A REVIEW OF PPP FORGIVENESS

HEARING

BEFORE THE

SUBCOMMITTEE ON ECONOMIC GROWTH, TAX, AND CAPITAL ACCESS

OF THE

COMMITTEE ON SMALL BUSINESS UNITED STATES HOUSE OF REPRESENTATIVES

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A REVIEW OF PPP FORGIVENESS

FRIDAY, SEPTEMBER 25, 2020

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SMALL BUSINESS,
SUBCOMMITTEE ON ECONOMIC GROWTH,
TAX, AND CAPITAL ACCESS,
Washington, DC.

The Subcommittee met, pursuant to call, at 9:30 a.m., Room 2360, Rayburn House Office Building. Hon. Andy Kim [chairman of the Committee] presiding.

Present: Representatives Kim, Davids, Schneider, Delgado, Hern, Stauber, and Spano.

Chairman KIM. Good morning. I call this hearing to order.

I want to thank everyone for joining us this afternoon for this official hybrid hearing. I want to make sure to note some important requirements.

Let me begin by saying that the standing House and Committee rules and practice will continue to apply during hybrid proceedings. All members are reminded that they are expected to adhere to these standing rules, including decorum.

During the cover period as designated by the speaker, the Committee will operate in accordance with H. Res. 965 and the subsequent guidance from the Rules Committee in a manner that respects the rights of all members to participate. House regulations require members to be visible through a video connection throughout the proceeding, so please keep your cameras on.

Also, please remember to remain muted until you are recognized to minimize background noise. If you have to participate in another proceeding, please exit this one 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 I will recognize that member at the next appropriate time slot provided they have returned to the proceeding.

For those members physically present in the Committee room today, we will also be following the health and safety guidelines issued by the attending physician. That includes social distancing and especially the use of masks. I urge members and staff to wear masks at all times while in the hearing room, and I thank you in advance for your commitment to a safe environment for all here today.

We are meeting today to conduct an important hearing on the Small Business Administration's Paycheck Protection Program (PPP), and specifically, a review of the loan forgiveness process.

I want to thank each of the witnesses for their testimonies today. Over the past several months, this Committee has held numerous hearings on the PPP, and we have heard from borrowers and lenders about the challenges they have faced in accessing the program. I have also traveled across my district of Burlington and Ocean Counties in New Jersey to speak with business owners about how they fared through the pandemic, and I have heard some of the successes and challenges they face with the PPP and uncertainty about what the future holds.

From borrowers who eventually did get access to loans, the Committee heard concerns about complicated, unclear, and sometimes conflicting program rules and other requirements associated with loan forgiveness.

Lenders also expressed a great deal of frustration over the needlessly complicated rules and reported feeling unable to adequately help their borrowers through the forgiveness process. Through it all, borrowers simply wanted to ensure they were using loan proceeds consistent with the law so that they could qualify for full loan forgiveness and effectively convert the loan into a grant which was the congressional intent in the CARES Act.

Loan forgiveness is a centerpiece of the Paycheck Protection Program, especially since the expectation by many borrowers and lenders was that the loans would be fully forgiven. Less than full forgiveness for a large body of loans could have serious unintended negative consequences for borrowers and lenders who have developed business plans around full loan forgiveness.

As early as June, SBA and Treasury recognized how challenging the initial loan forgiveness application was and released an EZ application form. Unfortunately, borrowers and lenders alike have reported no material differences between the forms and calls for a streamlined application form for small dollar PPP borrowers have increased.

In the meantime, lenders have remained limited in their ability to provide guidance to the borrowers leading to great anxiety and helplessness among borrowers who just want to do things the right way and need clear and simple rules from SBA and Treasury in order to do so.

And finally, we have some data to corroborate what the lending community has been reporting anecdotally. This week, the Government Accountability Office (GAO) published a new report showing that as of September 8th, SBA had only received about 56,000 forgiveness decisions from lenders, representing just over 1 percent of the over 5.2 million PPP loans outstanding.

This figure substantiates what the lending community has been reporting anecdotally.

First, borrowers are struggling to simply understand the terms and data needed to accurately complete the form, and second, lenders are limited in their ability to provide technical assistance to borrowers completing the forms because of the insufficient guidance.

So as we enter the forgiveness period, it is timely to conduct this hearing dedicated specifically to loan forgiveness so that our Subcommittee can assess the issues faced by borrowers and lenders and weigh proposals to provide relief for borrowers who need it.

I look forward to the discussion today and thank each of you again for taking the time to testify before us.

I now yield to the Ranking Member, Mr. Hern, for his opening statement.

Mr. HERN. Thank you, Mr. Chairman. And thank you for holding this very important and timely hearing.

Small businesses across this Nation, from my state of Oklahoma to the Chairman's district in New Jersey, have been disproportionately devastated by COVID-19.

When it reached our country, Congress acted fast. Numerous programs were created and amended to provide assistance to the American public and our economy.

One of these programs was the Paycheck Protection Program. In a matter of days, the SBA and the Department of Treasury outlined rules and regulations so that lenders could start assisting small businesses from coast to coast. The Federal Government moved quickly, and I would like to commend them for that.

One of the top SBA officials in charge of PPP testified yesterday and presented important information to our Committee. Today's conversation will build on that hearing and will focus on the critical aspects of PPP loan forgiveness.

As a small business owner for 35 years and the founder of a local community bank in Oklahoma, I can see how difficult this process can be for borrowers and lenders alike. My goal, and I would like to think it is the same for all of my fellow Committee members, is to make this forgiveness process as simple and as efficient as possible. We ask our lenders to carry a heavy burden and our small businesses are being crushed under circumstances out of their control. We owe it to them to discuss further ways to streamline the process.

Unfortunately, roadblocks continue to hinder how Congress can provide more assistance while improving the program. Just this week, we tried and failed to get a vote on Congressman Steve Chabot's H.R. 8265 that would improve and extend the popular program. More work needs to be done and that is why this hearing is paramount.

It is unconscionable that we would continue to ignore our Nation's smallest firms that desperately need this assistance. Small businesses and lenders need full rules of the road in order to make everyday business decisions. Changing guidance has presented challenges we need to seek solutions to so this process can be improved.

I look forward to exploring many of the topics today with our witnesses. However, I know there were some concerns that a witness put forward about a specific member of the House and the way their office conducts business even though this member is not here to defend himself.

This, however, is not how we conduct business in this Committee. We routinely strive to work in a bipartisan manner. It is important that we do. And we do not attack one another for political gain. And I am extremely disappointed that my colleagues would allow this testimony to be on the record.

Truthfully, many of the problems that our witnesses will bring up today could easily be solved if the majority would allow Ranking

Member Chabot's bill, H.R. 8265, to come for a vote as most of them, if not all, would support it.

All of them have the opportunity to allow this bill to come for a vote by signing the discharge petition for 8265, which was filed by Representative Jaime Herrera-Beutler earlier this morning.

So, I urge my colleagues to take action to help the small businesses in each of their districts across the country by signing the discharge petition on the commonsense legislation, which they all support behind the scenes.

I would also like to say that this is the second time that I have been disappointed by the majority's selection of a witness, and I hope that this is not a signal of what the Committee is becoming.

Thank you, Mr. Chairman. I yield back.

Chairman KIM. Thank you, Mr. Hern. I appreciate your comments.

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 before we begin.

Our first witness today is Ms. Lynn Ozer. Ms. Ozer is president of the SBA Lending Department at Fulton Bank, a $20 billion regional bank headquartered in Lancaster, Pennsylvania. She manages all of the SBA lending, which covers my home state of New Jersey, Pennsylvania, Maryland, Delaware, Virginia, Washington, D.C., and 249 office locations. She graduated magnum cum laude from Temple University where she earned a BBA degree majoring in accounting. Ms. Ozer served as the first female Chairwoman of the Board of Directors of the National Association of Government Guaranteed Lenders, and she is presently Co-Chair of the Technical Issues Committee while serving as an instructor for the association. Welcome, Ms. Ozer.

Our second witness is Ms. Amy Bonfig. Ms. Bonfig is the owner of Little Saints Academy, a childcare center in Central Minnesota. When so few PPP borrowers have actually applied for loan forgiveness, Ms. Bonfig has not only completed the longer application form but has also started an informal network of fellow childcare centers in Minnesota to help them work through the forgiveness application process.

Ms. Bonfig, we look forward to hearing your feedback on the loan forgiveness application process as a borrower and welcome you here today.

Our third witness is Mr. Jim Parker, a small business owner from my district. He is the founder and owner of Riverview Studios and a 42-year veteran filmmaker. He has produced numerous broadcast programs for public television. During his career, he has produced hundreds of multilingual documentary programs for corporate and nonprofit clients. He has also faced serious obstacles with the PPP forgiveness process, and we look forward to hearing his perspective on the issues as well.

Thank you for joining us today from the New Jersey 3rd Congressional District, Mr. Parker.

I would now like to yield to the Ranking Member, Mr. Hern, to introduce our final witness.

Mr. HERN. Thank you, Mr. Chairman.

Our next witness is Pete Patel. Mr. Patel is the CEO and president of Promise Hotels, a company he founded with his wife 12 years ago. Promise Hotels is a hospitality business group that runs a dozen hotels in the Tulsa, Oklahoma area, my district. With 25 years of experience, Mr. Patel is a current board member of the Oklahoma Hotel and Lodging Association and the Tulsa Hotel Lodging Association. He is also a former board member of the Tulsa Metro Chamber of Commerce.

Mr. Patel, we are grateful that you can take the time away from running your businesses to talk with us this morning. We know that you and the other witnesses are very busy, so we appreciate all of your time. Welcome, and we look forward to your testimony.

Chairman KIM. Thank you, Mr. Hern.

We are going to start with the witnesses here. So Ms. Ozer, you are now recognized for 5 minutes and I am going to turn it over to you. Thank you.

STATEMENTS OF LYNN G. OZER, PRESIDENT, SBA LENDING, FULTON BANK; AMY BONFIG, OWNER, LITTLE SAINTS ACADEMY; JIM PARKER, CEO AND DIRECTOR, RIVERVIEW STUDIOS; PETE PATEL, PRESIDENT AND CHIEF EXECUTIVE OFFICER, PROMISE HOTELS

STATEMENT OF LYNN G. OZER

Ms. OZER. Thank you for inviting me, and good morning, everyone.

My bank made nearly $2 billion of PPP loans serving 11,000 small businesses that were desperate and lenders nationwide stepped up to implement this congressionally provided lifeline. We should applaud the countless success stories of businesses saved and employees retained. But it has not been easy.

There were frontend issues, especially with eligibility and lenders' roles and simple no-cost fixes are needed in any future program extension. We must learn from what did not work.

When it comes to forgiveness, significant concerns need to be addressed now. Piecemeal guidance continues to create confusion. There is still no guidance for major issues, and without answers I cannot help my borrowers. We have no idea how a guaranty will be honored when a business is permanently closed or files bankruptcy. If loans have a remaining balance after forgiveness, we have no idea how we are expected to service those loans long term. For borrowers requesting permission to sell to new owners, we have no idea how to help them.

More importantly, borrowers are confused by the burdensome forgiveness process and panic that the loans they believed would be grants if they followed the rules may become burdensome debt because they cannot muddle through the paperwork. Borrowers remain confused about the covered period and how to document payroll expenses, especially if they struggle with their local government's shifting requirements. They are concerned about safe-harbor calculations to help qualify for full forgiveness.

One of our borrowers summarized her angst. I quote, "I have tried and read many instructions regarding the forgiveness application but I still find it very confusing. I have even listened to multiple webinars. I would love someone to be able to translate that for me."

This borrower is not alone. Virtually all borrowers share this concern and so do lenders.

To add to the confusion, borrowers and lenders see media reports that Congress will streamline forgiveness. Borrowers have delayed submitting applications hoping for that change. I urge quick authorization of a simplified forgiveness for smaller loans. This must be prescriptive or we will wind up with another EZ form which really is not making anything easier. Simplification would provide enormous relief.

Congress must also prescriptively clarify the lender's role in the forgiveness process identified by GAO as a major problem. From the outset, lenders believed we would be conduits for delivering federal assistance because we had the network and capacity the Federal Government did not have. Other than providing the capital quickly, our role as lenders was to be limited.

Only after we made millions of loans did banks learn that we would have to verify the accuracy of the borrower's application and that forgiveness could hinge on this. We have gone from being a conduit to being deeply involved in an ill-defined process.

At the heart of this issue is that the lender role as defined by the agencies creates an inherent conflict of interest. Lenders lend. We should not be the arbiter of who receives forgiveness from the government, especially when our decisions determine whether our own funds will be reimbursed.

To this end, I urge you to clarify the lender's role in the forgiveness process as part of any streamlined application for forgiveness. I also encourage you to include a strengthened hold harmless section to better define lender responsibilities in verifying borrower-provided documents and certifications.

Lenders are on the frontlines in delivering this crucial aid, and we must fully understand our role to be comfortable helping our borrowers. Until the many issues are addressed, many lenders will be reluctant to embrace a new or expanded program. Most will agree that we need to fully understand how the forgiveness process will work, how SBA will honor its guarantees, and what the guidance still to come will say before we can even consider participating in new programs or extensions. Otherwise, we will not be able to give borrowers the help they are seeking and deserve.

Finally, a reminder that the best tool to assist America's small business long term, in good times and bad, has always been the regular 7(a) loans. We need the same temporary 7(a) enhancement provisions like fee waivers and higher guaranty percentages that have worked previously so well in tough times we have experienced before. They will work again.

Supporting the 7(a) Loan Program means extending the section 1112 debt relief payments which are hugely stabilizing and have been for the existing SBA portfolios and also encourage new lending. Funding remains for these 1112 payments, and I cannot think of a better tool to provide meaningful assistance to small business.

Thank you so much, and I look forward to your questions.

Chairman KIM. Thank you so much for your statement there. Appreciate it.

We are going to turn it over to Ms. Bonfig now, so you are recognized for 5 minutes. Over to you.

STATEMENT OF AMY BONFIG

Ms. BONFIG. Good morning and thank you for giving me the time to share my experience with the PPP forgiveness application process.

My name is Amy Bonfig. I am the owner of Little Saints Academy, a licensed childcare center in St. Joseph, Minnesota. I am honored to have been chosen to speak to your Committee today on behalf of myself, my lender, a local small business development center, and 30 fellow childcare centers in Central Minnesota.

I have also been working with Barry Kirchoff, the director of the Minnesota Central Region SBDC to gather and share information as it becomes available. Our local SBDC office has been a vital resource for Little Saints Academy over the last 10 years and continues navigating through this hardship with us.

