Paycheck Protection Program

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Submitted by cmeek on Thu, 04/09/2020 - 16:58

The Honorable Steven Mnuchin
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

The Honorable Jovita Carranza
Administrator
U.S. Small Business Administration
409 3rd Street, SW
Washington, DC 20416

Dear Secretary Mnuchin and Administrator Carranza:

On behalf of the Conference of State Bank Supervisors (CSBS), I write to you to provide critical feedback from state regulators and the state-chartered banks they supervise on issues related to the $349 billion Paycheck Protection Program (PPP), which Congress established in the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). Collectively, state regulators charter and supervise 79 percent of all banks in the United States, the majority of which are community banks focused on serving the credit and financial services needs of local businesses and consumers. Simply put, state regulators and state-chartered banks are on the frontlines working with struggling small businesses to provide them with PPP loans.

State regulators recognize the unprecedented and swift economic fallout of the COVID-19 pandemic has presented challenges in rapidly establishing PPP. However, the Treasury Department (Treasury) and Small Business Administration (SBA) must:

- Institute clear, coordinated, and timely guidance and communication on PPP;
- Ensure community banks and their small business customers have equal access to PPP loans; and
- Establish transparent, public disclosure on PPP loans

State regulators fear that without consistent communication, accessible systems and interfaces, and transparent reporting, the PPP will not live up to its promise for small businesses, small financial institutions, and local economies.

Lenders Need Consistent, Clear Guidance from SBA and Treasury

State regulators and their regulated entities continue to receive confusing or contradictory answers (or no answers at all) to many of the same PPP-related questions. State regulators request immediate, clear, and

coordinated guidance on the following topics:

PPP Loans to Independent Directors

SBA guidelines do not allow for loans to insiders. Indeed, banks must certify during loan submission that the applicant is not an insider. However, state regulators and banks have both heard that this prohibition was not intended to encompass independent directors. Many independent directors are business leaders employing significant numbers of employees in their local communities. These small businesses may be suffering economic stress from COVID-19 as well. SBA and the Treasury Department must provide definitive clarity on the ability of independent directors to apply for PPP loans.

Closing PPP Loans – Necessary Documentation, Funding Loans & Guarantees

Lenders and state regulators had been receiving conflicting information on funding PPP loans from different SBA district offices. Some SBA district officials were communicating that PPP loans must be closed within five calendar days, while others were telling banks and state regulators this was inaccurate information. In its April 8 update to the "Paycheck Protection Program Loans Frequently Asked Questions (FAQs)," Treasury informed banks they must make an initial disbursement of funds within ten calendar days.[1] Such disparate information is highly disruptive and frustrates bankers' efforts to distribute PPP loans to small businesses.

While Treasury has now clarified the timeframe for closing PPP loans, many community banks are still unable to close and fund loans – even though they may have a large number of approved applications – due to lack of guidance on which loan documents to use.

Additionally, state regulators continue to hear concerns from community banks that no process has been established for lenders to notify SBA of a loan funding, nor the date of the funding, which can impact loan guarantees. In the past, discrepancies on funding dates between lenders and the SBA have created circumstances in which a loan's guarantee is revoked.

PPP Loan Terms & Payment Structure

While the current guidance establishes the rate of interest (1 percent), full term of the note (24 months), and timing on deferred payments (up to 6 months) for PPP loans, the guidance is silent regarding how interest is charged (e.g., monthly, quarterly, or at maturity) on any amount of a PPP loan that is not forgiven. For example, the "Payment Terms" field of the recently issued SBA Standard Loan Note (Form 147)[2] template is simply an empty box, providing no additional guidance to lenders on how to structure any unforgiven portion of a PPP loan. SBA and Treasury should prioritize issuing clarifying guidance on the terms and structure of unforgiven PPP loans.

Community Bank Lenders Need Equal Access

State regulators are highly concerned that many state-chartered banks, particularly smaller community banks, continue to have problems accessing SBA's E-Tran system to submit PPP loan applications. This issue risks undermining confidence in community banks during a time of great national need, precisely as these institutions seek to leverage their longstanding relationships and proximity to local small businesses to get them critical funds.

