

United States Senate
WASHINGTON, DC 20510

April 6, 2020

Jovita Carranza
Administrator
U.S. Small Business Administration
409 3rd St, SW.
Washington DC 20416

The Honorable Steve Mnuchin
Secretary of the Treasury
Department of the Treasury
1500 Pennsylvania Ave. NW
Washington, DC 20220

Dear Administrator Carranza and Secretary Mnuchin:

I write concerning your implementation of the Paycheck Protection Program (PPP) established by the recently passed *Coronavirus Aid, Relief, and Economic Security Act* (CARES) Act. This program is vital to the survival of the millions of small businesses that form the backbone of our economy, and I am concerned that you have been unable to quickly set up the PPP so that these businesses can receive this funding in an expedient and fair manner. Small businesses in Massachusetts and nationwide are at grave risk of imminent collapse, and you must act quickly to ensure that they quickly get the help they need. Every lost day matters.

The CARES Act tasked the Small Business Administration (SBA) and the Department of Treasury (Treasury) with the implementation of the \$349 billion PPP¹ to quickly disburse loans to keep small businesses afloat amid the economic downturn resulting from the shutdown caused by the spread of coronavirus disease 2019 (COVID-19).² Under the program, small businesses, private non-profit organizations or 501(c)(19) veterans organizations with less than 500 employees affected by COVID-19 can apply for loans.³ The loans are forgivable “if all employees are kept on the payroll for eight weeks and the money is used for payroll, rent, mortgage interest, or utilities.”⁴ These loans will be processed and disbursed by banks, credit unions, and other SBA-certified lenders.⁵ Congress created this structure to prevent bottlenecks and allow banks and credit unions in every community to quickly and easily administer this small business assistance. But this does not appear to be happening.

¹ CARES Act, § 1102 (b)(1).

² CARES Act, § 1102.

³ U.S. Small Business Administration, “Paycheck Protection Program (PPP),” <https://www.sba.gov/funding-programs/loans/paycheck-protection-program-ppp>.

⁴*Id.*

⁵ U.S. Department of the Treasury, “Paycheck Protection Program (PPP) Information Sheet,” <https://home.treasury.gov/system/files/136/PPP%20Lender%20Information%20Fact%20Sheet.pdf>.

Last week, Treasury Secretary Steven Mnuchin announced that small businesses would be able to start to apply for these loans on Friday, April 3, 2020,⁶ and both the SBA⁷ and Treasury⁸ issued guidance for participating businesses and lenders. As that deadline approached, banks indicated that you had “failed to provide them with the necessary guidelines and had set requirements for the loans that are unworkable,” warning of a “disaster” that could “delay the assistance for weeks or longer.”⁹

As a result of this delay in guidance, banks were unable to prepare their systems to start accepting applications when the program opened. Chase, one of the nation’s largest banks, announced that “We aren’t accepting applications for the program at this time...Financial institutions like ours are still awaiting guidance from the SBA and the U.S. Treasury. As a result, Chase will most likely not be able to start accepting applications on Friday, April 3rd, as we had hoped.”¹⁰ The same day, the Massachusetts Bankers Association, representing community banks joined a letter warning you that “the guidance does not empower all of our nation’s 5,000 community banks to serve the impending demand for loans from this new program.”¹¹ Even as you issued updated guidance less than 24 hours before the program was set to launch, banks still did not have sufficient time and information to execute a smooth rollout of the program.¹²

As the program went live last week, issues with the program immediately became clear. Community bankers have acknowledged that “nearly 48 hours after the Program went live, hundreds of lenders are still trying to get approval to access the SBA system so they can process loans,” noting that “[b]oth existing SBA lenders and non-SBA lenders are experiencing massive delays and inability to process loans or even access the SBA to become an SBA lender.”

¹³ Wells Fargo noted that, even for existing customers, “We anticipate the time it will take to complete the loan process will be longer than usual.”¹⁴ In addition to the technical issues with the

⁶ Fox Business, “Mnuchin says coronavirus relief instructions for small businesses set to be released Monday,” Megan Henney, March 30, 2020, <https://www.foxbusiness.com/economy/steven-mnuchin-white-house-coronavirus-update>.

