

Congress of the United States  
U.S. House of Representatives  
Committee on Small Business  
2361 Rayburn House Office Building  
Washington, DC 20515-0515

April 20, 2023

Mr. Patrick Kelley  
Associate Administrator  
Office of Capital Access  
U.S. Small Business Administration  
409 3<sup>rd</sup> Street S.W.  
Washington, D.C. 20416

Dear Mr. Kelley:

On April 19, 2023, the Small Business Committee, Subcommittee on Oversight, Investigations, and Regulations held a hearing with the Small Business Administration's (SBA) Inspector General (IG) Hannibal "Mike" Ware. During this hearing, Republicans asked several questions about the SBA's new rules which would make significant changes to the flagship 7(a) lending program.<sup>1</sup> The Committee is gravely concerned that the SBA is unable to handle this expanded responsibility given their failures under the COVID lending programs. According to the IG's testimony, he shares many similar concerns. OIG reports show that the SBA does not have the ability to manage the current loan volume or remedy existing fraud issues and expanding the program would be significantly challenging.<sup>2</sup>

In response to Vice Chairman Luetkemeyer's questions expressing concerns about expanding 7(a) lending to fintech companies—the largest sources of COVID lending fraud—the IG stated "I have concerns with the inclusion with any...type of non-depository lender that doesn't have brightly marked out rules that they are going to work under, that doesn't have an internal control structure in place to deal with it, and doesn't have the proper oversight and monitoring mechanism in place."<sup>3</sup> The IG also flagged that for non-depository lenders, the SBA is the primary regulator in charge of oversight, which he said "is of concern."<sup>4</sup> He noted that his office has previously reported on the key areas of risk with fintech, including lack of clear rules and regulations, the internal control environment, and lack of oversight.<sup>5</sup>

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<sup>1</sup> Affiliation and Lending Criteria for the SBA Business Loan Programs, 13 CFR §120 & 121 (2022); Small Business Lending Company Moratorium Rescission and Removal of the Requirement for a Loan Authorization, 13 CFR § 120 (2022).

<sup>2</sup> U.S. SMALL BUS. ADMIN., OFFICE OF INSPECTOR GEN., REP. 23-01, OIG FINAL REPORT 23-01 TOP MANAGEMENT AND PERFORMANCE CHALLENGES FACING THE SBA IN FY 2023 (Oct. 14, 2022).

<sup>3</sup> *Office of Inspector General Reports to Congress on SBA Programs: Hearing before H. Comm. On Small Business, Subcomm. on Oversight, Investigations & Regulations*, 118<sup>th</sup> Cong. (statement of The Honorable Hannibal "Mike" Ware, Inspector General, Office of the Inspector General, Small Bus. Admin.).

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

Further during the hearing, Chairman Roger Williams noted that the OIG issued a report stating that the OIG “anticipates the agency will face significant challenges in managing its loan volume going forward” and asked IG Ware if he still had those concerns.<sup>6</sup> IG Ware “still shares those concerns, and he takes issue with the SBA’s assessment that data analytics will be enough to mitigate any potential issues. IG Ware stated on the issue with data analytics: “the capacity is what you build it to be, if you don’t build it with the right parameters in place you’re not going to be overseeing the right things, you’re going to miss the things you actually should be looking at and I don’t have an assurance that that has been built in because I haven’t seen it.”<sup>7</sup>

Chairman Williams also inquired into the status of the SBA as a lender of last resort and the rumored changes to the 7(a) program’s standard operating procedures (SOPs), which would allow individuals seeking a loan to self-certify that they couldn’t find credit from other sources. IG Ware adamantly responded: “After what we came through with PPP and EIDL, I don’t see how we can still be reliant on any type of self-certification. I believe it adds significant risk and think we have the evidence and experience to know that it does.”<sup>8</sup>

Given the concerns raised in the hearing by IG Ware, please provide answers to the following questions as soon as possible but no later than May 3, 2023.

1. What internal changes have been made in response to the OIG’s previous reports on the key areas of risk with fintech, including lack of clear rules and regulations, the internal control environment, and lack of oversight?
2. Is the SBA is planning on improving an existing data analytics program or is the agency creating and implementing a new one for the expanded 7(a) loan program?
3. How will this program be used to look for potential risks on the horizon and be responsive to potential blind spots to changes in the macroeconomic environment?
  - a. Will this program be able responsive to risks arising in the future?
4. Is it accurate that the SOPs are going to be changed to allow businesses to self-certify that they could not find credit elsewhere?
  - a. If so, what guardrails are in place to verify that the borrower truly did their due diligence to find credit elsewhere?
  - b. If so, how will your office incorporate the IG’s concerns into any final decisions?

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<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

Mr. Patrick Kelley

April 19, 2023

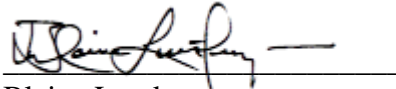
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To schedule the delivery of your response or ask any related follow-up questions, please contact the Committee on Small Business Staff at (202) 225-5821. The Committee on Small Business has broad authority to investigate “problems of all types of small business” under House Rule X. Thank you in advance for your cooperation with this inquiry.

Sincerely,



Roger Williams  
Chairman  
Committee on Small Business



Blaine Luetkemeyer  
Vice Chairman  
Committee on Small Business



Beth Van Duyne  
Chairman  
Subcommittee on Oversight,  
Investigations, and Regulations



Dan Meuser  
Chairman  
Subcommittee on Economic Growth,  
Tax, and Capital Access

cc: The Honorable Nydia M. Velasquez, Ranking Member  
Committee on Small Business

The Honorable Dean Phillips, Vice Ranking Member  
Committee on Small Business

The Honorable Kweisi Mfume, Ranking Member  
Subcommittee on Oversight, Investigations, and Regulations

The Honorable Greg Landsman, Ranking Member  
Subcommittee on Economic Growth, Tax, and Capital Access