State regulators have fielded a disturbingly high and ongoing number of complaints from state-chartered community banks about their inability to access SBA's E-Tran system. As such, these small lenders are unable to submit PPP applications on their small business borrowers' behalf. Other community banks have communicated that E-Tran has requested additional information fields that are not present on the PPP application form, including NAICS code, 4-digit extended zip code for borrower and principals, business formation date, and age of business. Community banks have told state regulators that many of their small business customers are growing frustrated with them and are ready to sever their longstanding relationships in order to find a lender who can deliver much needed PPP loans.

These problems are even more concerning as some of the largest lenders are reported to be closing large volumes of PPP loans, potentially prioritizing small business borrowers who bank with large institutions over those who have relationships with community financial institutions. There must be fair and equal access to PPP loans for small business borrowers who seek credit from community banks.

Small Businesses & Community Bank Lenders Need Public Disclosure of PPP Loans

State regulators believe SBA and Treasury must thoroughly and publicly disclose PPP loan metrics to provide transparency, accountability, and measurability to this essential and unprecedented program. SBA and Treasury must quickly begin to publicly disclose where PPP loans have been made. PPP loan information should be reported by state and metropolitan statistical area (MSA) at a minimum, but it should also include PPP loan volume and aggregate dollar amounts by individual lenders.

This data is important for local policy makers as they seek to assess and respond to the economic challenges. Programs at the local level can complement the federal response with clear visibility into where those funds are flowing. The states and federal government share the same objective of ensuring economic recovery as quickly as possible.

Conclusion

CSBS and state regulators stand committed to working with SBA and Treasury to deliver on the promise of PPP for small businesses and state-chartered banks across the country. Clear guidance, coordinated communication, equitable access for community bank lenders, and public disclosure are all critical for the PPP to be successful, and we look forward to providing you with additional feedback and recommendations to achieve these objectives.

Sincerely,

John W. Ryan
President & CEO

cc:
Hon. Mitch McConnell, Majority Leader, U.S. Senate
Hon. Charles Schumer, Minority Leader, U.S. Senate
Hon. Nancy Pelosi, Speaker, U.S. House of Representatives
Hon. Kevin McCarthy, Minority Leader, U.S. House of Representatives

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Footnotes

[1] Paycheck Protection Program Loans Frequently Asked Questions (FAQs): “20. Question: The amount of forgiveness of a PPP loan depends on the borrower’s payroll costs over an eight-week period; when does that eight-week period begin?
Answer: The eight-week period begins on the date the lender makes the first disbursement of the PPP loan to the borrower. The lender must make the first disbursement of the loan no later than ten calendar days from the date of loan approval.”
[2] SBA Standard Loan Note (Form 147)

