Credit Union National Association
CUNA

Jim Nussle
President & CEO
Phone: 202-508-6745
jnussle@cuna.coop

99 M Street SE
Suite 300
Washington, D.C. 20003-3799

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The Honorable Nydia M. Velázquez
Chairwoman
Committee on Small Business
House of Representatives
Washington, DC 20515

The Honorable Steve Chabot
Ranking Member
Committee on Small Business
House of Representatives
Washington, DC 20515

Dear Chairwoman Velázquez and Ranking Member Chabot,

On behalf of American's credit unions, I am writing to express our views ahead of the hearing titled "Oversight of the Small Business Administration and Department of Treasury Pandemic Programs." The Credit Union National Association (CUNA) represents America's credit unions and their 115 million members.

The Department of the Treasury and Small Business Administration (SBA) have taken unprecedented actions to stabilize the economy during the COVID-19 pandemic. The unprecedented shutdown of the American economy has led to economic uncertainty for individuals and businesses of all types. Changes to regulations and the creation of new lending programs have and will continue to help individuals and business throughout this crisis.

Paycheck Protection Program

We appreciate Congressional efforts to establish the Paycheck Protection Program (PPP) created by the Coronavirus Aid, Relief, and Economic Security (CARES) Act. The PPP has provided loans to many small businesses in need across the United States during these challenging times. Credit unions welcomed the opportunity to help Americans by making PPP loans to small businesses that desperately needed help. We understand that rolling out this unique lending program was challenging for the SBA and clearly the product was still being developed as credit unions and other lenders were originating loans.

Unfortunately, the short timeframe in which the PPP was enacted and implemented created many challenges for credit unions and other lenders in making, processing, and disbursing loans. Although money did flow to small businesses through the PPP, the launch and subsequent relaunch was confusing and difficult for both borrowers and financial institutions, as there were many problems with the process. We remind the Committee that credit unions are a vital component to the delivery of financial services to many Americans and that credit union members should have equal access to the PPP just as those that choose to borrow from large banks. At times during the initial phase and start of the second phase of the PPP, access was not uniform across all financial institutions, which may have frustrated small businesses that accessed PPP loans through smaller financial institutions.

PPP Liquidity Facility

We appreciate the Federal Reserve quickly creating the Paycheck Protection Program Liquidity Facility to provide liquidity to eligible financial institutions that made PPP loans. This facility provided a source of liquidity to financial institutions that may have needed flexibility after making PPP loans. This program made it easier for credit unions and other financial institutions to make PPP loans without causing anxiety about liquidity from the loans.

Address Lender Liability Concerns
Since enactment of the CARES Act, credit unions and other lenders have expressed concern over whether they will be liable for errors, misstatements or fraudulent activity on the part of small businesses participating in the PPP.

Despite these concerns, credit unions charged ahead and made loans to desperate small businesses before many aspects of the PPP were developed. Indeed, there have been many interim final rules issued implementing this program in the four months since the enactment of the CARES Act. These interim final rules have provided some guidance on critical aspects of the program, such as the documentation required to determine eligibility, the process for submission and approval of the loans by the SBA, the collection of servicing fees, and the determination of funds to be forgiven.

Credit unions and other lenders essentially acted as agents of the government disbursing funds to small businesses during this time of need. Congress and the SBA ought to do the right thing by holding lenders harmless for errors that may have been made as a result of unclear, ambiguous or inadequate guidance, as well as misstatements and fraudulent activity on the part of borrowers. Congress should use upcoming recovery legislation to protect lenders from PPP related liability.

Simplify the PPP Loan Forgiveness Process
As you know, the key to PPP is loan forgiveness. This unique feature effectively turns a PPP loan into a grant if specific conditions are met for the use of the borrowed funds. Loan forgiveness helps support businesses by providing them funding to pay employees and certain other expenses that will not have to be repaid, allowing businesses to stay solvent in a time of decreased revenues. The size and sophistication of borrowers varies widely from large public corporations to the self-employed. In fact, some credit unions made PPP loans to members for less than $1,000. Although the borrowers are all different, we suspect that nearly all envisioned applying for and receiving forgiveness for these loans. Credit unions are concerned that the recently published application for loan forgiveness is overly complex for most businesses.

We ask Congress to ensure Treasury and the SBA simplify the forgiveness application process for loans under $350,000. This threshold would capture most loans and is the amount at which the CARES Act makes the lowest cutoff in determining lender processing fees. Additionally, the agencies should consider making forgiveness of these loans automatic or simply require a good faith certification that the funds were spent on forgivable expenses.

Ongoing Concerns with the Paycheck Protection Program
CUNA has addressed the following concerns in letters to the SBA as they were major issues during the initial phase of the program:

- Lack of support from the SBA to provide timely feedback on issues;
- Lack of updating guidance and forms to reflect privately insured state-chartered credit unions are eligible to be PPP lenders;
- Lender prioritization guidance;
- Official guidance formalizing the use of SBA forms; and
- Lack of guidance on the purchasing process of loans.

Economic Impact Payments (EIP)
We understand most eligible Americans have received their Economic Impact Payments (EIP). There were many challenges in rolling out these payments, but we believe the process could have and should have been handled better. If additional EIP are sent, we suggest:

The Internal Revenue Service (IRS) and Treasury

The IRS and Treasury should provide real-time information to our member credit unions and other financial institutions to help mitigate fraud and manage expectations. They should also study errors made and fix problems from the first round.

Congress should protect EIP from garnishment

Congress should adopt legislation that protects stimulus payments from garnishment. While this is a complex issue, we understand Congress is working on legislation that would mostly remedy this problem. Senators Grassley and Brown have introduced legislation, S. 3841 which would protect EIP payments from garnishment.

On behalf of America's credit unions, thank you for holding this important hearing and the opportunity to share our views.

Sincerely,

Jim Nussle
President & CEO