During the start of the pandemic, childcare centers were asked to remain open and care for essential workers' children. With no guidance, our collaborative of childcare professionals joined together seeking information, creating a safe space to ask questions, feel supported, and make decisions as a group for the children we care for, our staff, and our businesses. With little to no financial aid, suddenly the Paycheck Protection Program became available and I was incredibly grateful to receive a forgivable loan.

Through this process, I have kept myself and our group aware of changes. I created a spreadsheet for the group because it was a very lengthy forgiveness application process. I met with them via Zoom to help make sense of it when I could barely make sense of it myself.

I spent much of my time over the days and several months focused on the success of our PPP loan and the forgiveness. It was incredibly time consuming, and at the end of our covered period, after funds were nearly exhausted, the forgiveness application finally appeared but with a new term, "owner employees," which was completely mindboggling because we had to be counted as full-time equivalents on our loan application and then we could not count ourselves in the full-time equivalent count for Safe Harbor. Because of that I was unable to spend my entire loan in 8 weeks. Extending 2 weeks of the payroll, I can benefit from the entire loan but we did not find out about the 24-week extension option until we were in our eighth week and had exhausted most of our funds.

After my covered period, I had no choice but to lay off staff. With the uncertainty of COVID-19 and the ability to stay open or even meet the full-time equivalent Safe Harbor criteria, I was too afraid to take the 24-week option. Now the rules have changed again but the SBA is not giving my lender needed information to submit my application.

I do understand the concept and the intention of the program, but without forgiveness, the reality is I currently have an unforgiven loan that was used to pay my staff the benefits they really should have been able to collect through the Minnesota Unemployment Program.

The childcare directors and owners that I bring with me today have expressed similar fear of failure regarding forgiveness. Many do not understand the complicated rules, the cryptic stipulations of the application, and most do not have the luxury of time to sort it all out.

With that being said, I want to steal a moment to advocate for the recognition of small business in the childcare industry, especially after watching my brave and resilient colleagues step up during this time of fear, uncertainty, and chaos. Please understand that we need your support. We need peace of mind knowing that our loans have been forgiven. As we look to the future financial stability of our programs, we run our daily businesses on tight budgets with our fingers crossed that we will make it financially another day. We did this in the old normal and we are doing it in the new normal.

We would like you to consider other expenses that may be relatable to forgiveness, such as PPE, thermometers, sanitizers, cleaning products, bleach, even professional cleaning services. For centers that do not qualify for the USDA food program, including the cost of feeding the children would even help tremendously.

I would like for you to consider making this a simpler process. The EZ form still needs many of the calculations in the long form to fill out the application honestly and accurately. Six unrelated date ranges to pull reports and gather required information from is way too complicated. Please consider some degree of automatic forgiveness, or at least a forgiveness process with fewer criteria.

On behalf of my fellow childcare providers, I thank you for allowing me to speak to you on behalf of our situation as you move forward with decisions about the PPP loan forgiveness.

Chairman KIM. Thank you, Ms. Bonfig. Thank you for sharing your experiences there.

I want to turn it over to Mr. Parker. Mr. Parker, you are now recognized for 5 minutes. Thank you.

STATEMENT OF JIM PARKER

Mr. PARKER. Chairman Kim, Ranking Member Hern, and members of the Committee, thank you for the opportunity to speak to you about our experiences with the Paycheck Protection Program and the program's loan forgiveness process.

My name is Jim Parker. I own Riverview Studios, a video production company in Bordentown, New Jersey. I am a member of the Executive Committee of the Main Street Alliance of New Jersey, a network of small businesses in the Garden State and the Chapter of the National Main Street Alliance.

Earlier this year I applied for PPP funds and received $11,200 through the program. Having used the PPP funds by early summer, I am now waiting to begin the process of closing out the loan. In my case I am hopeful that 100 percent of the loan will be forgiven under the rules of the program.

Now, I say hopeful because I cannot be sure and say for sure that that will be the case. As I and my operations manager are just beginning the process, we found that much could be done to clarify the terms of forgiveness and the process to obtain it.

It is still unclear what the timeline is for beginning the process, the steps we need to take to complete it, or the criteria we will be judged on to receive forgiveness.

The documents we received from our bank thus far have also raised concerns about the likelihood that the entirety of the loan will be forgiven.

For example, it looks like we will be requested to provide information about our mortgage expenses during this time and expenses related to other fixed costs, like utilities. We spent the entirety of the funds on payroll, so we expect the sum will be forgiven but the application is confusing and leaves us concerned that our spending on fixed costs will reduce a portion of what portion of the loan is forgiven.

We are also concerned about the lack of clarity regarding any appeals process. What if we are requested to repay a portion of the loan but to believe that that decision has been made in error? Small business owners in our network in New Jersey and nationwide have experienced other roadblocks in the forgiveness process. One member's bank has contracted out the forgiveness processing to a third party but the website that this third party has built the process applications now functions to the point of uselessness. Another member has reported that their application using the alternative dates option is being questioned because her payroll falls on the 5th and 20th of the month rather than every 2 weeks.

Several members have received notice from their banks that the forgiveness process will be put on hold indefinitely because proposed legislation may change the rules regarding forgiveness and other Main Street Alliance members, especially those in the restaurant industry have expressed concern that they will miss out on forgiveness because they have not been able to rehire staff at the necessary level to qualify for forgiveness because the business has not picked up sufficiently to necessitate their pre-pandemic workforce.

Our experiences illustrate a process that has thus far been opaque, arbitrary, and uneven with private lenders choosing how and when they will implement the forgiveness portion of the program. This risks repeating the mistakes made in the design and rollout of the program itself which excluded vast portions of the small business sector, often the most vulnerable businesses and it has worsened economic inequality especially for businesses owned by people of color.

I count myself as one of the privileged businesses who received Federal funds, and I am grateful. I am also relatively competent that those same privileges that helped me access these funds would help me in the process to get them forgiven.

I know that not every small business owner finds himself in this position. Many are going into the process themselves without the help of an expert staff member. I know if it were left to me to sort this process out I would be in far worse shape.

For these reasons, Main Street Alliance supports legislation that would provide automatic forgiveness for loans under $150,000. Given the confusion surrounding the process and shifting guidelines, this would level access to forgiveness and alleviate stress for many small business and microbusiness owners, particularly those with less access and support from their banks and accountants. And because most businesses have now exhausted their PPP, we believe the smartest plan to save our small business economy starts with grants, not loans, so we can cover payroll and keep people employed through the pandemic.

This is an existential crisis for small businesses in America. I believe it is not trickle-down but rather trickle-up economics that fuels our economy. Putting funds in the hands of ordinary people puts money back into the economy and keeps America working. We are counting on our leaders to take the bold action that this crisis requires.

Thank you very much for your time and interest in Main Street small businesses.

Chairman KIM. Thank you, Mr. Parker, for your testimony. I appreciate that.

We are going to now move over to Mr. Patel. Mr. Patel, over to you for 5 minutes.

STATEMENT OF PETE PATEL

Mr. PATEL. Good morning, Chairman Kim, Ranking Member Hern, and members of the Committee. It is an honor to speak before you today and thank you for the opportunity to share my story with you.

My name is Pete Patel. I am a proud first-generation American. My family and I immigrated to the United States from India in 1979 in search of the American Dream. We found it in Tulsa, Oklahoma, as hoteliers and small business owners. I am also a member of the Asian-American Hotel Owners Association which represents 20,000 members who own almost half of all the hotels in the United States.

My wife tina and I founded Promise Hotels in 2008. We own and operate franchise hotels in Eastern Oklahoma. During the past several years, our businesses have done well. We have grown our operations and created and reacted to favorable economic conditions.

Before the economic crisis caused by COVID-19, the lodging industry was enjoying record occupancies and profitability. Unfortunately, the coronavirus pandemic halted travel almost overnight. During our busy season, our hotels should have occupancies at about 80 percent. Instead, we have been lucky to hit 20 percent in some weeks. Our revenues have fallen by 50 percent. Tragically, we have had to lay off employees for the first time in my career because we simply do not have enough customers coming through our doors.

At the onset of the virus and as travel restrictions took hold, hoteliers and small businesses needed a lifeline. We are grateful that congressional leaders came together so quickly to pass the CARES Act. In particular, I appreciate how Congress prioritized assistance to small businesses and our employees. We used the PPP predominately towards payroll and utilities.

The PPP did have a few drawbacks, some of which could not have been known at the time it was created. First, the maximum loan amount of 2.5 times monthly payroll only carried us for a few months. We are now at the end of that period and funds have been exhausted.

Accordingly, we have reviewed the forgiveness process and it has proven to be exceedingly complicated. From the time that PPP was created, the guidelines for forgiveness was often unclear and fluid. The complexity of the forgiveness application port of each business is also quite time-consuming and burdensome.

I would also like to note that the PPP funds have been crucial to the survival of our business. I understand there is discussion in Congress about creating a second round of funding for small businesses that have suffered greatly because of the economic downturn.

As the hotel industry has lost our busy season and are now facing our slowest time of year, I strongly urge you and your colleagues to quickly pass legislation that would authorize a second round of PPP to help us to save jobs and to keep our businesses open.

At the beginning of the crisis, our banks would work with us to defer payment on principal and interest for a few months. Largely, however, that forbearance has run out and banks are telling us that our notes will come due soon because of the pressure there from banking regulations.

The Main Street lending program was designed to help small and medium-sized businesses survive their crisis by providing a critical bridge when they needed it the most. However, asset-based businesses have been excluded from participating in this program because of the underwriting methods employed by the Federal Reserve. It is small businesses like hotels that have suffered the most in this unreasonable standard.

Earlier this week, Secretary Mnuchin and Chairman Powell asserted that conditions do not warrant expanding the Main Street Lending Program to include hotels and other asset-based businesses. I urge the members of this Committee to work with your colleagues to expand the Main Street Lending Program for asset-based businesses like our hotels.

Chairman Kim, Ranking Member Hern, and members of the Committee, I sincerely thank you for giving me the opportunity to share my perspective on the outlook of the lodging industry in the United States. I am grateful for your leadership and look forward to solutions you propose to help the country during this unprecedented pandemic.

Thank you so much.

Chairman KIM. Thank you, Mr. Patel. I appreciate your testimony here.

We are going to move over into the question period, and I will start by recognizing myself for 5 minutes here.

As I mentioned earlier, I have spent quite a bit of time touching base and visiting a lot of small businesses in my district as they are facing these challenges. And what I have consistently heard from them is a message about unease about what the future holds for small businesses and their employees. My focus here is that our economic recovery touches everyone, not just those at the top, and we need to make sure that the smallest businesses are being brought along in the post COVID-19 recovery. The delivery of the

PPP loans was a good first step, but I worry that the complicated piecemeal guidance of the loan forgiveness could become burdensome for the business owners that we have heard today.

Getting that clear information of forgiveness is critical to the businesses, and I wanted to start with Ms. Ozer about what you described because you described it sort of in great detail here and I just wanted to kind of pull out a few pieces here.

As a seasoned SBA 7(a) lender, can you evaluate the quality of the PPP loan forgiveness guidance you have received from SBA and Treasury? And also, can you also evaluate the user-friendliness of the loan forgiveness application for the average small business borrower? I know you touched on some of this in your testimony but I just want to kind of bring it out a little bit more here.

Ms. OZER. Thank you so much for your question. And Congressman Kim, I do have 226 PPP loans in your district for over $48 million. So I am quite familiar with the 3rd District in New Jersey.

That being said, to answer your question, and I know I did point this out in detail in my written, but the lack of guidance from the SBA is something that I have never seen before in all my years dealing with the SBA. Their guidance is usually very prescriptive and clear. This is not the case with the PPP program. We certainly understand the speed at which they had to give out guidance but it has come piecemeal and it is confusing. And if it is confusing for the lenders, that just translates to the borrowers. We cannot help our borrowers if we ourselves do not understand the guidance. So that is what has been in my opinion one of the biggest problems.

The application itself is burdensome. As you just heard so eloquently from your three witnesses, every single one of them can point out the problems in the application process. Again, I talked about the EZ form, which is not easy. It is just different. And it still requires the same amount of documentation. And I also talked about the problems in the PPP. With the conflict of interest it puts the lenders in a really bad position. We are unclear of our role. You know, when we jumped into this with both feet because we absolutely wanted to support the communities that we lend in, our borrowers, our customers, and the entire small business community because we are working through unprecedented times, but we were asked to be the conduit. We were not acting as lenders. We lend but we were asked to simply pass on information and deliver funds through our network that the government could not do. And this was a problem. And now they are asking us to verify information and verify certifications and documentation from the borrowers. That puts us in a very unusual position because we would love to see every borrower have forgiveness, and we would love to be reimbursed for all the money that we have put out on the street. But there is no clear guidance.

Chairman KIM. Thank you for that.

Mr. Parker, I want to turn to you. I understand you said you have a business manager on staff who is helping you with the loan forgiveness application process. I also understand you have four employees on staff, a true microbusiness. I cannot imagine that without that support staff, you know, how this process would be for you. So can you expand on the value of having someone on your staff with expertise on the business side of things to help you navigate this PPP application process? And what impact has that had on your ability to focus on the revenue generating activities of your business which is producing documentaries and digital video?

Mr. PARKER. Thank you. Yes.

I have been really fortunate to have access to a full-time person whose pretty much sole job is to take care of the financial aspects, to navigate the application process and all. But even she has a hard time getting the information. I also have access to an accountant that I trust who is available to me. I am a producer of films. I am not an accountant. I was never trained in business, so every minute that I spend doing things that are not related to producing a program is time taken away from reducing our income.

So it has been invaluable to have access. I have been very fortunate. I understand that many businesses do not have that same benefit that I have. I never could have done it alone. I would have had to forgo the process but the amount that we did receive helped us immeasurably. It enabled us to keep people on, and we were going into a very busy time at the time COVID hit. So I needed actually additional staff. And having these funds enabled us to maintain our business and to pivot and to serve our customers. We are only able to do the work if our customers need us. And so we are dependent on our customers being able to pay us as well. So it is a full circle.

Chairman KIM. Well, it certainly hits the challenges of staffing during these particular times but also needing to focus bandwidth on these complicated issues.

My time has expired so I am going to turn it over to the Ranking Member. Mr. Hern, you are now recognized for 5 minutes.

Mr. HERN. Thank you, Mr. Chairman.

Mr. Patel, as you described in your testimony, the hotel industry is very unique. This means that your industry has faced very specific challenges during the emergency crisis that other industries may not have been confronting. It comes from debt service. Can you talk more about the environment in your territory in Oklahoma and the unique challenges that you face and your industry faces?

Mr. PATEL. Thank you, Congressman Hern.

Yes. We are facing some deep challenges, primarily of just having funding to continue with operations. Most hotels throughout the country have seen revenue drops anywhere from 50 percent to in some cases 80 percent. Some are still closed in major metropolitan areas.

