

Congress of the United States
U.S. House of Representatives
Committee on Small Business
2561 Rayburn House Office Building
Washington, DC 20515-6515

MEMORANDUM

TO: Members, Committee on Small Business
FROM: Nydia M. Velázquez, Chairwoman
DATE: September 1, 2021
RE: Full Committee Remote Hearing: “What Comes Next? PPP Forgiveness”

The Committee on Small Business will meet for a remote hearing titled “What Comes Next? PPP Forgiveness.” The hearing is scheduled to begin at **1:00 P.M. on Wednesday, September 1, 2021, via the Zoom platform.** The hearing will update Members on the loan forgiveness phase of the Small Business Administration’s (SBA) Paycheck Protection Program (PPP). Members will also learn about legislative and administrative efforts to continue streamlining the forgiveness process for borrowers and lenders.

Panel

- Ms. Tracy C. Ward, Director, SBA 504 Loan Program, Self-Help Ventures Fund, Durham, NC
- Ms. Leslie Payne, Assistant Vice President, Commercial Lending, Affinity Federal Credit Union, Basking Ridge, NJ (*testifying on behalf of the National Association of Federally Insured Credit Unions*)
- Ms. Marla Bilonick, President & CEO, National Association for Latino Community Asset Builders, Washington, DC
- Mr. Robert Fisher, President and Chief Executive Officer, Tioga State Bank, Chairman, Independent Community Bankers of America, Spencer, NY

Background

Paycheck Protection Program

The PPP was established in the CARES Act¹ as a subprogram of SBA’s 7(a) loan guarantee program. Under PPP, banks and other private lenders make fully guaranteed SBA loans to small businesses negatively impacted by the COVID-19 pandemic. The loans are intended to assist small businesses with meeting payroll costs and other expenses, and full loan forgiveness is offered if loan proceeds are spent on such purposes. In total, over \$800 billion has been appropriated for PPP in several pieces of legislation.

¹ P.L. 116-136.

The PPP and Health Care Enhancement Act² (Enhancement Act) included set-asides of newly appropriated PPP funds so that community lending institutions, including Community Development Financial Institutions (CDFIs), Certified Development Companies (CDCs) and SBA Microloan Intermediaries could participate in the program on equal footing with large banks. These set-asides were intended to maximize PPP lending in traditionally underserved business communities.

The PPP Flexibility Act³ (Flexibility Act) established a minimum maturity of five years on PPP loans and extended the covered period during which borrowers may use such funds for certain expenses while remaining eligible for forgiveness from eight to 24 weeks. The Flexibility Act also raised the non-payroll portion of a forgivable covered loan amount from the current 25% up to 40%. S. 4116⁴ extended the PPP application deadline to August 8, 2020, allowing more time for small businesses considering applying for a PPP to weigh their options.

The Economic Aid Act⁵ made numerous improvements to PPP, including allowing borrowers who've spent all of their PPP loan to apply for a "Second Draw" PPP loan, and expanded the use of loan proceeds eligible for forgiveness. The American Rescue Plan Act⁶ added \$7.25 billion for expanded eligibility of small nonprofits and internet publishing organizations for PPP. Finally, the PPP Extension Act of 2021 extended the PPP loan application deadline to May 31, 2021.⁷

On June 1, 2021, the SBA stopped accepting applications for First and Second Draw loans. According to SBA's public data, as of May 31, 2021, the PPP guaranteed over 11.8 million loans through 5,467 lenders for a total net PPP dollars lent at over \$799.8 billion, with an average loan size of approximately \$67,647.⁸ In 2021, over 6.6 million PPP loans were approved through 5,242 lenders totaling over \$277.7 billion total net PPP dollars lent, with an average loan size of approximately \$41,560.⁹

The tables reproduced below are from SBA's publicly provided data summarizing PPP loan forgiveness metrics as of August 15, 2021.¹⁰ They also provide forgiveness information broken down by 2020 PPP loans and 2021 PPP loans.

² P.L. 116-139.

³ P.L. 116-142.

⁴ P.L. 116-147.

⁵ P.L. 116-260.

⁶ P.L. 117-2.

⁷ P.L. 117-6.

⁸ U.S. Small Bus. Admin., *Paycheck Protection Program (PPP) Report: Approvals through 05/31/2021*, (May 31, 2021), https://www.sba.gov/sites/default/files/2021-06/PPP_Report_Public_210531-508.pdf.

⁹ *Id.*

¹⁰ U.S. Small Bus. Admin., *Forgiveness Platform Lender Submission Metrics – August 15*, (Aug. 15, 2021), https://www.sba.gov/sites/default/files/2021-08/2021.08.16_Weekly%20Forgiveness%20Report_Public-508.pdf.

