States Senate
Washington, DC 20510

The Honorable Susan Collins
United States Senate
Washington, DC 20510

The Honorable Jeanne Shaheen
United States Senate
Washington, DC 20510

Dear Chairman Cardin and Senators Collins and Shaheen:

On behalf of community banks across the country, with more than 50,000 locations, I write to thank you for introducing the PPP Extension Act of 2021 (S. 723). This legislation is needed to ensure that thousands of Paycheck Protection Program applicants – small businesses, churches, and other non-profit employers – are not stranded by an abrupt shutdown of the Program and would do so using funds that have already been appropriated.

Community banks are doing everything in their power to complete and submit PPP applications to the SBA before the March 31 deadline. Unfortunately, they have no assurances that qualified applications submitted timely will be approved. The CARES Act does not allow for approval of applications after March 31, regardless of when they were submitted and the quality of the applications. Unless a statutory change is made, thousands of applications will be rejected simply because the clock has run out.

This outcome would be especially unfair because of the thousands of applications have been in limbo at the SBA for weeks because they were flagged and put on hold by an automated program for possible waste, fraud, or abuse. These applications require SBA review in order to be cleared of holds and approved for funding. If they cannot be cleared by March 31, cash starved applicants and the people they employ will be denied access to funds they had anticipated and planned for. We do not believe this outcome was intended by Congress.

The PPP Extension Act would resolve this problem by extending the application deadline until May 31 and creating a second deadline of June 30 for SBA approval. This will give applicants more time, and the two-tiered deadline will ensure the Program does not end abruptly.

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Additional Changes Needed to Ensure Equitable Distribution of PPP Funds

Any extension of the deadline will give Congress the opportunity to refine and improve the Program rules and formulas to ensure equitable distribution of funds to those borrowers that can make the best use of them. ICBA urges Congress and the SBA to make fixes to resolve the problems identified below.

First Draw Increase Eligibility. Certain borrowers who have not yet filed for and received forgiveness of their first draw 2020 PPP loan may apply for an increase in that loan. However, borrowers whose first draw 2020 loans have already been forgiven cannot apply for a first draw loan increase, even if they otherwise meet the criteria for an increase. This is unfair because it punishes borrowers who filed forgiveness applications early. The statute should be amended to allow borrowers who have received first draw loan forgiveness to be eligible to receive a first draw loan increase.

Second Draw Eligibility. Those applying for a first draw in 2021 should be allowed access to a second draw. Community bankers have solicited and received numerous applications for first draw loans in 2021. In many cases, these applicants would have applied for first draw loans in 2020, if they had the benefit of better information and advice, and would now be eligible for second draw loans. They have effectively left money on the table that could be used for critical expenditures.

Second Draw Use of Proceeds Requirement. Borrowers with a modest shortfall in using first draw dollars for eligible purposes shouldn't be shut out from second draw loans, especially if they've already repaid the remaining balance on the first draw loan. Congress should consider creating a percentage-based de minimis test to define a level of spending on ineligible expenses that would not disqualify a borrower for a second draw loan.

Farm Partnerships. Current law allows self-employed farmers and ranchers that report farm income on Schedule F to use the gross income method, rather than the net income method, to calculate their maximum loan amount and owner's compensation. However, SBA has limited this treatment to 1040 Schedule F filers. It is not available to thousands of self-employed farmers and ranchers whose businesses are organized as partnerships or S corporations. Congress should direct the SBA to make the gross income method available to these farmers and ranchers.

Schedule C Borrowers. Schedule C filers should be able to apply for an increase under new SBA rules that allow Schedule C borrowers with no employees to use gross income rather than net profit to determine the loan amount. This is a welcome change, but those borrowers who have already obtained loans have no opportunity to apply for an increase based on the new rules. They

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may qualify for significantly larger loans but are effectively being punished for submitting their applications early.

Save Our Stages Applicants. Live action venues eligible for Save Our Stages grants should be allowed to apply for PPP loans while waiting to find out if they will receive a grant. If such a venue eventually does receive a grant, the amount of the grant could be reduced by the amount of the PPP loan, thereby avoiding the double dipping prohibited by the statute.

Thank you again for introducing the PPP Extension Act. We look forward to working with you to advance this important legislation. We urge you to use this opportunity to address the problems with the Program discussed above.

Sincerely,

/s/

Rebeca Romero Rainey
President & CEO

CC: Members of the United States Senate

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