We predict that a third of all of the hotels may see closure, and that is saddening to hear that an industry that has done so well and is my livelihood, that is the only livelihood I know, could see closures. We need Congress to step in to give us some additional assistance.

The pandemic is something that nobody asked for. And with regulations on closures and travel restrictions we were probably the hardest hit industry out there. And so again, without additional help there will be a huge amount of closures. And then it will put our community banks who have been very generous to us when we decided to grow and lend more money, it will put them in a compromising position also. So I think that is some of the things that we need to also keep in mind is it is a trickle down. Other industries will be affected with what happens in the hospitality industry.

Mr. HERN. Thank you so much, Mr. Patel.

I have listened to all the testimony very intently, read it all prior to the Committee hearing, and I just want to say to each of you, thank you for what you have done to survive and continuing to survive. I know that is no way to run a business. As I mentioned being in the small business arena for so many years, you really want to provide opportunities for your employees, opportunities for growth, promotion, and also to expand your businesses.

With that said, I know many of you know that there is roughly $135 billion of unused PPP money that is out there, and if we could, for the essence of time here, I would just like to get your thoughts on this. Just a simple yes or no, we will move through. Would you support a second round of PPP loans, extension of the PPP duration, expansion of covered PPP expenses for PPE, and a simplified forgiveness process?

Mr. Patel, we will just start with you since we are talking already. Would you support that?

Mr. PATEL. Yes.

Mr. HERN. Mr. Parker?

Mr. PARKER. Absolutely. Yes, I think so. I think it is important.

Mr. HERN. Ms. Bonfig?

Ms. BONFIG. I would be grateful to be able to participate in it again.

Mr. HERN. Ms. Ozer?

Ms. OZER. Conditional, yes, because until we fix the situation at hand I think lenders are a bit reticent to jump back into the pool because the existing program has quite a few flaws and especially the forgiveness process. We are stuck in a place where we do not have clear directions. We need a simplified process and procedure. We need to define lender roles. We need hold harmless for lenders. We need to strengthen the hold harmless provision that is in there. We need a guide that takes 27 IFRs and two rounds of FAQs and puts them into one document with clear guidance so we as lenders can help our borrowers. We jump in with two feet but now we are sort of stuck in the mud and we need to get out and we want our borrowers to get out as well.

Mr. HERN. Well, I thank you for that. And what I know, again, having never been in politics before I became a member of Congress less than 2 years ago, is that small business-men and women in America do not care two hoots about politics. They just want to figure out how again they can take care of their employees, their customers, and grow their business. And I would encourage us all to work hard on getting H.R. 8265, which does a lot of what Ms. Ozer just said, to get it on the floor for passage. I think it would be an overwhelming majority that would pass it and we can get these other $135 billion out to folks like our witnesses.

Mr. Chairman, I yield back. Thank you.

Chairman KIM. Thank you, Ranking Member Hern.

We are going to turn it over to Congressman Schneider for your comments and questions here. It will be you for 5 minutes.

Mr. SCHNEIDER. Thank you, Chairman Kim. And I appreciate you hosting this important hearing, and I thank you as always and the entire Committee and the Committee staff for navigating the difficult dynamics of congressional oversight during this unique time.

Data from the Small Business Administration demonstrates that the Paycheck Protection Program helped save more than 90,000 jobs in my district alone. It was a crucial lifeline to thousands of small businesses in Illinois and around the country.

I represent the suburbs of Chicago. Earlier this month, we experienced a week of unseasonable cold temperatures and it was a wakeup call as local brewery owner noted, it put everybody on notice of what we are going to do when it is 30 degrees outside and can only operate at 25 percent capacity inside.

As winter looms, the PPP funds have now been mostly depleted. Meanwhile, COVID is still coursing through our country and the pandemic is ravaging our economy. While the President and his administration continue to play down the crisis, small businesses are struggling to see the path through.

It is not enough that they struggle with the economic challenges of this crisis; they also now have to deal with the unnecessary complexity associated with determining their eligibility for PPP forgiveness. This is a real challenge.

We will never get through this crisis until we beat back the virus. But meanwhile, we need to make sure that we are providing relief to our small businesses so that it can continue to operate and provide critical jobs within our community.

We need to work to get to the recovery where these businesses can see their future and start to grow again. And ultimately, most importantly, get to a place where we knew our economy.

But this cannot happen without ongoing support. So as others have noted, I am hopeful that we can work to find a path to another elite package that will extend PPP and provide new resources for these businesses.

But as we look at the current situation, if I can turn to Ms. Ozer, as a lender, you have seen firsthand how businesses are trying to navigate through this forgiveness process, the cost of the complexity for that. Do you have a sense of how many of your clients have had to contract with outside help to get them through the process of applying for forgiveness?

Ms. OZER. Thank you for the question, Congressman.

I do not have specific data on that but anecdotally, I can tell you that it runs the gamut. As one of our witnesses suggested, the businesses with the wherewithal have certainly contracted with outside vendors. We know just simply from the amount of questions that come into our call center that all of the borrowers need outside help. The ones that need it the most are the ones with the least amount of capital to go and hire outside help. So what do they do? They look to the bank. And that is problematic because we need to help them and we do not have clear guidance.

Mr. SCHNEIDER. Thank you. And then the smallest of companies that do not have the resources, how are they applying for the forgiveness? Or are they facing a situation where they are just going to be stuck having to pay back the loan?

Ms. OZER. Well, the latter is an unfortunate possibility. But, we as the lender have, and they, as the borrower hear time and time again in the media that there is going to be a streamlined forgiveness process which we are fully supportive of. This is not automatic. We know the government needs to make sure that they prevent against any kind of fraud and abuse. But a streamlined process for the lenders and the borrowers to be able to help the smallest of borrowers is essential. And that is what we are looking for. And honestly, the amount of people that have not applied for loan forgiveness is pretty high compared to those who can because they are all still hoping for the streamline forgiveness because they are not getting the answers from the lenders because the lenders do not have the answers to give them. So a streamlined application is critical.

Mr. SCHNEIDER. Okay. Thank you.

In the last few seconds I had, if I can turn to Ms. Bonfig and thank you for sharing your story. You are trying to figure out how to navigate the next few months but the services you provide to parents who are trying to get back to work are also critical. Or do you see the biggest challenges looking at——

Ms. BONFIG. I see us having positive cases being a huge challenge and continuing to charge the parents tuition so that we stay afloat. Some of them are not being paid and they are working at home but keeping their kiddos with us. We had a positive case and we had to contact the Minnesota Department of Health and a college student working for the Department of Health got to make the decision to close us down. And that was very frustrating. We had to close one of our classrooms for over 7 days and it cost us about $8,000 but, you know, how do we make that up?

Mr. SCHNEIDER. So that challenge is real.

Ms. BONFIG. I actually am part of a group that meets with the Governor's Children's Cabinet in Minnesota. And we have talked extensively about having some sort of a program like unemployment for childcare, and maybe it is not the childcare but that is who we are dealing with right now. That maybe we have some sort of an unemployment-type bank where we can call in and say, okay, we had to close this classroom for 7 days. This is the amount of income, tuition that we had to forgo, and have some kind of help that we have the confidence to know it is there. It would be so helpful to a lot of us. And keep us honest. That is one of the biggest things that I fear is that parents are not going to tell the truth about their kids being sick. Providers are not going to be honest about sickness in their center because they are fearful of losing income. And that is probably not just in our industry but that is my worry for us.

Mr. SCHNEIDER. No, I appreciate that. And I am over time so I appreciate the time. It is just important that we have clarity, that we have simplicity, and we have consistency in the application of these policies.

So I thank the witnesses. I yield back the balance of my time.

Chairman KIM. Thank you for yielding back.

We are going to turn it over to Congressman Stauber. Over to you for 5 minutes.

Mr. STAUBER. Well, thank you very much, Mr. Chair.

You know, I sit here dumfounded. The Paycheck Protection Program, which has provided a lifeline to small businesses across this

Nation during this pandemic has been shut down for 48 days now. With over $135 billion in funding, the PPP is only shut down because of speaker Pelosi's unwillingness to bring meaningful legislation to the House floor. The speaker would rather use small businesses as political pawns rather than get things done.

H.R. 8265, the legislation that Ranking Member Chabot introduced and I have cosponsored, would reopen the PPP through the end of this year. On top of that, it would give small businesses the ability to receive a second loan. It would provide more flexibility in how PPP dollars can be spent, and it would simplify the forgiveness process.

So instead of working on legislation that would bring more relief to 30 million small businesses across this great Nation, Nancy Pelosi and democrat leadership have been focused on passing legislation that gives them cheap political talking points for this election cycle. In fact, the speaker was so afraid that the PPP legislation would pass, she canceled a session for today. She knew that her moderate members and my good colleagues on the other side of the aisle were going to sign that discharge petition which would force that bill to the floor and help small businesses across this great Nation who are the engine of our economy. And we cannot lose sight of the American small businesses who are looking to us for financial relief in their most desperate hour, which is why I signed that discharge petition this morning. And that calls for the immediate consideration of H.R. 8265. Partisanship should have no place in these halls during this pandemic and it is my hope that we vote on this important legislation soon.

So with that being said, I want to turn my questions to Mr. Patel. Mr. Patel, thank you for being here, and for the sake of time I simply want a yes or a no answer to the following questions if you are okay with that.

So Mr. Patel, would it be helpful to small businesses to be able to apply for PPP loans through the end of 2020 as would be the case if H.R. 8265 was signed into law?

Mr. PATEL. Congressman, absolutely, yes.

Mr. STAUBER. Okay. Mr. Patel, would it be helpful to small businesses to have access to a second PPP loan as would be the case if H.R. 8265 was signed into law?

Mr. PATEL. That would be greatly needed for our industries and many other industries. Yes.

Mr. STAUBER. Mr. Patel, would it be helpful to small businesses to have more flexibility in the eligible expenses for their PPP loan such as operation expenditures, property damage costs, and personal protective equipment as would be the case if H.R. 8265 was signed into law?

Mr. PATEL. Yes.

Mr. STAUBER. Mr. Patel, would it be helpful to small businesses to have a simplified forgiveness process especially for loans under $150,000 as would be the case if H.R. 8265 was signed into law?

Mr. PATEL. Yes.

Mr. STAUBER. You know, it would seem to me that the answer is simple. Speaker Pelosi needs to take swift action to help small businesses across this great Nation rather than using legislation for cheap political bargaining chips. I request and demand Speaker

Pelosi bring H.R. 8265 to the floor immediately to help the small businesses across this great Nation which still need our help. They are the engine of our economy. And with that, Mr. Speaker, I yield back.

Chairman KIM. Thank you. Appreciate it.

I want to turn it over to Congressman Spano. You are now recognized for 5 minutes.

Mr. SPANO. Thank you, Chairman Kim and Ranking Member Hern for hosting the hearing today. I want to thank each of you for testifying about your experience with the PPP forgiveness process.

As of August 20th, in my district alone, which is the 15th District of Florida, Central Florida, 10,254 businesses have received $304 million in PPP loans saving tens of thousands in jobs. For many, the program has been a lifesaver. I have actually talked with so many of them since the launch of PPP. One, for instance, Mr. Powell I can think of specifically, he owns a company called Boulder Athleticwear in Plant City and they manufacture women's athleticwear. The program was a lifesaver for his business because it was an easy application process that provided a quick capital infusion to help make sure that he could retain his employees through the retail closures. One of Mr. Powell's biggest concerns as he goes into the forgiveness process is that while the PPP funding made a significant impact, the business has still not fully recovered as is the case with the vast majority of businesses across the country. His biggest request has been for a second round of PPP funding to help him as the economic recovery continues.

My question is for Ms. Ozer. You mentioned that Fulton Bank has approved nearly 11,000 PPP loans for a total of almost $2 billion and that you have already received the notices from many of your PPP borrowers that have either closed their doors or filed for bankruptcy. And so my question to you is out of those 11,000 semi PPP loans that Fulton Bank has approved, do you have a specific figure or do you have a sense, one or the other, for how many notifications like this your institution has received? So how many of these 11,000 businesses would you say at this point today have either closed their doors or filed for bankruptcy?

Ms. OZER. I do not have the exact figures. Anecdotally I have spoken to at least five different businesses that are planning to close. However, there are borrowers out there that we do not know about, and so I cannot put a figure on it. The problem is that without being able to have any direction on what to do with these loans if a borrower does go out of business or does declare bankruptcy, we question how we collect the guarantee from the SBA because there is no guidance on that.

Your question about the exact numbers, I do not know. I mean, we have had chatrooms with lenders all across the country who have been experiencing this that businesses are closing and some of them are filing bankruptcy but there are also businesses that are trying to sell and there is not enough guidance on what we should do for them if they have a PPP loan and they want to sell their business. They need to strike while the iron is hot. And they are unable to sell their business because there is no guidance on how we should do that if they do have a PPP loan.

So there are a lot of things that need to be fixed in this program so that we can clearly help our borrowers.

Mr. SPANO. Thank you, Ms. Ozer. I appreciate that. And I think your experience is consistent with my experience and many of the lenders that I have spoken with, and certainly the small business owners I have spoken with, some of whom have gone out of business after literally decades of being open, some of them generational businesses, that they spent literally decades building and have put a lot of blood, sweat, and tears. So I would also encourage as Mr. Stauber just said a moment ago for leadership in the House to put aside some of the partisan issues particularly as we lead up to the election here, let's put the interest of the American people, specifically our small businesses, let's figure out what we need to do to fix the problems that the lenders are having in getting confirmation on what to do to get these loans forgiven. And I think in large part this legislation would fix those issues. But let's hear the concerns and the cries really of small businesses who are trying desperately to keep their businesses open.

And with that I yield the remainder of my time.

Chairman KIM. Thank you, Congressman, for yielding back.

I just have another question or two and just wanted to throw this out there, and if anyone else has any or any other members have any further questions, please let me know and we can do that, otherwise, we can start to wrap up.

Ms. Bonfig, I want to kind of revisit something that you had mentioned. As a borrower, you know, you were describing the complexity of that situation, the complexity of the EZ Form and the others and the time-consuming aspects of that. And I would like to just see if you could give me a little bit more specificity about what you are saying about the complexity even though the EZ Form and how it does not actually give you that much more leeway than sort of the EZ form. I just want to kind of hear this in your own words from your experience.

Ms. BONFIG. Okay. I did the full long form. As soon as it came out I started working on it and I created a spreadsheet to help me through it because I had so many different sections, so many dates and information that I needed to add in there and I could not just use current staff. I have to go back and pull X staff, staff that was no longer with me and find out their information. For the current term, all the terms that were asked for in the long form. It was exhausting. It was frustrating. There is no easy way to pull the information quickly.