Summary

Total PPP Loan Population		Forgiveness Requests To Date		Payments To Date	
Count of Loans	Total Loan Value	Count of Applications	Total Forgiveness Amount Requested	Count of Payments	Total Forgiveness Paid
11,492,021	\$792,654,072,484	5,604,139	\$498,509,366,707	5,271,663	\$471,137,621,001
		48% of all PPP loans have submitted forgiveness applications	Forgiveness has been requested for 63% of the total loan value of all PPP loans	46% of all PPP loans have been fully or partially forgiven	59% of the total PPP loan value has been forgiven, in full or in part
4,836 lenders have requested forgiveness for PPP loans					

2020 PPP Loan Population

2020 PPP Loan Population		Forgiveness Requests To Date		Payments To Date	
Count of Loans	Total Loan Value	Count of Applications	Total Forgiveness Amount Requested	Count of Payments	Total Forgiveness Paid
5,135,675	\$521,570,530,282	4,331,360	\$456,519,027,305	4,249,368	\$438,632,367,988
		84% of 2020 PPP loans have submitted forgiveness applications	Forgiveness has been requested for 88% of the total loan value of 2020 PPP loans	83% of 2020 PPP loans have been fully or partially forgiven	84% of the total 2020 PPP loan value has been forgiven, in full or in part
4,788 lenders have requested forgiveness for 2020 PPP loans					

2021 PPP Loan Population

2021 PPP Loan Population		Forgiveness Requests To Date		Payments To Date	
Count of Loans	Total Loan Value	Count of Applications	Total Forgiveness Amount Requested	Count of Payments	Total Forgiveness Paid
6,356,346	\$271,083,542,202	1,272,779	\$41,990,339,401	1,077,250	\$35,148,550,519
		20% of 2021 PPP loans have submitted forgiveness applications	Forgiveness has been requested for 15% of the total loan value of 2021 PPP loans	17% of 2021 PPP loans have been fully or partially forgiven	13% of the total 2021 PPP loan value has been forgiven, in full or in part
4,373 lenders have requested forgiveness for 2021 PPP loans					

Source: Small Business Administration

Current Issues

Opening of PPP Direct Forgiveness Portal

On July 28, 2021, SBA announced it would launch the PPP Direct Forgiveness Portal, a streamlined loan forgiveness application process that would allow PPP borrowers with loans of \$150,000 or less through participating lenders to apply for forgiveness directly through SBA.¹¹ SBA published an interim final rule on July 30 establishing this process.¹² Through this process, SBA proactively reaches out to borrowers and provides a pre-populated forgiveness form to the borrower that they can complete in the new direct forgiveness portal.¹³ Borrowers can submit their forgiveness applications using a computer or smartphone.¹⁴ On average, it takes approximately six

¹¹ U.S. Small Bus. Admin., *SBA Announces Opening of Paycheck Protection Program Direct Forgiveness Portal*, Release No. 21-58, (Jul. 28, 2021), <https://www.sba.gov/article/2021/jul/28/sba-announces-opening-paycheck-protection-program-direct-forgiveness-portal>.

¹² 86 FR 40921.

¹³ U.S. Small Bus. Admin., *In Less Than Two Weeks, Paycheck Protection Program Direct Borrower Forgiveness Portal Surpasses Expectations, Accepts More Than 340K Submissions*, Release No. 21-72, (Aug. 18, 2021), <https://www.sba.gov/article/2021/aug/18/less-two-weeks-paycheck-protection-program-direct-borrower-forgiveness-portal-surpasses-expectations>.

¹⁴ *Id.*

minutes for borrowers to submit their applications and less than a week from the date of submission to receive a decision.¹⁵

The portal began accepting applications on August 4. Lenders are required to opt-in to the direct forgiveness portal through SBA's website, and as of the July 28 announcement, over 600 lenders had opted-in to the direct forgiveness portal, enabling over 2.1 million borrowers to apply for loan forgiveness directly through SBA (representing 30% of loans of \$150,000 or less that have not yet submitted forgiveness requests).¹⁶ Prior to this option, borrowers who did not apply for forgiveness through their lenders within 10 months of the end of the covered period were at risk of owing principal and interest payments on their PPP loans.

