

ELIZABETH WARREN
MASSACHUSETTS

COMMITTEES
BANKING, HOUSING, AND URBAN AFFAIRS
HEALTH, EDUCATION, LABOR, AND PENSIONS
ARMED SERVICES
SPECIAL COMMITTEE ON AGING

United States Senate

UNITED STATES SENATE
WASHINGTON, DC 20510-2105
P: 202-224-4543

2400 JFK FEDERAL BUILDING
15 NEW SUDBURY STREET
BOSTON, MA 02203
P: 617-565-3170

1550 MAIN STREET
SUITE 405
SPRINGFIELD, MA 01103
P: 413-788-2690

www.warren.senate.gov

June 9, 2020

Brian Moynihan
Chairman of the Board and Chief Executive Officer
Bank of America
100 North Tryon Street
Charlotte, NC 28255

Tim Wennes
President and Chief Executive Officer
Santander Bank, N.A.
75 State Street
Boston, MA 02109

Dear Mr. Moynihan and Mr. Wennes:

I write in response to concerns I have heard from Massachusetts small business owners regarding your banks' processes for accepting applications for loans from the Paycheck Protection Program (PPP). Over the past several weeks, my office has received numerous complaints from constituents that have attempted to use your institutions to apply for loans from the PPP. These complaints indicate that your banks added unnecessary layers of difficulty and confusion to the application process for small businesses that are struggling to survive during the economic collapse caused by the coronavirus disease 2019 (COVID-19) pandemic. I am writing to seek specific information about the challenges Massachusetts residents have faced in seeking PPP loans from your banks and how you have addressed, or plan to address, those challenges.

The *Coronavirus Aid, Relief, and Economic Security Act* (CARES Act) tasked the Small Business Administration (SBA) and the Department of Treasury (Treasury) with the implementation of the \$349 billion PPP funding¹ to quickly disburse loans to keep small businesses afloat amid the economic downturn resulting from the shutdown caused by the spread of COVID-19.² Under the program, small businesses, private non-profit organizations, or 501(c)(19) veterans organizations or Tribal business concern with less than 500 employees affected by COVID-19 can apply for loans,³ which are forgivable "if all employees are kept on the payroll for eight weeks and the money is used for payroll, rent, mortgage interest, or

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>

utilities.”⁴ These loans are 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. After the initial money for the program was depleted, Congress replenished the funds⁶ and has since made additional changes to the structure of the program to give small businesses more certainty.⁷

Before the program began and your banks opened their doors to applications, there were widespread reports of implementation issues, including the lack of clear guidance from the SBA and questions surrounding the capacity of the SBA’s system to handle the volume of loan applications.⁸ After the PPP went live during the first week of April, SBA and Treasury continued to change the rules, resulting in substantial confusion for business customers and lenders alike.⁹ I recognize that these are issues over which your institutions have little control. However, as the program has been rolled out over the past several weeks, it appears that your institutions also share some of the responsibility for the failures of the PPP to adequately meet the needs of all small businesses in Massachusetts.

Many constituents have written to my office, reporting that they have been unable to secure PPP loans through your banks. For example, multiple constituents reported that Santander would initially not accept their applications during the first round of funding, and ultimately did so only after this initial funding had been depleted. Small business owners also never received applications for PPP loans after submitting an application to get one - one constituent that wrote to my office recounted having “sleepless nights” just waiting to get an email for an application. Additionally, while businesses were waiting for Congress to replenish the program’s funding, Santander told its customers that it would not accept applications during this waiting period, despite several other Massachusetts banks doing so.¹⁰

For Bank of America, multiple individuals described disturbing circumstances where they were denied applications due to not having an existing credit relationship with the bank. For example, a constituent who banks with Bank of America but does not have a credit card or loan with the

⁴ U.S. Small Business Administration, “Paycheck Protection Program (PPP),” <https://www.sba.gov/funding-programs/loans/paycheck-protection-program-ppp>

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>

⁶ Washington Post, “House passes \$484 billion bill with money for small businesses, hospitals and testing to battle coronavirus,” Erica Werner, April 23, 2020, https://www.washingtonpost.com/us-policy/2020/04/23/congress-coronavirus-small-business/?itid=lk_inline_manual_5

⁷ MarketWatch, “Trump signs bill changing Paycheck Protection Program into law,” Jonathan Nicholson, June 6, 2020, <https://www.marketwatch.com/story/senate-oks-tweaks-to-small-business-lending-program-bill-goes-to-trump-for-signature-2020-06-03>

⁸ Politico, “Small business loan program stumbles as SBA system crashes,” Zachary Warmbrodt, April 6, 2020, <https://www.politico.com/news/2020/04/06/small-business-loan-program-system-crashes-169614>

⁹ Wall Street Journal, “PPP Changes Trip Up Small Businesses,” Ruth Simon and Peter Rudegair, May 12, 2020, <https://www.wsj.com/articles/paycheck-protection-program-changes-trip-up-small-businesses-11589288403>


¹⁰ Boston Business Journal, “Business clients are angry with Santander over PPP rollout,” Greg Ryan, April 21, 2020, <https://www.bizjournals.com/boston/news/2020/04/21/business-clients-are-angry-with-santander-over-ppp.html>

bank was told she would have to switch her business to Bank of American before she would be allowed to apply for loans, despite this not being a statutory requirement of the PPP.¹¹

The PPP was intended to help the small businesses that form the backbone of our economy and has now been provided over \$650 billion by Congress to do so.¹² But the range of complaints my office has received about your banks' administration of PPP funds leaves questions about your ability and commitment to assisting small business owners in Massachusetts. To better understand how your banks have been working with applicants in the Commonwealth, I ask that you respond to the following by no later than June 23, 2020.

1. Provide copies of the guidance that you have given to your customer service representatives. Have these changed since April 3? What are those changes, and when were they implemented?
2. Provide copies of your bank's internal procedures and instructions for handling PPP applications. Have these changed since April 3? What are those changes, and when were they implemented?
3. How many PPP applications has your bank received from Massachusetts small businesses?
 - a. How many of those applications received funding?
 - b. For those that did receive funding, what was the median time that applicants had to wait to receive funding?
 - c. For those that did not receive funding, please provide a breakdown of the primary reasons why they did not receive funding
 - d. Specifically, what was the funding rate for Massachusetts PPP applicants that had an existing relationship with the bank compared to those that did not?

Sincerely,



Elizabeth Warren
United States Senator

¹¹ The New York Times, "Black-Owned Businesses Could Face Hurdles in Federal Aid Program," Emily Flitter, April 10, 2020, <https://www.nytimes.com/2020/04/10/business/minority-business-coronavirus-loans.html>

¹² Business Insider, "PPP Small Business Loans: How \$659 billion in coronavirus-linked loans are being spread across lenders, states, and industries," Eleni Digalaki, May 19, 2020, <https://www.businessinsider.com/ppp-small-business-loan-report>