So after having that done, I literally had just turned mine in and the EZ form came out. So that was frustrating in itself but I started looking at the EZ form and the reality is you still have to do almost all the work behind the scenes. They just changed the front page a little bit. So you still have to go back and you have to fill out the worksheet. You have to fill out Schedule A. Schedule A gives you six or seven little lines to put your staff in. And I am not wrong. When you have 30-plus staff, you have to create your own spreadsheet. I mean, you have to, you know, you have to do what you have to do to get the information together. But I wonder how many people who put this information together actually step into a business and try to actually apply for the forgiveness because I think if they had there is a lot of this that is so confusing when you read it. And I do not consider myself a dumb person. I do not consider myself a genius either, but this should be easy enough for me to understand the first time I read it. I should not have to go back to it over and over and over again and go I do not understand what that means. I do not understand what they are asking for here. It is very, very confusing.

I do not know how to help some of the people I am trying to help because if you read on the application, the full-time equivalent reduction safe harbor one. If you just take 15 seconds and read through it, you know, okay, wait a second. I have got to go back and read that again because that made no sense. And so, and again, the owner-employee aspect of all of it, when that came through that was very frustrating because I have a partner who was not an owner last year but was an employee and now it said that I can only use this much of 8 weeks of what she made last year as an owner-employee. Well, she was not an owner so 8 weeks of zero still equals zero.

In the same regard, I have a partner who was not an employee last year but is now both an employee-owner. He made zero last year. Zero times 8 weeks is still zero. So now I cannot count any of their income. And there is nobody answering these questions.

I actually had our representative from the Small Business Development Center email a member of the SBA and the response that we got back was "work it out with your lender." So Lynn, I am sure that you are probably feeling those things, too. "Work it out with your lender" is not an appropriate answer to come from the SBA who is running the program.

Chairman KIM. Thank you, Ms. Bonfig. And thank you, all of you, for just your honest challenges and assessments of what is happening here.

Mr. Patel, my district has a lot of shore towns, a lot of tourism aspects, a lot of hotels and hospitality that are struggling. Mr. Parker is from my district. He knows how difficult things have done throughout there, especially in our hometown there in Bordentown, which is a small business town and, you know, folks are trying to do everything they can to try to make that work.

Ms. Ozer, the way in which you have been talking through this has been incredibly helpful, really just giving us some sense what you are seeing because you are seeing across the board. You have seen this on a macro level which is really just helping fill out some of the conversations here that we have had.

Ms. Bonfig, you know, thank you again. As a father of a 3-year-old and a 5-year-old, I know how tough it is for childcare centers and you are trying to do everything that you can to try to do this right, keep the kids safe, you know, keep our families safe. It is a tough business even in normal times. So thank you for what you are doing there. I really appreciate that.

For us, as Congress is weighing solutions for these small dollar PPP borrowers seeking forgiveness, you know, we have to keep in mind that simplicity will be key for most small businesses here. The simple fact is that these firms that study the microbusinesses do not have accountants or attorneys on staff as we have heard today the challenges that many of you are facing and would therefore face additional and unnecessary barriers to accessing full loan forgiveness.

SBA and Treasury have come together before to provide a somewhat abbreviated EZ forgiveness application, but as we just heard today it is still not easy enough for the average small business owner. There is still a lot more that we have to do. Agencies should come together once again and provide a streamlined loan forgiveness application for small dollar borrowers who represent the vast majority of all PPP borrowers. If the agencies insist on the status quo, I am sure the members of Congress on this Committee will work together in a bipartisan way as we have so often in the past to craft a solution to these problems.

I ask unanimous consent that members have 5 legislative days to submit statements and supporting material for the record.

And without objection, so ordered.

And if there is no further business before the Committee, we are adjourned. Thank you so much for participating today.

[Whereupon, at 10:39 a.m., the subcommittee was adjourned.]

[Mr. Jim Parker did not submit his Responses to QFR's in a timely manner.]

[Mr. Pete Patel did not submit his Responses to QFR's in a timely manner.]

APPENDIX

"A Review of PPP Forgiveness"

Testimony before the Subcommittee on Economic Growth, Tax, and Capital Access of the House Committee on Small Business

September 25, 2020

Submitted by

Lynn Ozer

Fulton Bank

Lancaster, PA

Chairman Kim, Ranking Member Hern, and Members of the Subcommittee—my name is Lynn Ozer and I am the President of Fulton Bank's SBA lending division. I got my first job at the U.S. Small Business Administration (SBA) out of college, and after five years at the Agency, I began my career in commercial lending with an emphasis on SBA lending. I have been leading SBA lending departments in both large banks, regional banks and community banks ever since. In my current role at Fulton Bank, I oversee all aspects of SBA lending in our bank's five-state footprint including Pennsylvania, New Jersey, Delaware, Maryland, Virginia, and Washington DC. I am also the past Chairwoman of the National Association of Government Guaranteed Lenders (NAGGL), and in that role, I represented over 800 financial institutions and partners that participate in the 7(a) lending industry. You could say that SBA lending has been one of my life's passions. I appreciate this opportunity to testify, both in my capacity as a veteran lender and as a voice for the thousands of lenders who stepped up to the plate when asked to be the conduits to deliver critically needed financial assistance to the America's small businesses in the wake of the COVID-19 pandemic.

The purpose of today's hearing is to talk about PPP loan forgiveness, but before I can address that topic, I think that it is important for me to provide some background on the program overall. The CARES Act was signed into law on March 27, and just one week later, on April 3, SBA approved the first of what would wind up being more than 5 million PPP loans. My own institution became an active participant in the Paycheck Protection Program (PPP), having approved nearly 11,000 loan for a total of almost $2 billion. This rapid implementation was unique to SBA lending in many ways, particularly because the program started with the bare minimum of guidance – borrower and lender application forms (issued and then subsequently revised even before the program was implemented), and two Interim Final Rules (IFR) informally published on the Department of Treasury/SBA websites (one IFR on the day before the program was opened for applications, and one on the very day the program opened).

As an experienced 7(a) lender, I was not comfortable with this rollout strategy, but like thousands of our lender counterparts, Fulton Bank's leadership understood the urgent need for PPP financing. So, based on the statutory language authorizing the program which generally depicted the private sector lender's role as being a conduit to get federal funds into the hands of businesses that were struggling for their very survival, we all were willing to take it on faith that the necessary guidance to successfully participate in the program would be forthcoming.

But the necessary clear and complete guidance, and quite frankly, the necessary assurances from Treasury/SBA, have never come. And, here I want to stress that despite some of the criticisms that I have regarding the way that PPP was rolled out, I strongly believe that the Administration and the lenders always share the same critically important goal – that is, helping businesses survive during never before seen conditions. We understand that given this dire need that there would be bumps in the road. However, there is a marked difference between bumps in the road and the kind of pervasive confusion and lingering questions that continue to exist six months since the program's inception. We should be doing everything we can to correct some of the clearly identifiable program shortcomings--specifically the manner in which program guidance has been, and continues to be, provided.

Over the course of the program so far, Treasury/SBA have issued 23 IFRs and 2 separate sets of ever-changing and contradictory Frequently Asked Questions (FAQs), as well as miscellaneous notices and other documents. This is detrimental to the success of the program. In fact, as this Subcommittee turns its attention to oversight of the program, I encourage you to keep in mind that it is this piecemeal approach to guidance which makes it more difficult for both lenders and borrowers to fully comprehend and adhere to program requirements. Lenders and borrowers should not struggle to comply with the requirements of a new and complicated program. Quite simply, we are possibly setting up program participants to fail when guidance is this complicated. And, remembering that I am a very experienced lender, now imagine how other, less experienced, PPP lenders must feel. This problem has plagued the program since its inception and continues even now that we are in the loan forgiveness phase.

There have been other concerns since the program's start that need to be addressed as well. Lenders' roles and responsibilities when it comes to verifying borrower-provided information remains murky and should be addressed. Basic eligibility confusion has never been cleared up, especially when it comes to how we define the small business borrower's need for the PPP loan. Lenders are living with a nerve-wracking proposition that the agencies could require that they return the processing fees they earned in making the loan if the agencies later determine that the borrower is ineligible—but eligibility continues to be confusing and ill-defined. All of these seemingly front-end issues affect the entirety of the program and need to be addressed, especially as Congress debates extending the opportunity to receive a PPP loan or some new product based on the PPP.

Now, allow me to paint a clear picture of what is occurring in the forgiveness process, and to respectfully offer my suggestions for ways that the Congress and the agencies can make program requirements work better for both participating lenders and borrowers. And – much more importantly – I want to highlight the issues that are the most time-sensitive to solve for small businesses, particularly when it comes to making the PPP forgiveness process less burdensome on the businesses that sought much needed government assistance.

So, how is the forgiveness process going? In many ways, there has been little public transparency on the progress of the forgiveness process for the PPP portfolio as a whole. In fact, it was not until just this Monday, September 21, that we learned in a report published by the Government Accountability Office (GAO) just how many forgiveness applications have even been submitted to the SBA as of early September, which amount to 56,000. I believe that number is higher now, but clearly the applications submitted to date represent a tiny minority of the more than 5 million existing PPP loans.

One of the most critical findings in this latest GAO report speaks to the nexus between the concerns regarding incomplete and confusing guidance with the fate of the forgiveness process, concluding:

> *Since June 2020, the PPP loan forgiveness process has begun, but uncertainty about the lender's role in the process and the complexity of the process could result in additional difficulties and delays for borrowers in obtaining loan forgiveness.*

I fully concur with that conclusion.

Early program guidance issued by Treasury/SBA, especially the 1st and 3rd IFRs, generally discussed the forgiveness process, but it was not until May 22 that Treasury/SBA posted to their websites the 14th and 15th IFRs with definitive guidance related to the requirements for loan forgiveness and SBA's review of PPP loans. That guidance was subsequently substantially amended by IFR 20 which was posted on June 22. Then, approximately one month later, on July 23, SBA issued SBA Procedural Notice 5000-20038, *Procedures for Lender Submission of Paycheck Protection Program Loan Forgiveness Decision to SBA and SBA Forgiveness Loan Reviews.* That document was followed by a new set of Forgiveness FAQs issued on August 4, which was subsequently amended on August 11. To put it simply: forgiveness guidance was issued in the same haphazard, piecemeal way that had occurred on the front end.

The cited notice above provides a high level summary of the detailed information that had previously been included in IFR #s 1, 3, 14, 15, 17, 19 and 20 and in numerous FAQs, the forgiveness application forms, and their accompanying instructions (SBA Forms 3508 and 3508EZ, both as revised on June 16). But the notice also announced the creation of the PPP Loan Forgiveness Platform, administered by a contractor and separate from SBA's E-Tran system, and indicated that the new platform would begin accepting forgiveness applications on August 10. The notice also informed lenders that more guidance would be issued in a variety of ways, including through emails to PPP participant lenders, and in information to be made available via the platform, itself. So, once again, borrowers and lenders did not receive comprehensive guidance on the forgiveness process, but instead were left to shift back and forth through numerous separate documents as they attempted to figure out the rules governing PPP loan forgiveness.

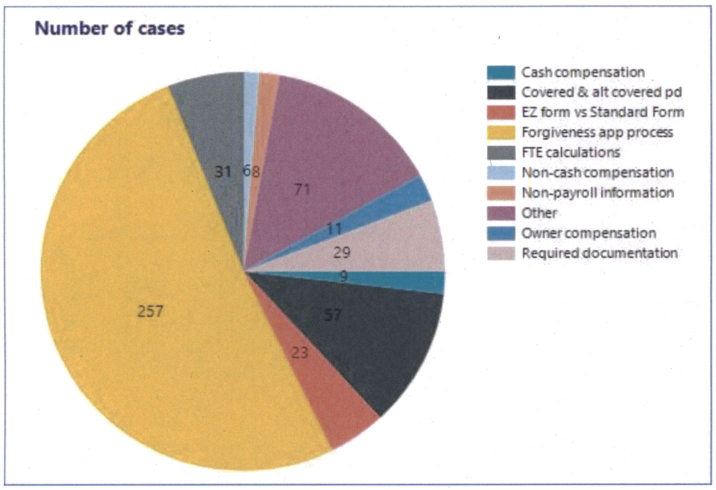
This concern around the ambiguity of the lender's role affecting forgiveness goes beyond just the method by which the guidance was released. In fact, this confusion over the lender's role gets to the heart of the policy included in that guidance that actually deviated from the basic program design contained in the CARES Act. Lenders understood going into delivering PPP loans that the program was a grant program, structured in the form of loans that, if all program requisites were met, would be fully forgiven. The lender's role in the program, as we originally understood it, was relatively limited. Since the program did not require any type of credit analysis, the primary role of the participating lenders was to accept the loan applications, have them "approved" by SBA via entry into the Agency's automated loan system, E-Tran, and provide the loan funding. Lenders had both the network and the capacity to make a quick dent in helping the small business economy in a way that the federal government was simply unable to accomplish. In addition, when it came to the potential stress on the banks' liquidity to provide hundreds of billions of dollars of their own capital to small business borrowers, lenders were assured that the funds that they advanced would be paid back by the government in two seemingly simple ways: either through SBA's "advance purchase" of the loans (that is, payment from SBA to the lender based on the anticipated loan forgiveness amount) or, later in the process, after the borrower had been approved for loan forgiveness.

What has actually transpired is something much different. The guidance issued over the past 6 months speaks to the lender taking on a much greater role than ever imagined from reading the CARES Act. Lenders were suddenly thrust into the position of having to verify the accuracy of a borrower's application, and what is more, guidance informed lenders that the very ability for that loan to be forgiven could hinge on this accuracy. With one new IFR issued far beyond mid-way through the process of the majority of PPP loans made, we had gone from conduit to being deeply involved in a process that is fraught with continued question marks.

And when it comes to the issue of bank liquidity, here too have we seen the policy in guidance diverge significantly from the expectations set out in CARES Act. The issue of bank liquidity is centered on the fact that the program's setup hinges on the bank extending its own capital, and being made whole later down the road. The capacity of each bank to extend capital is different for each institution—fortunately Fulton Bank was able to fund our own demand but, some small, community banks and even some regional banks may have found it more difficult to commit the capital necessary to finance a large volume of PPP loans. Except for the limited number of lenders who opted to utilize the Fed facility for financing, which was not an attractive avenue for many institutions to pursue for a number of reasons, the entire funding of PPP loans has been provided solely by PPP lenders. Unfortunately, Treasury/SBA ignored the provisions in CARES Act meant to address liquidity issues for banks and simply never implemented the authorized advance purchase process, which would have likely helped many smaller financial institutions by relieving those lenders from serious stress on their institution's liquidity. And, as far as I know, no loan forgiveness applications have been approved and paid, and SBA has not honored its 100% guaranty on any PPP loan where the borrower business has permanently closed and loan forgiveness will not be sought. In other words, if this country's participating PPP lenders, especially the smallest, are starting to wonder what they just got their institution into from a financial perspective, they would have valid reasons for those thoughts.

