May 12, 2020

The Honorable Steven T. Mnuchin
Secretary
U.S. Department of Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

The Honorable Jovita Carranza
Administrator
Small Business Administration
409 Third Street, SW
Washington, D.C. 20416

Dear Secretary Mnuchin and Administrator Carranza:

We write on behalf of the Consumer Bankers Association (CBA) and the National Association of Government Guaranteed Lenders (NAGGL) to express our concerns and offer considerations with respect to the loan forgiveness process of the Paycheck Protection Program (PPP). The PPP has been welcomed by small businesses across the country and considered a lifeline for the millions of men and women who work at them. Lenders across the country have worked tirelessly to implement the new program, doing everything humanly possible to support U.S. small businesses and provide them assistance through the PPP established in the Coronavirus Aid, Relief, and Economic Security (CARES) Act.\(^1\) Considering it is now the sixth week since PPP loans were made available, it is vital the forgiveness stage is implemented in a manner that provides small businesses with advance, clear and concise guidance, maximizes the opportunity for borrowers to receive forgiveness, and allows lenders to streamline the process.

As of May 11, 2020, PPP has provided over 4 million small businesses with economic assistance. This is a significant volume of loans that were processed in a short timeframe and, as a result, the program ran into operational hurdles as the Small Business Administration (SBA) and partnered lenders distributed the PPP funds. Our members are concerned there will be too much friction in the forgiveness process and we may face far greater challenges than those experienced when the loans were issued. The funding process was automated (ETRAN), but the loan forgiveness process has no existing automated system, making the process 100% manual and prone to greater implementation issues. To this point, we make the following recommendations to the SBA and Treasury (the agencies) to ease and streamline the implementation of the forgiveness process for both small businesses and lenders.

**Borrow Liability**

In an interim final rule\(^2\) issued by the SBA indicated it is the sole responsibility of the small business to determine the forgiveness amount of the loan and a lender may rely on the borrower’s certification to this amount without the need for verification. Similarly, as

---

\(^1\) H.R. 748, 116th Cong., § 1102(a)(2) (2020).

\(^2\) Business Loan Program Temporary Changes; Paycheck Protection Program, 85 Fed. Reg. 73 (April 15, 2020)
prescribed in the “Hold Harmless” provision in Section 1102 of the CARES Act, it was the original intention of the law for lenders to be able to depend on such attestations. Any additional guidance on forgiveness must continue to reflect this notion. If lenders are required to review and verify the forgiveness amounts submitted by a borrower, the forgiveness process will be overly burdensome and unworkable given the sheer volume of loans.

**Simplified Process**

To ensure the forgiveness process is as simple and straightforward as possible for small businesses, CBA and NAGGL urge the agencies to issue both a loan forgiveness application and a forgiveness worksheet. A standardized loan forgiveness application would not only provide borrowers clarity and consistency as to the required certifications and qualifying use of funds, but would allow for lenders to process the applications more efficiently. The agencies should also issue a forgiveness worksheet or calculator to provide small businesses with a step-by-step method to calculate the forgiveness amount on a PPP loan. The considerations that must be made as to the reduction of employees or salaries, the rehiring of employees, the reduction of an EIDL advance, and more make determining the amount to be forgiven rather complex for even the most sophisticated borrower. Also, depending on the order by which one applies the reductions based on these variables, there may be differing end results to the total forgiveness amount. A forgiveness worksheet issued by the SBA would ensure calculations are accurate and ease the process for small businesses. Additionally, if possible, combining into a single document the forgiveness application and worksheet would be preferred from an operational perspective.

**Extend PPP Fund Use Provision**

The goal of the PPP is to ensure employees of small businesses continue to gain income during this challenging time. Our members believe it is paramount that the agencies prioritize maximizing the eligible amount of forgiveness for PPP recipients. CBA and NAGGL urge the agencies to provide more flexibility in the timing which the proceeds may be used, as well as the overall use of proceeds.

With consideration to the 8-week period in which PPP funds are to be used, we recommend either lengthening the period or allowing the 8-week period to be applied at the discretion of the borrower. In many cases, before a small business was able to receive funds from a PPP loan, employees were already furloughed and receiving unemployment assistance. Additionally, many small businesses applied for PPP funding with the intent of using the funds to help support their operations and employees, but with how the circumstances surrounding COVID-19 developed, it became unclear how long the crisis will continue. The pandemic has affected each small business and industry differently. Although some were able to immediately find relief through the PPP, others have faced complications that severely diminished their ability to fully utilize the funds. To ensure small businesses are truly able to use PPP proceeds to help
them survive during these troubled times, there needs to be more flexibility on the timeframe in which a PPP loan may be used.

**Payroll Ratio Provision**

CBA and NAGGL also recommend adjusting the non-statutory requirement on the loan forgiveness amount that requires that no more than 25 percent may be attributable to non-payroll costs, therefore at least 75 percent must be used for payroll expenses. This threshold is problematic. For certain industries – rent, mortgage, and utility payments may make up a larger portion of a business’s fixed monthly expenses and, for the reasons listed previously pertaining to the current circumstances of small businesses, may not be able to meet the required ratio because employees are no longer working. If the requirement is reduced, for example to not more than 50 percent may be attributable to non-payroll costs, this would provide more flexibility for small businesses to receive the support they need and maximize their access to loan forgiveness. If a business cannot keep its doors open, it cannot pay its employees.

* * * * *

Again, thank you for your time and consideration on these and other important matters related to PPP. If have any questions or need anything further, please contact CBA General Counsel David Pommerehn at 202-552-6368 or dpommerehn@consumerbankers.com, or NAGGL Vice President Kristen Granchelli at 202-957-7989 or kgranchelli@naggl.org.

Sincerely,

Richard Hunt
President and CEO
Consumer Bankers Association

Tony Wilkinson
CEO and President,
National Association of Government Guaranteed Lenders (NAGGL)