ICBA
INDEPENDENT COMMUNITY
BANKERS of AMERICA®

April 14, 2020

The Honorable Mitch McConnell
Majority Leader
United States Senate
Washington, D.C. 20510

The Honorable Charles E. Schumer
Minority Leader
United States Senate
Washington, D.C. 20510

The Honorable Nancy Pelosi
Speaker
United States House of Representative
Washington, D.C. 20515

The Honorable Kevin McCarthy
Minority Leader
United States House of Representative
Washington, D.C. 20515

Dear Majority Leader McConnell, Minority Leader Schumer, Speaker Pelosi, and Minority Leader McCarthy:

On behalf of community banks across the country, with more than 52,000 locations, I write to thank you for your ongoing commitment to ensuring the flow of credit necessary to sustain America's small businesses during this pandemic crisis. Community banks have deep and enduring ties to America's small businesses. With the right policies in place, community banks are well positioned to channel credit expeditiously to help small business bridge this temporary economic shutdown, preserve their workforces, and be ready to restart once restrictions have been lifted.

As Congress crafts the next legislative response to the pandemic crisis, ICBA recommends changes and enhancements to the PPP that would facilitate access for community banks and their small business customers and allow the program to reach its full potential.

Paycheck Protection Program Modifications

Immediate, additional funding is needed. As you know, the initial tranche of $349 billion of funding will run out in just a few short days. There is high demand for PPP credit, a critical investment in preserving our small businesses and the employees that rely on them. ICBA recommends additional funding of at least $250 billion.

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Ensure PPP credit reaches all communities with 25% allocation for banks $50 billion or less in assets. To ensure the success of the PPP, the lenders that are best qualified to quickly deploy credit in all American communities must have a proportionate allocation of PPP funding. Because the largest banks do not serve America's smaller, rural communities, it would be a costly policy mistake to allow these lenders to soak up a disproportionate share of the funding. To ensure a robust recovery, funding must be distributed fairly and evenly with no communities left behind. For this purpose, we urge you to ensure that banks with assets of less than $50 billion are allocated 25 percent of future PPP funding. These banks hold about 27 percent of industry assets, so a 25 percent allocation would be proportionate.

More workable loan terms. Community banks are committed to using the PPP to help small businesses, but to preserve their own health and long-term viability, they should not be expected to extend credit at rates that are below funding costs. The CARES Act provides for PPP interest rates of up to 4 percent and terms of up to 10 years. Treasury and SBA implemented PPP with an interest rate of 1 percent and a loan term of two years. As Congress provides additional PPP funding, it should allow for loans at interest rates of 4 percent and terms of 10 years to provide affordable loans for small business borrowers.

Allow needed flexibility in the timing of loan disbursements. The current rule requires loan disbursement in 10 days. This is not a realistic time frame given the massive volume of loans being processed. More flexibility is needed to ensure loans will be made and allow the smooth flow of funds.

Expand PPP loan uses. PPP loan terms are unreasonably limited, allowing no more than 25 percent of proceeds to be used for non-payroll expenses. Small business must meet significant non-payroll expenses to remain viable, retain employees, and be positioned to reopen or expand after the lifting of social and economic restrictions. Up to 50 percent of PPP loan proceeds should be allowed to be used for critical non-payroll expenses such as mortgage interest, rent, utilities, and other fixed expense. Loan proceeds used for these purposes should be subject to forgiveness.

Robust lender safe harbor will facilitate and speed loan processing. Congress or the administration should ensure that lenders that make a "reasonable effort" to verify that a small business applicant qualifies for a PPP loan is protected from liability by a robust safe harbor. Community banks are eager to extend credit to small business in a time of crisis. They should not be restrained by threats of liability that could put them out of business. We suggest the legislative language below:

> *Notwithstanding any provision of existing law or regulation or any provision of this act, all insured depository institutions with assets less than $50 billion shall not be liable for any extensions of credit or the servicing of credits made under the Paycheck Protection Program or successor credit facilities or any other form of banking in connection with the CV-19 health emergency, whether by local, state or federal government agencies or by any party to which credit was extended. This community bank safe harbor from any and all liability in connection with credit programs put in place as a result of the health emergency will be in full force and effect until 180 days after the CV-19 health emergency is rescinded.*

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Address Beneficial Ownership Rule barrier for new bank customers. ICBA recommends a temporary suspension through December 31, 2020 of the Beneficial Ownership Rule for entities seeking PPP loans that are not current bank customers. This rule suspension will facilitate quick access for both PPP and non-PPP credit. Banks will exercise ongoing due diligence and monitoring to safeguard the PPP from fraud.

No exclusion for bank director-owned businesses. In smaller communities served by community banks, local small business owners are often invited to serve as community bank directors. Qualifying small businesses owned by bank directors should not be disqualified from obtaining PPP loans from the banks they serve as directors so long as the terms of the director loans are no more favorable than those included in other comparable loans to other customers.

Thank you for your consideration and for your ongoing commitment to creating and implementing effective solutions to the pandemic crisis. I look forward to working with you to implement the recommendations set forth in this letter.

Sincerely.

/s/

Rebeca Romero Rainey
President & CEO

CC: Senate Banking Committee Chairman Mike Crapo
Senate Banking Committee Ranking Member Sherrod Brown
House Financial Services Committee Chairwoman Maxine Waters
House Financial Services Committee Ranking Member Patrick McHenry
Senate Small Business and Entrepreneurship Chairman Marco Rubio
Senate Small Business and Entrepreneurship Ranking Member Benjamin Cardin
House Small Business Chairwoman Nydia Velázquez
House Small Business Ranking Member Steve Chabot