All of these lender challenges have a direct consequence on the borrower. But, the small business borrower has concerns of its own. The lender difficulty is magnified many times over when it comes to these small businesses who gratefully accepted government assistance, and now are trying desperately to figure out how to assure that the loans that they believed were intended to be grants will not become millstones around their necks when they are unable to understand and meet the requirements for loan forgiveness.

To help you better understand how borrowers are trying to muddle through the forgiveness process, it may be helpful for you to hear what Fulton has observed. In order to be responsive to its borrowers, my bank provides a customer service center where PPP borrowers can submit questions regarding the PPP forgiveness process. As of a few days ago, that center had fielded approximately 500 borrower calls with the vast majority of those calls involving questions related to the complex forgiveness application process. The chart below depicts the breakdown of Fulton's customer inquiries.



Among the most commonly asked questions by the small business borrowers that my institution serves are those related to confusion about the "covered period," especially the 8 week vs. 24 week length, including questions regarding how the forgiveness process works when the borrower fully utilized its loan proceeds in a period shorter than the full 24-week period. Other areas of serious confusion for borrowers include how to calculate and document payroll expenses, especially for single employee operations, and those businesses that do not directly hire staff, but engage their services as independent contractors. Many borrowers are concerned about when the safe harbor calculation needs to be performed. One of our borrowers summarized the angst that many PPP borrowers are feeling: "*I have tried, and read many instructions regarding the forgiveness application...but I still find it very confusing. I have even listened to multiple webinars. I would love someone to be able to translate for me and tell me what is best for our company.*" That borrower is not alone – virtually all PPP borrowers share the same concerns – and so do most lenders. What we all want is to understand the PPP forgiveness process in its entirety and to know with some degree of certainty what SBA expects to see from each individual forgiveness applicant. In the traditional SBA lending programs, knowing what is expected of both the lender and the borrower is always laid out for participants; now it seems like that is a request that we just can't come to expect in the PPP. Quite frankly, understanding program requirements in order to succeed in meeting them should never be a luxury—knowing program requirements should just be considered essential.

The complexity of the forgiveness process is one of the factors that, in my opinion, has resulted in a very low submission rate of forgiveness applications to SBA. Borrowers and lenders simply have been unable to complete the application process because they do not fully understand the requirements for forgiveness, and are reluctant to submit incorrect applications that could cause them to lose the forgiveness to which they are entitled, or worse, get into trouble with the federal government.

But, the complexity of the forgiveness process is only one reason for the low application volume. First, for many borrowers, the covered period has not ended yet, so the borrowers have not yet met the criteria for applying for PPP loan forgiveness. In addition, many PPP borrowers and lenders have seen reports in the media stating that the Congress is considering streamlining the PPP forgiveness process, especially for smaller loans. So, hoping that such reasonable legislation will be enacted, they have been delaying their forgiveness applications in anticipation of being able to follow a much simpler process. As a lender on the frontlines, I have the unfortunate job of having to continue explaining to these borrowers that we just cannot be sure when or if that legislation will ever come—that is not an easy position to be in when the borrower feels desperate in difficult times.

And that brings me to my first suggestion: I urge you to act as quickly as possible to authorize a simplified forgiveness application and approval process for smaller PPP loans. This action alone could provide enormous relief to PPP borrowers and lenders. And, going one step further, I would like to stress the need to provide prescriptive guidance about what the streamlined process would look like. Providing general guidance that says nothing more than that there should be a simplified process for loan forgiveness or how long the forgiveness application can be will not be enough since that would leave it to Treasury/SBA to implement. This would likely place lenders and borrowers back to where we are today with an unnecessarily complex and burdensome forgiveness process.

We already have seen what happens when Treasury/SBA are permitted to steer the ship when statute is not prescriptive when the agencies attempted to simplify the forgiveness process by issuing the EZForm—which turned out NOT to be easy. In fact, this was not substantive relief for borrowers by any stretch. The EZ Form merely provided only some borrowers with certain business structures a different application form. Here is the formula used, one which we have seen before in past SBA programs that attempted to offer a "simplified" application: boil an application down into small font to squeeze it onto two pages, separate the standard application from all of the convoluted instructions, and then add all of the same pages of instructions onto the application as an "attachment." Conveniently, it may appear shorter, but in reality, it's the same exact total length. And, of course, all of the same volumes of documentation were required, an issue that I understand can only be rectified by permitting that simplification in statute. Nevertheless, the EZForm was marketing at its best, not real relief.

My suggestion would be that you consider authorizing a tiered approach to loan forgiveness with separate requirements based on loan size. Under the structure that I envision, PPP borrowers with the smallest loans—I would recommend loans of $150,000 or less—would be allowed to apply for forgiveness by attesting to their compliance with the PPP loan eligibility and use of funds requirements, and certifying as to the amount of forgiveness that they are entitled to receive. Explicit instruction needs to be spelled out that borrowers in this group would not be required to provide documentation, but would be required to maintain such documentation for a specified period of time so that it could be reviewed on a random basis by the Administration, or in circumstances where the Administration had cause to believe that there were issues with the borrower's loan or forgiveness eligibility.

Borrowers in the second tier—I would recommend over $150,000 and equal to or less than $350,000—would be required to provide minimal information in a very simplified form to support their use of the

PPP loan proceeds, but also would not be required to submit any documentation, which statute should explicitly state, as well. These borrowers would also make the same attestations and certifications as borrowers in the first tier, as well as maintain their documentation so that it would be available for review when appropriate.

Finally, PPP borrowers with loans over a specified size—I would recommend over $350,000—would be required to submit full documentation as currently required for all PPP forgiveness applications. These borrowers also would be required to make appropriate attestations/certifications regarding their compliance with PPP requirements and the veracity of the information that they are providing to SBA.

In all cases, the Administration would continue the processes that it has in place which are being used to identify fraud or abuse in the PPP program in recognition of the fact that both Congress and the Administration need to be able to conduct appropriate oversight.

In addition, as part of the required legislative change, the Congress also must clarify the role of the lender in the PPP loan forgiveness process—and here too, the legislation needs to be incredibly prescriptive. The GAO has identified the lack of understanding the lender role as a major problem, and I can confirm this first-hand. As I mentioned previously, when lenders jumped into the PPP program relying on the CARES Act language, we saw our role as being conduits to facilitate the flow of government assistance to businesses impacted by the pandemic. We never envisioned a role where we would be responsible for verifying the accuracy of borrowers' forgiveness applications and their accompanying documentation. We have set up a robust plan to do so but, again, this was never anticipated.

And the issues with the lender role go far beyond one of expectations—the lender role as it is currently set out by Treasury/SBA brings with it several inherent conflicts of interest that seem odd not to address immediately. The first of those is that it is in a lender's best interests to get PPP loans fully forgiven by the Administration so that the loan will be fully repaid and the lender will not have any ongoing servicing obligation or, worse, non-performing assets. Asking a lender to look for ways that an application is incomplete or incorrect is tantamount to asking the lender to act against its own interest. Why would the federal government ever ask the private-sector lender who provided the upfront capital to approve whether the lender themselves gets reimbursed? And, thinking more philosophically, is it really the private-sector lender that we have asked to be the arbiter of the federal government's grant-making?

In addition, in working with their PPP borrowers, lenders are constrained by possible issues of lender liability. This situation could occur if, for example, not fully understanding the PPP forgiveness process, a lender advises a borrower to complete a form or to present back-up documentation in a certain way. If the Administration disagrees with the lender's interpretation and that results in a determination that the borrower is entitled to less than full forgiveness, or, even worse, that the Administration will take some sort of criminal or civil action against the borrower based on its submission.

To avoid these types of serious issues, the Congress needs to fully clarify the role that lenders always understood they would play – that is, that their responsibility in the forgiveness process is to assure that borrowers have all guidance issued by the Administration and that, beyond that, they will be held harmless as to any fraud or errors committed by their PPP borrowers in the PPP documentation, certifications, or applications, whether on the front-end of the application or the back-end of forgiveness. Obviously, lenders' liability for the action of their own institutions and staffs would never be part of what lenders would be held harmless from, nor should it.

And beyond this strengthening of the existing hold harmless section in CARES Act, there needs to be prescriptive language that goes hand-in-hand with the tiered simplified forgiveness process that clearly states that what the lender is expected to do with the forgiveness applications. Based on the expectations set forward in the CARES Act, the glaring, inherent conflict of interest that do not seem to best serve the PPP portfolio, and the liability issues I have laid out above, the lender role in the forgiveness process needs to be explicitly stated in statute to be one of review for completeness of the certifications, applications, or documentation as applicable in each tier, and not one of being a decision-maker or having to independently verify borrower-provided information or its accuracy. Forgiveness—and grant-making— is a government function, not a lender function. If Congress wants to avoid serious conflicts of interest and continue to engage lenders as participants in these types of programs, I would encourage future extensions and programs engage lenders on what we do best—which is to lend, and not act as a stand-in for the federal government.

When it comes to changes in the forgiveness process, without the essential relief for lenders and borrowers that a streamlined forgiveness process for smaller size loans, a clear hold harmless provision, and a clarification on the lender role in the forgiveness process would bring, I do not believe that Congress is setting the program up for success.. The last thing a federal program, centered on forgiveness to help small businesses struggling to survive, should do is make it burdensome for the small businesses to achieve that forgiveness. What then is the point of trying to help these borrowers withstand these difficult times if it is the very aid that is now adding to their long list of concerns?

Another suggestion that I would offer is that the Congress specifically direct Treasury/SBA to provide detailed, comprehensive guidance on the loan forgiveness process. I cannot overstate how helpful it would be to borrowers and lenders if there was a single document that included ALL of the forgiveness requirements. Rather than forcing program participants to compare multiple IFRs, FAQs, and other documentation to find all of the contradictions and corrections within these documents, Treasury/SBA should be required to compile all of the guidance issued so far into a single, cohesive document made available to all PPP borrowers and lenders.

As we talk about where we stand in the forgiveness process, it is important to point out that so far Treasury/SBA have not released any information about its internal forgiveness application review processes, or about where it stands on reviewing the applications that it has received to date. But, based on Fulton's experience and those of the many lenders with whom I exchange information about PPP, I think that it is correct to say that, as of today, SBA has not completed its review and made forgiveness payments to lenders on any of the forgiveness applications that it has received. And while the Agency is authorized to take up to 90 days to complete its review of each forgiveness application, I just cannot see how a relatively small Agency with limited resources is going to manage to get through what could be more than 5 million forgiveness applications in anything resembling a timely manner. If SBA has not been able to make final decisions on the trickle of applications coming in now, we can only imagine what will happen when the likely tidal wave of the remaining 5 million forgiveness applications reaches the Agency. In order for all of us – borrowers, lenders and the Congress – to know what to expect, I also would recommend that the Congress require SBA to publicly share information regarding how it will conduct its internal review processes and to provide data, on an ongoing basis, regarding the numbers of applications that it has received, as well as the number and dispositions of the applications on which it has taken final action.

Any discussion of PPP forgiveness also must include a discussion regarding what happens to PPP loans during the forgiveness process and then what happens after the forgiveness process is completed—details that still largely have gaping holes in forgiveness guidance and which need to be addressed quickly.

One of the issues that is coming up frequently, even as the forgiveness process is ongoing, is how lenders should handle a situation where the PPP borrower wants to sell the business to a new owner. As I understand it, Treasury/SBA have a notice in process that will provide guidance on how to handle these requests pre-forgiveness. But at this point, lenders are left on their own trying to figure out how to guide borrowers to structure transactions that will enable the borrowers to take the actions that they deem appropriate, while, at the same time, protecting the lender and the government's rights. This is occurring in real time. As I am preparing this testimony, I am making independent decisions so that borrowers can sell their businesses and strike while the offers are in place. They cannot wait for SBA to take their time. As a seasoned lender, we are requiring an escrow account in our bank for the full amount of the PPP loan from the seller. This should be sufficient and does not take weeks to figure out. But Treasury/SBA need to communicate with all participating lenders on their guidance for change of ownership transactions so that no lender is asking a borrower to stand still in their business plans.

An even more important issue that needs to be addressed is what will happen to the loans that remain post-forgiveness. Unlike what we believed when we began this journey, lenders now know that not all loans will be fully repaid via the forgiveness process. Instead, there will be a significant number of loans where the borrowers will not request forgiveness; the forgiveness will be denied in whole or in part; or, a small balance will remain because the borrower also received a grant through SBA's Economic Injury Disaster Loan (EIDL) program, and current PPP requirements specify that the amount of any such grant must be deducted from the forgiveness payment to which the borrower otherwise would be entitled. Collecting the government's receivables was never anticipated, nor should we even have been asked to do so. Lenders need to begin planning now for how they will deal with the PPP loans that will remain even after the forgiveness process is complete. But, unfortunately, so far lenders have not received any guidance from Treasury/SBA on this issue. We are struggling to understand exactly what will be expected of us when it comes to servicing loans where, because no collateral or personal guaranties were required, the only source of repayment will be from the business itself.

In addition, the issue of how to handle a PPP loan when a borrower has either closed their doors, or, in some cases, had to file for bankruptcy, is not one where making decisions can be postponed by the agencies any longer. My bank, and many of my colleagues' institutions as well, have already received notice from many PPP borrowers in these situations. But inquiries to SBA asking how to handle PPP bankruptcies or how to request that SBA honor its 100% guaranty on a loan where forgiveness will not be requested have gone unanswered. We understand that the Agency is working on loan servicing guidance for PPP loans, but that guidance cannot come soon enough. I would like to ask that you urge Treasury/SBA to provide guidance to address all of these significant outstanding issues as quickly as possible.

Finally, like my colleagues, I have been hearing about various legislative proposals that could extend or supplement PPP. As you are considering such legislation, I just want to interject the caution that, until the issues that I have described are addressed, many lenders may be reluctant to embrace a new or expanded program.

Congress cannot keep asking the very lenders delivering this government aid and the borrowers that so badly need this government aid to operate under this much risk and uncertainty in a program meant to help, not harm. I need to fully and completely understand how the forgiveness process will work, how SBA will honor the guarantees, and what the absent guidance we still need will say in order for my bank to finally be able to tell our borrowers that they are no longer at risk for carrying burdensome debt. I need to understand how this original round of PPP forgiveness will be handled before I can, in good conscience, recommend participating in newly conceived programs. And one can only truly understand why that is after taking the time to understand all of the issues that were present at the front-end of the program and never fixed, as well as the issues that are pervasive in the forgiveness side of the program.

