Credit Union National Association
CUNA

Jim Nussle
President & CEO

Phone: 202-508-6745
jnussle@cuna.coop

99 M Street SE
Suite 300
Washington, DC 20003-3799

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The Honorable Marco Rubio
Chairman
U.S. Senate Committee on Small Business & Entrepreneurship
Washington, D.C. 20515

The Honorable Ben Cardin
Ranking Member
U.S. Senate Committee on Small Business & Entrepreneurship
Washington, D.C. 20515

Dear Chairman Rubio and Ranking Member Cardin:

On behalf of America's credit unions, I am writing regarding the upcoming hearing "Small Business in Crisis: The 2020 Paycheck Protection Program and its Future." The Credit Union National Association (CUNA) represents America's credit unions and their more than 120 million members.

The COVID-19 global pandemic is an unprecedented public health crisis that has resulted in an unprecedented economic uncertainty impacting all sectors of society. Congress anticipated the potential for widespread, but short duration economic catastrophe through the enactment of the Coronavirus Air, Relief and Economic Security (CARES) Act which established the Paycheck Protection Program (PPP).

The SBA and Treasury's implementation of the PPP left much to be desired as credit unions and other lenders experienced periodic inability to access to the E-Tran system and occasional unresponsiveness to credit unions asking for assistance. Many of these initial challenges have been remedied as the program has matured. Nonetheless, credit unions and other lenders should not be responsible for any negative impact to their operations for pitching in to help American businesses survive through this darkest hour.

Despite these issues, credit unions were proud to offer PPP loans to help small business owners recover from the impact of the pandemic, facilitating more than 170,000 loans that averaged just $49,000. Through this program, credit unions helped Main Street America including businesses like non-profit organizations that are helping the minority communities in the cities of Wilmington and minority owned businesses in the lower east side of New York such as a small deli, tiny photography businesses, and the neighborhood bakery, among many others.

While PPP lending has concluded, there are several steps that SBA should take if additional funds become available. SBA should improve their national and regional operation in order to provide more timely feedback to lenders and borrowers, including lender prioritization guidance, official guidance formalizing the use of PPP forms and guidance on the loan purchasing process. Furthermore, the SBA should issue guidance and forms to reflect that privately insured state-chartered credit unions are eligible to lend through the program.

Now that the PPP program has transitioned to the loan forgiveness phase, credit unions are concerned that the loan forgiveness process is overly complicated for most businesses. The process is so complex that most businesses may need to retain counsel to navigate the application process – an expense many of the smallest businesses cannot afford during normal times, much less in this crisis. The SBA did take steps to simplify the forgiveness process for smaller loans, but more needs to be done to ensure that small business can complete forgiveness paperwork without outside assistance.

We are also concerned about the impact of the SBA's loan necessity questionnaires on the good faith attestations of borrowers. We fully support the SBA's review and oversight of PPP loans but are concerned that review process could adversely impact lenders and borrowers.

In order to allow America's small business owners and Main Street financial institutions to remain focused on serving their communities rather than jumping through burdensome regulatory hurdles, we urge Congress to implement policy that provides automatic loan forgiveness for PPP loans. We strongly support S. 4117, the Paycheck Protection Program Small Business Forgiveness Act, introduced by Senators Cramer, Menendez, Tillis and Sinema, and its House companion, H.R. 7777. This legislation would provide forgiveness for PPP loans of $150,000 or less if the borrower submits an attestation form to the lender. It also ensures that the lender will be held harmless from any enforcement action if the borrower's attestation contained falsehoods.

Additionally, credit unions have been concerned about PPP related liability since the onset of the program. Now, we are beginning to see lawsuits are being filed to remedy perceived issues with aspects of the PPP. The interim final rules provided little 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. This lack of guidance shifts too much liability to the lender and creates too much process risk relative to the limited interest rate. Thus, we call on Congress to enact commonsense liability protections for PPP lenders.

On behalf of America's credit unions, we thank you for considering our views.

Sincerely,

Jim Nussle
President & CEO