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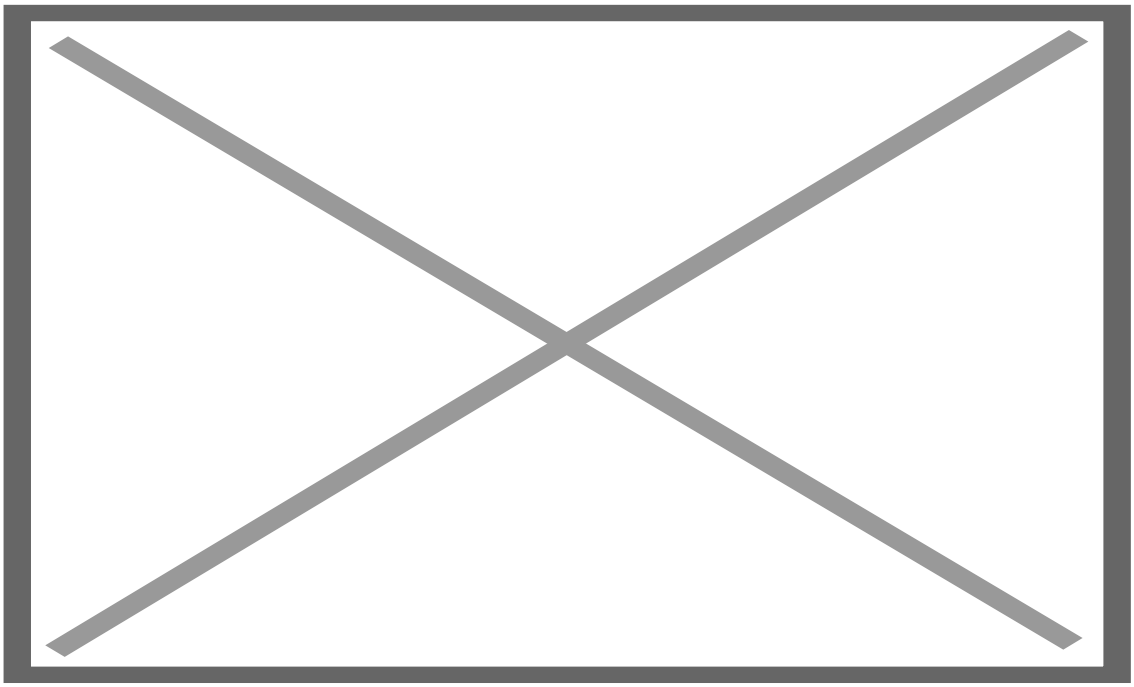

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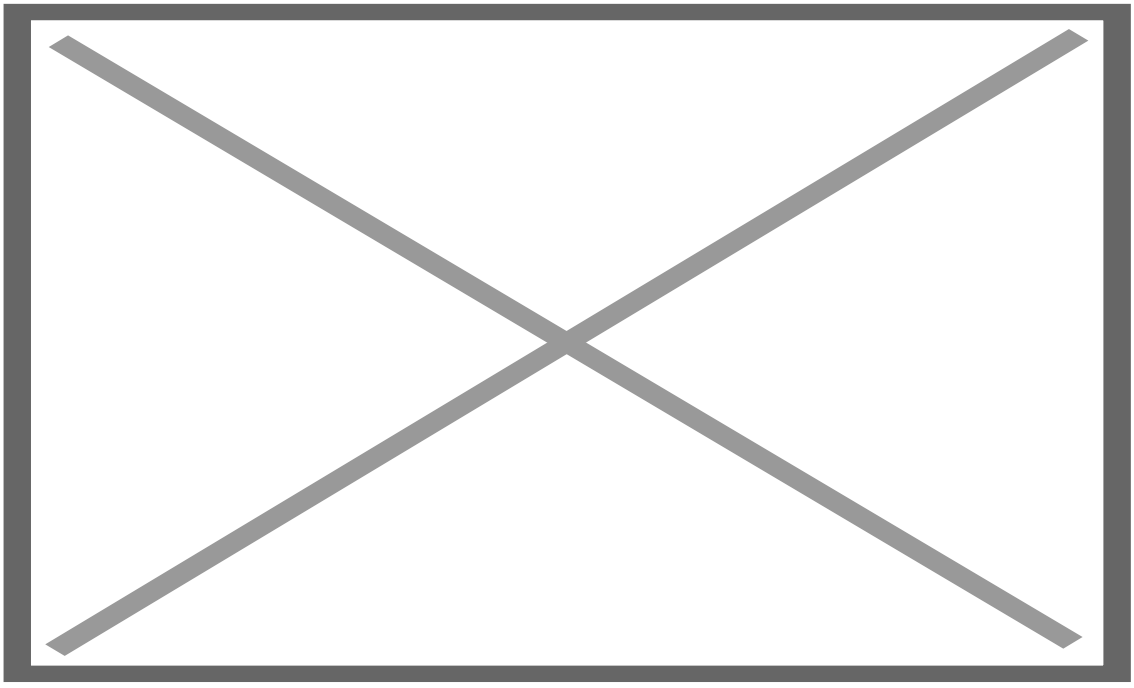

202.296.2840
newsroom@csbs.org
1129 20th Street, N.W., 9th Floor, Washington, DC 20036