On August 18, 2021, SBA announced that it had received more than 340,000 submissions from borrowers with PPP loans of \$150,000 or less.¹⁷ Of these, approximately half have already been approved for full or partial loan forgiveness, totaling more than \$2.4 billion.¹⁸ SBA reported that in the two weeks since the portal opened, SBA received over three times the number of submissions than the top 10 PPP lenders who are not participating in the Direct Forgiveness Portal, which puts SBA on pace to close out forgiveness for the 3.4 million direct forgiveness borrowers by the end of the year.¹⁹ As of SBA's August 18 announcement, more than 1,230 PPP lenders representing over 50% of outstanding loan forgiveness applications have opted-in to the Direct Forgiveness Portal.²⁰

Lender Non-Participation in PPP Direct Forgiveness Portal

Despite the availability of this new option for borrowers seeking loan forgiveness, many PPP lenders, including some of the largest national banks representing a considerable portion of such loans, have not opted-in to the Direct Forgiveness Portal, and will instead rely on their own systems to process borrower forgiveness applications.²¹ Reportedly, these lenders have stated they prefer to use their own processes out of concern that directing borrowers to SBA's portal could create confusion.²² Other reasons include apprehension also exists due to the reliance on and overloaded technology systems²³ and a preference to work directly with their borrowers on loan forgiveness, rather than have them work with SBA. Finally, lenders who opt-in to the portal remain responsible

¹⁵ *Id.*

¹⁶ U.S. Small Bus. Admin., *SBA Announces Opening of Paycheck Protection Program Direct Forgiveness Portal*, Release No. 21-58, (Jul. 28, 2021), <https://www.sba.gov/article/2021/jul/28/sba-announces-opening-paycheck-protection-program-direct-forgiveness-portal>.

¹⁷ U.S. Small Bus. Admin., *In Less Than Two Weeks, Paycheck Protection Program Direct Borrower Forgiveness Portal Surpasses Expectations, Accepts More Than 340K Submissions*, Release No. 21-72, (Aug. 18, 2021), <https://www.sba.gov/article/2021/aug/18/less-two-weeks-paycheck-protection-program-direct-borrower-forgiveness-portal-surpasses-expectations>.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ *See, e.g.*, N.Y. Times, *P.P.P. loan forgiveness portal opens, but big banks opt out*, (Aug. 4, 2021), <https://www.nytimes.com/2021/08/04/business/ppp-loan-forgiveness-portal.html>.

²² *Id.*

²³ *Id.*, *see also*, N.Y. Times, *Cultural Venues' Quest for Billions in Federal Aid Is Halted by Glitch*, (Apr. 8, 2021), <https://www.nytimes.com/2021/04/08/arts/music/svog-grant-application.html>.

for reviewing the loan forgiveness application once inside the portal and must issue a forgiveness decision to SBA.²⁴ Despite these concerns, SBA has reported that many lenders have tested the portal’s capabilities during its early launch period and provided positive feedback.²⁵

However, borrowers with PPP loans originated by lenders not participating in the Direct Forgiveness Portal remain concerned their lender’s non-participation in the portal could mean their loans would not be fully or even partially forgiven.²⁶ This has been especially concerning for borrowers who’ve been contacted by their lenders telling them they were only eligible for a smaller loan amount than was received, and that they’d be required to repay the difference, despite using loan proceeds on eligible and forgivable uses.²⁷

SBA policy is that these “excess loan amount errors” (defined as a borrower or lender error made in good faith causing a borrower to receive a loan amount exceeding the borrower’s maximum allowed under the CARES Act and the Economic Aid Act, and does not include a knowing misstatement) are not eligible for forgiveness, regardless of whether the error was caused by the borrower or lender.²⁸ Under current rules, borrowers in this position will be required to repay excess loan amounts plus 1% interest over five years, as with all other PPP loan amounts not eligible for forgiveness, regardless of whether excess loan amounts were used for forgivable purposes.

Conclusion

Approximately a year and a half into the COVID-19 pandemic, the small business economy has slowly rebounded, but remains in a fragile state, especially as the Delta variant continues to spread, and some communities deal with lower vaccination rates. Though PPP effectively preserved millions of jobs and thousands of businesses, the program is in its most important phase – that which makes good on the promise made by the federal government that these loans could be easily forgiven and thus converted into grants. To that end, Congress will remain vigilant of the obstacles faced by PPP borrowers in accessing full loan forgiveness and will continue considering program rule changes that may be needed to maximize full loan forgiveness, especially for small-dollar borrowers.

²⁴ 86 FR 40921, 40924.

²⁵ N.Y. Times, *P.P.P. loan forgiveness portal opens, but big banks opt out*, (Aug. 4, 2021), <https://www.nytimes.com/2021/08/04/business/ppp-loan-forgiveness-portal.html>.

²⁶ See, e.g., The Intercept, *Banks are Opting Out of the Government’s PPP Loan Forgiveness Process*, (Aug. 22, 2021), <https://theintercept.com/2021/08/22/covid-ppp-loan-forgiveness/>.

²⁷ See, e.g., The Intercept, *Banks are Reversing Course on PPP Loans to Small Business Owners*, (Jul. 12, 2021), <https://theintercept.com/2021/07/12/covid-banks-sba-ppp-loans/>.

²⁸ U.S. Small Bus. Admin., Procedural Notice 5000-20078, <https://home.treasury.gov/system/files/136/PPP--Procedural-Notice--PPP-Excess-Loan-Amount-Errors.pdf>.