In fact, if we all stopped to really think about the consequences of continuing in expansions or extensions of a program fraught with concerns—concerns that are actually easily fixed with no-cost adjustments to guidance through statute, I don't think anyone could conclude anything other than the absolute need to address the concerns before engaging lenders and borrowers once again. If not, the smallest lenders could be entirely unable to participate in any other programs—extensions or otherwise—simply because their bank liquidity cannot be stretched any farther given how much capital is tied up in PPP loans. At the very least, all lenders behind closed doors would be reticent to dive into another program after the way in which PPP guidance and implementation was handled. And, most importantly, while there will be many borrowers looking for more aid through PPP or some variation of the program, many borrowers could be understandably shy to participate given the unresolved forgiveness and other program issues that continue to exist.

And while you are considering how to best assist small businesses through the current difficult economic period, I would like to remind you that the best tool available to assist America's small businesses – in good times and in bad – has always been the regular 7(a) guaranteed loan program. Time-after-time, the 7(a) loan program has provided the financial assistance that enabled those businesses to prosper even after terrible events like the 9-11 attacks and the Great Recession. I would urge you to consider making the same temporary enhancement provisions to 7(a), including reducing program fees and increasing loan guaranty percentages, that have previously worked so successfully for the benefit of small businesses. We should not be leaving incredibly powerful tools to help small businesses that are at our disposal.

I am happy to have had this opportunity to share with you my observations on the PPP forgiveness process. In closing, I want to return to where I began and assure you that Fulton Bank and the thousands of other lenders that voluntarily chose to participate in PPP lending fully understand the importance of the program and the relief that it is providing to America's small businesses. We remain committed to helping the country's economy survive and, hopefully thrive, during these unimaginable times. We appreciate all that the Congress and the Administration have done so far and look forward to seeing the additional actions that will make it possible for us all to declare PPP a success. Thank you for your attention today and for all that you do for small businesses every day. Fulton Bank is proud to be a part of these efforts.

22 September, 2020

Members of the House of Representatives,

My name is Amy Bonfig and I am the owner of Little Saints Academy, a licensed childcare center serving 160+ children in St. Joseph, MN.

I have been asked to present testimony today about my experience as a PPP borrower and specifically with the loan forgiveness and the struggles the process has presented.

It is an honor to be heard today by your committee. Today I would like to speak to you on behalf of myself, my lender, my local Small Business Development Center and 30 fellow childcare centers in Central Minnesota which have trusted me to show you a snapshot of our unique struggles in the last six months.

During the start of the pandemic, childcare centers were asked to remain open to care for essential worker's children, yet never respected as essential workers ourselves. We were told that in order to receive any future financial aid, we needed to remain open. We did. We received no financial aid. We had little to no guidance. Our DHS licensors went MIA.

Suddenly the Paycheck Protection Loans became available. We were incredibly grateful to receive $142,000 in the form of a forgivable loan. It seemed too good to be true. It just might be.

From the beginning, we were completely in the dark about what the forgiveness would entail besides the basic criteria:

- 75% of the loan had to be spent for payroll
- 25% of the loan could pay for rent, mortgage, utilities.
- Less than 75% wage reduction
- Keep 100% of FTE

Why was the cost of PPE, thermometers, sanitizer, bleach, etc. not included in the forgiveness for those childcare centers who remained open?

For childcare not qualified for the USDA Food Program, why was the cost of feeding the children not included in the forgiveness for those who stayed open?

On May 4th I wrote a letter to our Governor, Tim Walz.

On May 5, 2020 I wrote a letter to our Congressman, Tom Emmer.

My letter to each had one specific request. We needed answers to the PPP Loan Forgiveness requirements. The rules were continually changing and/or had yet to be determined. In addition, no Forgiveness Application Form had been provided, which should have been the document we followed to insure forgiveness.

My business was already in its fourth week of the PPP "covered period" and had no idea if we were going to be in an economic situation to stay open at the end of this period.

I received no response from Congressman Emmer. I called his office and spoke with a member of his team and was assured Congressman Emmer would be contacting me within 48 hours, but he never answered my request for help.

On June 25, 2020, 52 days after writing to him about this urgent matter, I received the following:

> *Dear Little Saints Academy Bonfig,*
>
> *Thank you for taking the time to contact our office.*
>
> *In the wake of the COVID-19 public health crisis, and the events surrounding George Floyd's murder, we have received high volumes of messages from Minnesotans and people from across the country. Regrettably, that makes us unable to respond to every message individually. Your message has been received, read, and counted.*
>
> *We take every inquiry seriously and are committed to addressing any issues or questions in a timely manner. If your concerns have not been resolved yet, please call us at 651-201-3434. We are eager to help you. Please feel free to contact us again with any future questions or concerns.*
>
> *We believe your voice is critically important as Governor Walz and Lt. Governor Flanagan work toward achieving the vision of One Minnesota. We hope to continue hearing from you!*
>
> *Please feel free to continue to follow our progress by visiting our website: http://mn.gov/governor*
>
> *Sincerely,*
>
> *Public Engagement Department*
> *Office of Governor Tim Walz and Lieutenant Governor Peggy Flanagan*
> *75 Rev. Dr. Martin Luther King Jr. Blvd., Ste. 130*
> *Saint Paul, MN 55155-1611*
> *Office: 651-201-3400*

Clearly a generated form letter, even my name is incorrect. At this point, 30 days had passed since George Floyd's death, the rioting was over, and the protests were becoming somewhat peaceful again. But more than that, he (his office) had 25 days before Mr. Floyd's unfortunate passing to reach out to me and did not.

I know that we have representatives from Minnesota on this committee today. I hope this upsets you. It is clear that no one read my letter. No one took my inquiry seriously. No one at the Governor's office was "eager to help". I bring this to your attention today to use this one moment I have been given to advocate for the recognition of childcare professionals in Minnesota and to fight for the respect they deserve in their industry across the country.

In order to follow the rules set forth at the beginning of the program, we paid many more hours than necessary to staff caring for the children in our center at the height of the pandemic. We were serving approximately half of our enrolled children. I understand the concept and intention of the program but without forgiveness, the reality is that I now have a LOAN that was taken to pay my staff the benefits they should have been collecting from MN Unemployment. I hope you agree that this is unacceptable.

The childcare directors and owners that I represent today have expressed similar fear of failure regarding receiving PPP loan forgiveness. I am worried for many who simply do not understand the complicated rules and cryptic stipulations of the loan forgiveness rulings.

My application was one of the first loans they approved. I had all my documents turned in the day the loans became available. I kept myself and my group aware of changes made to the program. I create spreadsheets for everyone in our childcare group when the forgiveness application came out because it was ridiculous to complete. I met individually with them via zoom to help them make sense of the application when I could barely make sense of it myself.

Then there were the rules set forth for owner-employees. That was a completely mind blowing when already in the eighth week of strictly budgeted spending.

- I have partners who were not owners last year so had zero income. $0 x 8 weeks is $0. Can I use their wages during the covered period towards forgiveness?
- I have partner who was an employee last year and not an owner. $8000 x 0 week's wages as an owner is $0. Can I use their wages during the covered period towards forgiveness?

After I turned my application in to my lender, the easy form was released. That was beyond frustrating.

In addition, after turning in my application, my lender did not get guidance needed to submit my application within 60 days so now I have to do it again. I was not able to spend the entire loan in 8 weeks. With another two weeks of payroll, I would have benefited from the entire $142,000. We did not find out about the 24-week extension until we were in our eighth week and had exhausted most of our funds. The ruling at the time said we had to choose the eight-week covered period OR the 24-week period. The day after my PPP Loan covered period, I had no choice but to lay staff off. My lender has been asking the SBA for clear guidance on this but has received to response.

Our center serves approximately 70 children in our center daily (about half of our usual daily attendance). We do not qualify for the grants because we do not meet criteria. It is imperative that we are successful with the PPP Loan AND the components of forgiveness. The PPP Loan was our only financial aid until we received a small grant from the state two months ago.

Throughout this trying time, providers have been asked to continue providing care, and we have. Childcare staff has been asked to put themselves in the line of viral fire, and they have. Providers have been called essential workers but are not respected as such. Childcare centers have been promised financial assistance but have seen little to none.

Childcare center owners, directors and staff need support. We have not been supported.

Please hear us. Help us find these answers. We would be grateful for a representative who has solid answers to guide us through this process, so we do not fail. I am bringing all answers and resources to our group of local owners/directors.

I have been working in coordination with Barry Kirchoff, Director, Minnesota Central Region Small Business Development Center to gather as much information as possible when it becomes available. Our local SBDC office has been a vital resource for me and for Little Saints Academy over the last 10 years and continues providing us with valuable leadership and aid navigating through this hardship. However, it is time for all of us to have solid guidance for this program and beyond.

It may seem in this letter that my fight is purely financial. I am asking for guidance for myself and others so that we ensure childcare providers will have the means necessary to keep their doors opening as we did when the world was in chaos and terrified of becoming ill. We run our daily businesses on tight budgets and our fingers crossed that we would make it financially another day, in the old normal as well as the new normal. We also love our children and work tirelessly everyday to help raise and educate them. We are good at what we do. We are fighting for the ability to continue doing what we love.

I would like to ask you to consider making this process a bit easier for childcare centers who have an overwhelming amount of information being asked for on too many different dates with too many different circumstances in February 15-June 30, 2019 compared to January 1-March 31, 2020, divided by the actual hourly wage on June 5, 2020, for example. We do not have corporate offices where these stats are tabulated quickly. The easy form still needs all these calculations to fill in the application honestly and accurately. It is much too complicated and time consuming.

This could be the circumstance that leads to providers throwing in the towel, whether mentally or financially. We cannot afford to lose any additional quality childcare centers because of this forgiveness in a time when we are experiencing an extreme childcare shortage. The application seems intentionally difficult. Please consider an automatic forgiveness or at least a forgiveness process with fewer criteria. I speak for all my fellow childcare providers when I say thank you for your consideration.

Most Respectfully,

Amy Bonfig, Owner and Director
Little Saints Academy
St. Joseph, MN

The House Subcommittee on Economic Growth, Tax and Capital Access
A Review of PPP Forgiveness
September 25, 2020

Written Testimony of James Parker
Owner, Riverview Studios
Bordentown, New Jersey

Chairman Kim, Ranking Member Hern, and members of the committee:

Thank you for the opportunity to speak to you about experiences with the Paycheck Protection Program and the program's loan forgiveness process. My name is Jim Parker, I own Riverview Studios, a video production company in Bordentown, New Jersey. I'm a member of the Executive Committee of the Main Street Alliance of New Jersey, a network of small businesses in the Garden State and chapter of the national Main Street Alliance.

In mid-April of this year I applied for federal relief funds available through the Paycheck Protection Program through Berkshire Bank, a regional bank I've used for my business accounts for over a decade. A month after I submitted my application, I received $11,200 through the program, calculated as 2.5 times monthly payroll from the year 2019. Since then, those funds have been spent entirely on payroll expenses. In practice, because of rising payroll costs at my business beginning in 2020, those funds covered about a month's worth of payroll expenses.

Having used the PPP funds by early summer, I'm now waiting to begin the process of closing out the loan—in my case I am hopeful that 100% of the funds will be forgiven under the rules of the program.

I say hopeful because I can't say for sure that will be the case. As I and my operations manager have begun to investigate the loan forgiveness process, we've found that much could be done to clarify the terms of forgiveness and the process to obtain it.

For example, although I've received communication from my bank regarding forgiveness, it is still unclear what the timeline is for beginning the process or for completing it. We are working under the assumption that it may be related to the 24 weeks given for use of the funds, but we have not received confirmation that this is the case.

In addition to the timeline issue, it is also not completely clear to us the steps we'll need to take to begin the process, nor is it entirely clear what criteria we will be judged on to receive forgiveness. We've received some paperwork related to the forgiveness process but it's unclear if we have received all the necessary documents.

Moreover, the documents we have received request information that has left us concerned about the likelihood that the entirety of the loan will be forgiven. For example, it looks like we will be requested to provide information about mortgage expenses during this time, and expenses related to other fixed costs like utilities.

It is our understanding that because we've spent the entirety of the funds on payroll that the entire sum will be forgiven. But we also know that other rules were put in place about spending on fixed costs. We're concerned that perhaps our spending in these areas may be interpreted in a way that would reduce what portion of the loan is forgiven. We're also concerned about the lack of clarity regarding any appeals process. What if we are requested to repay a portion of the loan but believe that decision has been made in error?

Our misgivings and apprehension about the process are shared by small business owners in our network in New Jersey and nationwide.

Some who have begun the process have faced obstacles they couldn't overcome to complete the process. For example, another Main Street Alliance NJ member reports that his bank appears to have contracted out the forgiveness processing to a third party, but the website this third party is using to process applications required multiple attempts to register and once in, led to multiple choices that went nowhere when clicked. As of last week, the site was unable to accept applications and no further word has been given about when it might be ready.

Another New Jersey member has been told by her accountant that the $1,000 EIDL grant she received will be deducted from the forgivable portion of her PPP loan, meaning she'll have to repay $1,000 she understood would be forgiven.

Others have been told they face disqualification for forgiveness outside of what's known about forgiveness terms. For example, a Main Street Alliance member in Washington state reports that the forgiveness of her loans utilizing the "alternative dates option" are being questioned because her payroll falls on the 5th and 20th of the month rather than every two weeks.

Still others are left waiting to hear when the process might begin, with no start date in sight. Main Street Alliance members in Oregon and Minnesota have received notice from their banks that the forgiveness process will be held indefinitely because proposed legislation will change the rules governing forgiveness.

Several Main Street Alliance members, especially those in the restaurant industry have expressed concern that they will miss out on forgiveness because they have not been able to rehire staff at the necessary level to qualify because business has not picked up sufficiently to necessitate their pre-pandemic workforce.

My experience and those of Main Street Alliance members from across the country illustrate a process that thus far has been opaque, arbitrary and uneven, with private lenders choosing how and when they will implement the forgiveness portion of the program.

We've seen the results of the haphazard implementation of the loan approval process. It was an unequal process from the start, one that excluded vast portions of the small business sector, often the most vulnerable businesses, and has worsened economic inequality, especially for businesses owned by people of color.

Inequity was built into the PPP program with 95 percent of Black-owned businesses and 91 percent of Latinx-owned businesses effectively shut out of the program due to their size and lack of relationship with SBA 7(a) lenders.[1] Systemic racism was documented in the application process in a matched pair study of black applicants offered less encouragement, options and information that white applicants seeking PPP loans from banks.[2] Through individual stories and emerging reports, we see that Black and Latino business owners received less support throughout the PPP process.

I count myself as one of the privileged businesses who received federal funds, and I'm grateful. I'm also relatively confident that the same privileges that helped me access these funds will help me in the process to get them forgiven. I'm fortunate enough to have the revenue at my business to have an operations manager on staff to handle the process. And I have a long-established relationship with my banker that I can turn to in the event something goes wrong.