⁷ U.S. Small Business Administration, “Paycheck Protection Program (PPP),” <https://www.sba.gov/funding-programs/loans/paycheck-protection-program-ppp>.

⁸ U.S. Department of the Treasury, “Paycheck Protection Program (PPP) Information Sheet,”

<https://home.treasury.gov/system/files/136/PPP%20Lender%20Information%20Fact%20Sheet.pdf>.

⁹ Politico, “Banks warn of chaotic launch of small business lending program,” Zachary Warmbrodt, April 2, 2020, <https://www.politico.com/news/2020/04/02/banks-small-business-lending-program-launch-161106>.

¹⁰ Chase, Small Business Administration (SBA) Paycheck Protection Program, <https://recovery.chase.com/cares>.

¹¹ Letter from State Community Banking Associations to Secretary Mnuchin and Administrator Carranza, April 2, 2020. https://www.icba.org/docs/default-source/icba/advocacy-documents/letters-to-regulators/paycheck-protection-program-state-banking-association-letter.pdf?sfvrsn=4a52b17_0.

¹² The Hill, “Confusion surrounds launch of \$349B in small-business loans,” Sylvan Lane and Alex Gangitano, April 3, 2020, <https://thehill.com/policy/finance/491053-confusion-surrounds-launch-of-349b-in-small-business-loans>.

¹³ Letter from Independent Community Bankers of America to Secretary Steven Mnuchin and Administrator Jovita Carranza, April 4, 2020, https://www.icba.org/docs/default-source/icba/advocacy-documents/letters-to-regulators/icba-recommendations-for-success-of-paycheck-protection-program.pdf?sfvrsn=73bc2b17_0.

¹⁴ Wells Fargo, Small Business Administration Paycheck Protection Program, viewed on April 5, 2020, <https://update.wf.com/coronavirus/paycheckprotectionprogram/>.

SBA's system, there still questions remaining about the calculation of the interest rate, what a standard loan agreement should look like, and the process by which banks submit these forms.¹⁵

We urge you to move quickly to issue additional guidelines and clarifications to ensure that loans are disbursed quickly, that all businesses can participate and that lenders give mom and pop businesses the same access to loans that they give to their more sophisticated small business clients. All small businesses need to have equal access to this help.

Additionally, there is growing concern as to what will happen to small businesses once the \$349 billion Paycheck Protection Program has been depleted. Secretary Mnuchin recently stated that "if that's the case, I can assure you that will be top of the list for me to go back to Congress on. It has huge bipartisan support and we want to protect small business."¹⁶ The Paycheck Protection Plan will only be effective if all eligible small businesses have fair and equal access to this critical relief. This program has to be more than just a sprint to the starting gate. The future of our economy hinges on financial relief for everyone that is eligible as long as they need it, not just the ones that are at the front of the line.

The ability of small businesses to access this money in a matter of days could determine whether or not they will need to shut their doors to their employees and customers forever. I therefore urge you to take whatever steps are necessary to fix the existing operational and technological problems with the system, provide additional guidance to banks that clarifies the questions they still have, and act quickly to stand up this program so it works in the way that Congress intended. If you believe that additional action from Congress is necessary to address the issues with this program, then you should indicate specifically in your response what legislative fixes are necessary to provide this vital aid.

Small businesses form the backbone of our economy, and they cannot afford for a bungled rollout of this badly need \$349 billion in aid. I therefore urge you to immediately act to ensure lenders can begin processing small businesses loans without delay.

Sincerely,



Elizabeth Warren
United States Senator



Edward J. Markey
United States Senator

¹⁵ The Wall Street Journal, "Small Business Loan Program Makes Bumpy Start," Bob Davis, Ruth Simon, and Peter Rudegeair, April 3, 2020, <https://www.wsj.com/articles/small-business-loan-program-makes-bumpy-start-11585939613?ns=prod/accounts-wsj>.

¹⁶ Mnuchin says he will ask Congress for more small business loan funding if \$350 billion pool runs out CNBC Published Wed, Apr 1 2020 12:18 PM EDT, <https://www.cnbc.com/2020/04/01/coronavirus-update-mnuchin-may-ask-for-more-small-business-loans.html>.