Not every small business owner finds themself in this position. Many are going into this process themselves without the help of an expert staff member. I know if it were left for me to sort this process out, I'd be in far worse shape. And without the strong relationship with my bank, I'd be much more concerned about the handling of my application.

Which is why it's important that we not repeat the mistakes of the loan disbursement process in the loan forgiveness process.

For these reasons, MSA supports legislation that would provide automatic forgiveness for Paycheck Protection Program (PPP) loans under $150,000. Given the confusion surrounding the process and shifting guidelines, this would alleviate stress that many small and micro-business owners—particularly those with less access to support from their banks and accountants—are experiencing when faced with confusing and strict loan forgiveness guidelines.

While close to 90% of PPP loans made are below $150,000, these account for only 28% of PPP funds delivered.[3] Forgiving those loans would help address racial disparities in the forgiveness

[1] The Paycheck Protection Program Continues to be Disadvantageous to Smaller Businesses, Especially Businesses Owned by People of Color and the Self-Employed, Center for Responsible Lending April 6, 2020 (Updated May 27, 2020) Accessed 9.23.2020
[2] Lending Descrimination in the PPP Program
[3] Paycheck Protection Report though August 8, 2020

process, and reduce the paperwork for all struggling small businesses while they don't incur more debt during this economic crisis.

As most businesses have now exhausted their PPP and we have a long road ahead to recovery—with a likely fall resurgence of COVID and signs of a slackening economy—the objective of keeping people employed and the small businesses that employ them in business has to remain the focus and the outcome of our policy. A real plan to save our small business economy starts with grants—not loans—so we can cover payroll and keep people employed and will last the length of the pandemic. While another round of PPP will be necessary, only funding eight weeks of recovery will put us right back where we are in October. We need a plan that acknowledges that the pandemic will be with us into the beginning of next year and its effects will linger for much longer.

Thank you for your time and interest in Main Street small businesses.

Testimony of Paresh "Pete" Patel
President & CEO
Promise Hotels
Before the House Small Business Committee
Subcommittee on Economic Growth, Tax, and Capital Access
"A Review of PPP Forgiveness"
September 25, 2020

Chairman Kim, Ranking Member Hern, and Members of the Committee, it is an honor to speak before you today and I thank you for the opportunity to share my story with you. My name is Paresh Patel, most people call me Pete. I am a proud, first generation American. My family and I immigrated to the U.S. from India in 1979 in search of the American Dream. We found it in Tulsa, Oklahoma, as hoteliers and small business owners.

I am also a member of the Asian American Hotel Owners Association (AAHOA). AAHOA represents 20,000 members who own nearly 50 percent of all hotel properties in the United States. AAHOA members personally own the real estate, undertake the financial risk, and often personally guarantee the loans on their properties. Moreover, AAHOA members collectively employ hundreds of thousands of American workers and contribute to their local economies through job creation, real estate development, and community investment. My story is remarkably similar to that of the thousands of hoteliers across the country.

My wife Tina and I founded Promise Hotels in 2008. We own and operate franchised hotels in Eastern Oklahoma. During the past several years, our business has done well. We've grown our operations and reacted to favorable economic conditions. Before the economic crisis caused by COVID-19, the lodging industry was enjoying historic occupancy rates, record average revenues, and profitability. New developments were also exceptionally strong because of the robust domestic and international interest in business and leisure travel.

Unfortunately, the Coronavirus pandemic halted travel almost overnight. During our busy season, our hotels should have occupancy above 80 percent. Instead, we have been lucky to hit 20 percent in some weeks. Our revenues have fallen by over 50 percent. Most tragically, we have had to lay off employees for the first time in my career because we simply do not have enough customers coming through the doors. Nationally, hoteliers in every state, market segment, and hotel category have experienced the same anguish my family and I have over the past seven months. Industry experts project that the hotel industry will not recover until 2024. As a franchisee, I am very concerned about my business and my livelihood. Nearly 33,000 franchised businesses closed in the first six months of the pandemic and an additional 36,000 are projected to close in the next six month without additional relief.

At the onset of the virus and as travel restrictions took hold, hoteliers and small businesses needed a lifeline. We're grateful that Congressional leaders came together so quickly to pass the CARES Act. In particular, I appreciate how Congress prioritized assistance to small businesses and our employees. We used PPP predominantly towards payroll and to keep our employees. We also used some of the funds for utility payments necessary for our hotels. Were it not for the Congressional foresight to waive the SBA's affiliation rules for hotels to ensure each location could receive funds, I know many more employees would have lost their jobs and hoteliers would have had to close their businesses. Because of the PPP, we were able to keep our businesses running for upwards of another six months and we were able to save hundreds of jobs.

The PPP did have a few drawbacks, however, some of which could not have been known at the time it was created. First, the maximum loan amount of 2.5 times monthly payroll only carried us for a couple of months. We are now at the end of that period and the funds have been exhausted. Further, we are restricted in how the funds can be used. In particular, we are prohibited from using the PPP towards property taxes and mortgage principal payments. As property taxes come due and bank forbearance runs out, we are left with little recourse.

Accordingly, we have reviewed the forgiveness process and it has proven to be exceedingly complicated. From the time the PPP was created, the guidelines for forgiveness were often unclear and fluid. The complexity of the forgiveness application portal for each business is also quite time consuming, burdensome, expensive, and very frustrating.

One of our lenders granted us access to the portal. We spent hours reviewing the process and answering questions. We determined that hiring a CPA to handle this for us would have cost thousands of dollars per hotel. One of our other lenders has not begun the process at all. We understand some banks are intentionally delaying doing so to allow challenges to be resolved. There appears to be considerable inconsistency with the forgiveness application and process from one financial institution to the next. Finally, I believe Congress intended for the PPP loan forgiveness to be tax-free. The IRS's determination that PPP expenses ought to be considered taxable income seems to defeat the purpose of the program and adds an increased burden to small businesses already struggling to survive. I urge this committee to consider these challenges as you assess the effectiveness of the PPP forgiveness process.

I would also like to note that PPP funds have been crucial to the survival of our business. I understand there is discussion in Congress about creating a second round of PPP funding for small businesses that have suffered greatly because of the economic downturn. For hotels, our business is dependent on seasonal demand. Even in a good year, the fourth and first quarters yield less travel and fewer guests. As we have lost our busy season and are now facing our slowest time of year, I strongly urge you and your colleagues to quickly pass legislation that would authorize a second round of PPP to help us to save good, local jobs and to keep our businesses open.

Ultimately, however, as significant increases in travel are unlikely in the nearterm, hoteliers like me will need additional resources to help cover our debt service, taxes, and other costs (along with payroll). At the beginning of the crisis, our banks worked with us to defer payments on principal and interest for a few months. Largely, however, that forbearance has run out and banks are telling us that our notes will come due soon because of the pressure they are under from banking regulators to classify our debt. While the CARES Act provided relief from Troubled Debt Restructuring (TDR), the applicable period expires at the end of this year and banks are reluctant to provide additional workouts.

The Main Street Lending Program (MSLP) was designed to help small and medium sized businesses survive the crisis by providing a critical bridge when they need it most. Since the creation of the program, asset-based businesses have been excluded from participation because of the underwriting methods employed by the Federal Reserve. Small businesses like hotels suffer the most under this unreasonable standard. Most hotels in the United States are truly small businesses. Hoteliers like my wife and me own and operate our properties, and no other program exists that can help us cover our most significant costs. Earlier this week, Secretary Mnuchin and Chairman Powell asserted that conditions do not warrant expanding the MSLP to include hotels and other asset-based businesses. Secretary Mnuchin suggested Congress should simply expand the PPP. The MSLP has already been funded and hundreds of Members of Congress have implored the Treasury Department and Federal Reserve to act in order to prevent an even more dire economic catastrophe; yet, the regulatory agencies have largely dismissed these concerns. I urge the Members of this Committee to work with your colleagues to expand access to the Main Street Lending Program for asset-based businesses, like my hotels.

Chairman Kim, Ranking Member Hern, and Members of the Committee, I sincerely thank you for the opportunity to share my perspective on the outlook of the lodging industry in the United States. We are looking to you to help address our growing challenges during this critical time. America's hoteliers are the foundation of nearly every community across the country. Without additional assistance in the very near future, our businesses will fail and the economic impacts will devastate the communities in which they operate. I am grateful for your leadership and look forward to the solutions you propose to help our country.

Thank you.

Questions for the Record (Rep. Davids)
"A Review of PPP Forgiveness"

U.S. House of Representatives Committee on Small Business- Subcommittee on Economic Growth, Tax, and Capital Access
Friday, September 25, 2020, 9:30 AM

"Thank you, Chairman Kim and Ranking Member Hern, for holding this hearing today. This is the committee's second hearing on the Paycheck Protection Program and the loan forgiveness process this week, and they couldn't be more necessary. The pandemic is far from over, and many small businesses in the Kansas Third Districts are still struggling. The PPP loan forgiveness process is so essential to so many business owners, and we have to make sure that SBA is getting it right.

Yesterday I and my colleagues asked Associate Administrator Manger, of the Office of Capital Access, about the challenges and benefits of further simplifying the loan forgiveness process for the smallest businesses with the smallest loans. Since before the PPP was implemented, I've been pushing for accountability and transparency to ensure that these funds are going to real businesses in real need. We have to balance this with the accessibility of the program and of forgiveness, and to ensure that small businesses and lending partners are able to actually utilize it.

This question is for the panel: Do you think clearer guidance from SBA about the forgiveness application and process would make lenders and borrowers alike feel more confident in submitting their applications? Absolutely. The variables that must be accounted for are not addressed with any real clarity. From covered periods to safe harbor calculations the information is confusing to most. All interested parties want/need to see as close to full forgiveness as possible.

Ms. Ozer, what challenges do you see in further simplifying or even waiving an application for loan forgiveness for the smallest lenders? Waiving the application for lenders is a different question than waiving the application for borrowers. I would like to address both. For the smallest loans, the borrowers have the fewest number of employees and should be asked for the least amount of documentation needed to prove the funds went to pay payroll or utilities. The additional calculations are confusing and unnecessary if the proceeds were used appropriately at the time. The economic conditions under which this program was created are not stagnant. Everything is and continues to be fluid. When the PPP was initiated, it was to help keep workers employed for eight weeks assuming the world would normalize shortly thereafter. We are months down the road and the reality could not have been predicted. There MUST be precautions for fraud and abuse, but that cannot create an undue burden of proof on small businesses who used the funds as they were meant to be used. As far as the small lenders are concerned, the requirements should be the same as they are for all sized lenders. Lenders should be the conduits for information transmission. The lenders should not be required to perform timely due diligence on the funds that they have basically "loaned to the government' in order to get capital into the hands of small businesses as quickly as humanly possible. These were not loans from the bank, and

therefore, the lenders should not be required to make certifications on behalf of the applicants applying for forgiveness. Can those challenges be overcome? Yes, they can be overcome with stronger hold harmless provisions to protect the banks. In addition, there needs to be SIMPLIFIED, substantive, prescriptive procedures put in place so that the borrowers AND lenders can submit for forgiveness with confidence that same will be granted absent fraud or abuse.

The three business owners we have here all represent different industries with unique needs and challenges during the pandemic. Would each of you describe some of those industry-specific challenges due to COVID-19, and any solutions you support to help solve them?"

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This question is for the panel: Do you think clearer guidance from SBA about the forgiveness application and process would make lenders and borrowers alike feel more confident in submitting their applications?

Obviously, that would make the process cleaner and it would also make it feel much more legitimate. I would like to know that my loan is forgiven so I can plan for what is ahead of us. Our state and our county are hot spots right now and closures are likely to come soon.

Ms. Ozer, what challenges do you see in further simplifying or even waiving an application for loan forgiveness for the smallest lenders? Can those challenges be overcome?

The three business owners we have here all represent different industries with unique needs and challenges during the pandemic. Would each of you describe some of those industry-specific challenges due to COVID-19, and any solutions you support to help solve them?"

We need clarification about when and which employees we have to pay and they are out sick, waiting for test results when not symptomatic, etc. What happens when 80 hours run out? Will it renew January 1, 2021?
We have asked several reputable sources and get a different answer from each source.

Locally, we have childcare centers being forced to close, not by the Dept. of Health, but because they do not have enough qualified staff (according to MN

DHS) to stay in ratio to care for the children. This is not considered a state mandated closure. If the stimulus is not going forward any time soon, force the states to give a mandated closure letters so our business insurance will cover the financial burden of the closure. We have also been hearing of insurance companies eliminating the pandemic clause from policy coverage.

In addition, we cannot simply hire staff to cover those out due to Covid-19. It would seem as though no one is out of work. We have posted open positions for months and no one applies. We have utilized INDEED, for which we have to pay a fee to use and there are no qualified applicants. We do not have people willing to be substitute staff.

Financial ease:

-Make INDEED accessible with no fee.
-Allow all of us to qualify for the Food Program.
-Add funding to Child Care Assistance programs and ease eligibility requirements.
-Closure Funding Eligibility

Enforce a unilateral Decision Tree for quarantine across all industries. In Minnesota, MDH is holding Childcare to a much lengthier quarantine and stricter guidelines. Healthcare and other essential workers are able to return to work much sooner than others.

PPP and Grants: How will this income affect us when it comes to our 2020 taxes? When will this be decided? This is probably one of the scariest questions beyond the impending forgiveness issues.

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The Honorable Nydia M. Velázquez
Chairwoman
Committee on Small Business
U.S. House of Representatives

The Honorable Steve Chabot
Ranking Member
Committee on Small Business
U.S. House of Representatives

The Honorable Andy Kim
Chairman
Subcommittee on Economic Growth, Tax, and Capital Access

The Honorable Kevin Hern
Ranking Member
Subcommittee on Economic Growth, Tax, and Capital Access

October 2, 2020

Hope Enterprise Corporation / Hope Credit Union /Hope Policy Institute (HOPE) appreciates the opportunity to submit written testimony following the September 25th hearing "A Review of PPP Loan Forgiveness," held by the Subcommittee on Economic Growth, Tax, and Capital Access of the U.S. House Small Business Committee.

HOPE is a Black-led Community Development Financial Institution (CDFI) credit union and loan fund located in Jackson, Mississippi. It was established to ensure that all people regardless of where they live, their gender, race or place of birth have the opportunity to support their families and realize the American Dream. Since 1994, HOPE has generated over $2.5 billion in financing that has benefitted more than 1.5 million people throughout Alabama, Arkansas, Louisiana, Mississippi and Tennessee.

Providing access to small business loans for historically underserved people and communities is a critical part of HOPE's activities. Between 2017 and 2019, 72% of HOPE's commercial loans were under $1 million. In 2019, over 60% of our commercial loans were to minority and women-owned businesses. In March 2020, HOPE launched a new small business loan program up to $100,000 to meet the demands and needs in our region. HOPE is both a certified Community Advantage Lender, and a participant in the SBA Paycheck Protection Program (PPP). Prior to PPP, HOPE originated about 50 business loans in a typical year.

In response to the health and economic consequences of COVID-19, HOPE, like many CDFIs, stepped up to meet the challenges facing small businesses and to support the deployment of PPP funds. For HOPE and the businesses we serve, the promise of the PPP program was both in the immediate availability of low-cost funds, and in the promise of the loan forgiveness and guarantee by the Small Business Association. HOPE was ready to pivot quickly to meet this demands during this crisis due its 25 years of experience serving businesses and communities in one of the most economically distressed regions of the country. As of September 15, HOPE funded 2,587 loans totaling $81 million, supporting more than 10,200 employees. To achieve scale in this type of lending in some of the hardest to reach communities during a global pandemic and economic crisis was no small undertaking. For example, at peak, nearly half of HOPE's staff were dedicated to PPP lending, with a significant amount providing technical assistance to small borrowers.

To understand HOPE's concern about and experiences with the PPP loan forgiveness program, it is critical to ground our comments in an understanding of the borrowers we serve. The majority of our PPP borrowers are businesses owned or led by people of color and women. The vast majority of HOPE PPP's loans are to small businesses, independent contractors, and sole proprietorships. Others include rural hospitals, HBCUs, and nonprofit service providers. Roughly a third of HOPE's PPP loans and nearly 40% of our PPP loan dollars reached communities with poverty rates exceeding 20% spanning more than three decades in a row. HOPE's average PPP loan size of less than $30,000 and median amount of roughly $11,000 is substantially lower than loans originated by most PPP lenders and most other CDFIs.[1] While 97% of our loans are under $150,000, these represent just 50% of HOPE's PPP funds. Nearly all of these small loans are located in low-income communities. In contrast, just 67, or 3%, of our PPP loans are over $150,000 and represent the remaining 50% of our PPP loan funds. Of HOPE's PPP loans in rural areas, 97% of the loans are under $150,000.

Many of the businesses that reached out to HOPE had been underserved or unserved by traditional lenders during the PPP process. As one example, a one-hundred year old church in Alabama found HOPE after being turned down by two major banks, including the one where the church deposits its funds. HOPE approved a woman-owned staffing company in Memphis, coming to us having received no response from its regional banks. HOPE approved a $7,200 loan for a Black-owned, 27-year old barbershop in New Orleans after he received no help from the bank he had asked to assist him. These stories were a constant narrative in our PPP lending process, an extension of a banking system that has historically failed to appropriately serve communities of color and low-income communities with the same attention as others.

Without certainty of streamlined loan forgiveness for smaller loans, we are concerned the forgiveness process will again consume significant resources, both for HOPE and its borrowers. This is likely to be a significant drag on HOPE's and businesses' ability to fully contribute to the sorely needed economic recovery of our region. This current situation regarding the forgiveness of PPP loans is far from what was imagined at the time of implementation.

Similar to trends across the country, very few of HOPE's borrowers have submitted PPP loan forgiveness applications. As of September 15, only two HOPE borrowers had submitted forgiveness applications. Both were for multi-million dollar PPP loans from educational institutions with access to accounting and legal staff. The vast majority of our borrowers do not have access to such capacity. In anticipation of possible needs of our borrowers, HOPE has expanded its contract with our own third-party accountant to work with borrowers who may need assistance completing the forgiveness process. This is a significant resource and monetary investment, one we are willing to make to ensure our borrowers' success, but one that would be greatly reduced if PPP loan forgiveness was much more streamlined than currently proposed. The more resources we are spending on supporting PPP loan forgiveness is fewer resources we have available to redeploy as capital to future homeowners, small business owners, and other capital needs in our region. Finally, similar to stories heard during PPP loan application process, we are already hearing from small businesses in our region not receiving the needed support from their financial institution to navigate the forgiveness process.

Streamlined forgiveness for loans under $150,000, relying primarily on the documentation and verification of information already provided during PPP loan origination process, would significantly aid the recovery of these smallest businesses critical to the economic and community fabric of distressed communities throughout the South. HOPE is supportive of the provisions in Section 203 of revised version the HEROES Act for loans under $150,000, including in particular the voluntary submission of demographic data as part of the forgiveness data. In addition to data on race, and gender, information gathered as part of the forgiveness process should also include geographic data and address for the purposes of later analysis as to how many loans in persistent poverty counties and communities of color benefitted from the forgiveness.

CDFIs and Minority Depository Institutions (MDIs) such as HOPE played a critical role in getting PPP funds to businesses overlooked by other lenders, reaching businesses in communities hardest hit by COVID-19 and needing the most help in accessing the PPP loans. The experiences of historically underserved businesses must be taken into account during the forgiveness process, to ensure the inequities of the PPP originations are not repeated here as well. Unless changes are made swiftly, HOPE is concerned that historically marginalized businesses, mostly business owned by people of color and the institutions that serve them such as CDFIs and MDIs, will bear the disproportionate burden of unforgiven PPP loans while larger, more well-resourced, mostly white, businesses and lenders reap the benefits .

Thank you for the opportunity to provide this information. For additional information, please contact Diane Standaert, Hope Policy Institute, at diane.standaert@hope-ec.org.

[1] Kiyadh Burt, Hope Policy Institute, "CDFIs and MDIs Continue to Cater to Small Businesses Despite PPP Barriers," http://hopepolicy.org/blog/cdfis-and-mdis-continue-to-cater-to-small-businesses-despite-ppp-barriers/ (showing HOPE average PPP loan of $33,441, compared with for CDFIs' average of $69,856 and MDIs average of $87,357 as of June 30, 2020).

ICBA Independent Community Bankers of America®

September 25, 2020

Paycheck Protection Program: The Need for Simplified Forgiveness

The Independent Community Bankers of America, representing community banks across the nation with more than 52,000 locations, appreciates the opportunity to provide this statement for the record for today's hearing, "A Review of PPP Forgiveness," before the House Committee on Small Business Subcommittee on Economic Growth, Tax, and Capital Access. The Paycheck Protection Program (PPP) rapidly and effectively deployed critical funding to small businesses nationwide. At this time, a simplified forgiveness process is urgently needed to ensure the Program does not become a quagmire of red tape for lenders and borrowers, distracting them from the hard work of restoring economic and employment growth. As the 116th Congress comes to a rapid close, we urge Congress to act expeditiously to enact the Paycheck Protection Small Business Forgiveness Act (H.R. 7777), which is described below.

Community Banks and the PPP

Community bankers nationwide recognized the program as the best hope for preserving the economic life of their communities and processed a flood of applications in a short time for new customers and old. Community banks were uniquely positioned to make the program work, drawing on established relationships and bonds of trust to help borrowers navigate the application process. They were ready and eager to help borrowers who had been turned away from other institutions. To date, community banks have issued 65 percent of PPP loans. As complex as the application process was, the forgiveness process is an order of magnitude more complex. Borrowers need relief.

Forgiveness Must Be Simplified

While Congress has been responsive to the need for more Program flexibility in passing the Paycheck Protection Program Flexibility Act (H.R. 7010), it has yet to address the Program's prohibitive complexity when it comes to obtaining loan forgiveness. Until forgiveness is simplified, the Program will not be what Congress intended it to be: Essentially a grant program to sustain employment through government-imposed business disruption. Borrowers should not have to hire accountants at exorbitant fees to assist with loan forgiveness. Borrowers whose first language is not English should not be forced to struggle with complex forms and procedures.

Government Accountability Office: Complexity Could Limit Program Effectiveness

In its latest report on CARES Act programs, the GAO found that the complexity and lack of guidance surrounding PPP loan forgiveness could limit the effectiveness of future rounds of the program. In particular, the GAO said lender associations have warned of lender fatigue over the application and forgiveness processes. The report notes that forgiveness applications could take up to 15 hours for borrowers to complete and 75 hours for lenders to review. This is an unacceptable burden for borrowers and lenders with urgent competing demands on their time during a pandemic.

INDEPENDENT COMMUNITY BANKERS of AMERICA

Pass the Paycheck Protection Small Business Forgiveness Act (H.R. 7777)

The solution community bankers support is passage of the Paycheck Protection Small Business Forgiveness Act (H.R. 7777), legislation introduced by Representatives Chrissy Houlahan and Fred Upton and cosponsored by over 90 bipartisan members of the House. A Senate companion bill, S. 4117, has similar broad support.

H.R. 7777 would create automatic forgiveness for PPP loans of $150,000 or less. The borrower would complete a one-page form which would include an attestation that loan proceeds were spent in compliance with Program rules. The form would give the borrower with the option to provide demographic information as well as information about the expenditure of loan proceeds. The lender would be permitted to rely on this attestation as well as on all borrower certifications and documents for loans above the $150,000 threshold. Automatic forgiveness would not preclude enforcement action in cases of fraud or where the borrower has spent loan proceeds on expenses that are not allowable.

H.R. 7777 is critical to the success of the PPP. A disproportionately high number of applications were submitted to the SBA by community banks. Detailed review of each loan is simply not practical for borrowers or lenders. A presumption of compliance for these borrowers will allow business owners to focus on their businesses and the safety of their employees and customers.

EIDL Advances Should Not Offset PPP Forgiveness

As you know, in addition to the PPP, the CARES Act created the Economic Injury Disaster Loan (EIDL) Advanced grant to provide immediate cash assistance of up to $10,000 to businesses effected by the pandemic. Nothing in the statute prohibits a business from applying for both forms of assistance or requires that one offset the other. For this reason, many businesses applied for both an EIDL advance and a PPP loan.

Subsequent SBA guidance provided that a PPP borrower's loan forgiveness must be reduced by the amount of any EIDL advance. Borrowers were caught off guard by this requirement. It has created financial hardship for businesses that can least afford it. An easy way for Congress to expand the value of PPP forgiveness is to reverse the SBA offset requirement.

We urge this committee's support for the EIDL Forgiveness Act (H.R. 8361), bipartisan legislation sponsored by Representatives John Curtis and Joe Neguse, which would clarify Congress' original intent by excluding the amount in an EIDL Advance grant a business receives from their PPP loan forgiveness calculation.

INDEPENDENT COMMUNITY BANKERS of AMERICA

Closing

Thank you again for convening today's hearing. We appreciate this committee's commitment to the ultimate success of the PPP which must include automatic loan forgiveness for smaller loans and the exclusion of EIDL advances from the PPP loan forgiveness calculation. We look forward to working with you to advance this legislation in the short time that remains in the 116th Congress.

NAFCU

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National Association of Federally-Insured Credit Unions

September 24, 2020

The Honorable Andy Kim
Chairman
Subcommittee on Economic Growth, Tax
and Capital Access
Committee on Small Business
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Kevin Hern
Ranking Member
Subcommittee on Economic Growth, Tax
and Capital Access
Committee on Small Business
U.S. House of Representatives
Washington, D.C. 20515

Re: Tomorrow's Hearing, "A Review of PPP Forgiveness"

Dear Chairman Kim and Ranking Member Hern:

I am writing on behalf of the National Association of Federally-Insured Credit Unions (NAFCU) in conjunction with tomorrow's hearing, "A Review of PPP Forgiveness." NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve nearly 121 million consumers with personal and small business financial service products.

As you know, credit unions have stepped up to ensure small businesses in their communities are taken care of during these uncertain times, and their response through the Paycheck Protection Program (PPP) was tremendous. Despite the uncertainty surrounding the PPP as it launched and the associated risks, 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 SBA's PPP data shows that credit unions made loans in amounts much lower than the national average, with the credit union average PPP loan approximately $50,000. Furthermore, a full 70 percent of credit union PPP loans went to businesses with less than five employees.

While the PPP program successfully provided a lifeline to small businesses struggling through unprecedented lockdowns, there remain issues with the forgiveness process that need to be addressed. NAFCU believes it is important to simplify the loan forgiveness process and application for smaller PPP loans. While credit unions are working with their members to assist them with the current loan form, the complexity of the forgiveness rules and application is posing challenges for many small businesses who may not have the staff or expertise for such a complex application, especially with the current economic challenges. We were pleased to see the SBA take steps to address this with the creation of the 3508EZ form, but NAFCU members report that they do not see a huge difference in terms of processing the application as they still need to verify expenses and supporting documentation to ensure that they are meeting the lender requirements.

The Honorable Andy Kim
The Honorable Kevin Hern
September 24, 2020
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Furthermore, NAFCU members report hearing from their small business members concerns about the time and cost of correctly completing the forgiveness application. Many of those small businesses have had to seek outside assistance to help them with the form. Unfortunately, the time and money spent on forgiveness paperwork takes away from a small business's ability to serve its customers and continue to be able to pay its employees – a direct contradiction to the spirit of the PPP, which was designed to provide simplified aid to those in dire need of assistance.

That is one of the reasons why NAFCU is supportive of a simplified loan forgiveness process for PPP loans under a $150,000 threshold, such as proposed in H.R.7777, the *Paycheck Protection Small Business Forgiveness Act*. This bipartisan proposal would simplify the loan forgiveness process for loans under $150,000 to a one-page form. Loans under $150,000 account for 87 percent of PPP recipients but only account for 28 percent of the funds disbursed by the SBA. This level would cover most credit union loans, the vast majority of which have been to smaller businesses that could most benefit from this automatic forgiveness. A smaller PPP loan is less likely to pose a high risk of fraud so the benefits to small businesses and lenders of providing this automatic or simplified forgiveness significantly outweigh the potential risks. Moreover, such a simplified forgiveness process frees up human capital at a time when credit unions and small businesses may be short-staffed due to ramifications of COVID-19.

Understandably, the forgiveness application is one mechanism to uncover fraudulent activity; however, there are others and the SBA retains the right to review a borrower's loan documents for six years after the date the loan is forgiven or repaid in full. NAFCU would urge Congress and the SBA to improve the forgiveness process by considering automatic or simplified loan forgiveness for loans below a $150,000 threshold and ensuring that there is clear and concise guidance for the forgiveness process.

As the Committee evaluates the PPP forgiveness process, we strongly urge you to consider the concerns of the nation's credit unions and the nearly 121 million Americans they serve that we have outlined in this letter. During times of economic crisis, credit unions always focus on their members and doing all that they can to help. We thank you for the opportunity to share our members' concerns in advance of this hearing.

Should you have any questions or require any additional information, please contact me or Sarah Jacobs, NAFCU's Associate Director of Legislative Affairs, at (571) 289-7550 or sjacobs@nafcu.org.

Sincerely,

Brad Thaler

Brad Thaler
Vice President of Legislative Affairs

cc: Members of the House Small Business Committee