Testimony of Ashley C. Harrington

Federal Advocacy Director and Senior Counsel

Center for Responsible Lending

Before the United States House Committee on Small Business

"Paycheck Protection Program: Loan Forgiveness and Other Challenges"

June 17, 2020

I. Introduction

Good afternoon Chairwoman Velazquez, Ranking Member Chabot and Members of the United States House Committee on Small Business. Thank you for the opportunity to provide testimony today about the need to address the challenges posed by the Paycheck Protection Program (PPP). My name is Ashley Harrington, and I am Federal Advocacy Director and a senior policy counsel at the Center for Responsible Lending (CRL). CRL is a non-profit, nonpartisan research and policy organization dedicated to protecting homeownership and family wealth by working to eliminate abusive financial practices. The organization is an affiliate of Self-Help, one of the nation's largest community development financial institutions. For forty years, Self-Help has focused on creating asset-building opportunities for families of color, women, rural residents and low-income people and communities, primarily through financing safe, affordable home loans and small business loans. In total, Self-Help has provided more than $7 billion in financing to 87,000 homebuyers, small businesses and non-profit organizations and serves more than 80,000 mostly low-income families through more than 40 retail credit union branches in North Carolina, California, Florida, Illinois, South Carolina, Virginia, and Wisconsin.

CRL and Self-Help have seen firsthand the potential for the PPP to serve as a lifeline to small businesses as they navigate the current economic crisis. As a long-time SBA lender, Self-Help began accepting Paycheck Protection Program (PPP) applications on April 6. As of June 13, Self-Help has received SBA approval for $170 million in loans to 1,395 small businesses and non-profits across the country. These loans have been a lifeline for our borrowers, allowing them to continue employing over 18,000 people through the current economic uncertainty. Self-Help's PPP efforts have focused on assisting underserved applicants: by dollar amount, fifty-three percent of the loans are to small businesses and entities led by people of color, and sixty-seven percent are to non-profits. With a median loan amount of less than $28,000, these loans primarily serve truly small businesses: sixty-five percent of the loans are under $50,000, and eighty-three percent are under $150,000.

Preserving businesses owned by people of color is paramount to an equitable recovery. Employer businesses owned by people color are a substantial source of income and employment—accounting for more than 8.9 million jobs at total annual payroll of $295 billion, and $1.4 trillion in revenue.[1] Yet many of these businesses as well as non-employer or self-employed businesses were likely excluded from the first round of funding in the PPP. Business ownership is also a proven mechanism for wealth-building, with economic benefits that extend beyond the individual business to the entire community. Ensuring that federal small business relief works for small businesses owned by people of color is essential to an inclusive economic recovery.

As a result of the devastating economic impacts of an already catastrophic public health emergency, Congress rightfully moved quickly to provide some of the desperately needed financial support to families and businesses. This crisis comes even as the effects of the last recession continue to be felt in many communities, especially communities of color. The Great Recession resulted in more than 8.7 million lost jobs, 8 million homes foreclosed, and 500 community banks shuttered.[2] This does not include the non-direct financial harms of the crisis, such as the estimated 95 million households who lost

---

[1] 2018 Annual Business Survey

[2] Calhoun, Michael. "Lessons from the Financial Crisis: The Central Importance of a Sustainable, Affordable and Inclusive Housing Market." *Brookings* (blog), September 5, 2018. https://www.brookings.edu/research/lessons-from-the-financial-crisis-the-central-importance-of-a-sustainable-affordable-and-inclusive-housing-market/.

home equity due to surrounding foreclosures; this lost wealth totaled $2 trillion with $1 trillion coming from communities of color.[3] Just as the last recession widened the racial wealth gap even further, we are already on track to see disparities drastically increase because of COVID-19.

My testimony today will:

- Provide an overview of the disproportionate economic impacts of the COVID-19 health crisis.
- Discuss issues with the structure and implementation of the PPP and how they served to limit access for the smallest businesses and businesses owned by people of color.
- Highlight the challenges posed by the current requirements to access PPP forgiveness.
- Provide policy recommendations to ensure 1) the remaining PPP funds reach the smallest businesses and businesses owned by people of color; 2) the forgiveness process is streamlined and workable for the smallest businesses and their lenders; and 3) equitable small business relief, beyond the PPP, is available as we enter the recovery period.

II. <u>The Economic Effects of the COVID-19 Public Health Crisis Have Fallen Disproportionately on Communities of Color</u>

A. The Disproportionate Economic Effects of the COVID-19 Public Health Crisis

Unemployment rates have skyrocketed, well exceeding the rates seen during the financial crisis, but they have been highest for communities of color. In May 2020, unemployment hit 17.6% for Hispanic or Latino workers, 16.8% for Black workers, 15.0% for Asian workers and 12.4% for white workers.[4] The recent spike in unemployment, however, masks the persistently high rates in these communities, many of which took years to return to even pre-financial crisis levels. The 2007 pre-financial crisis lowest unemployment rate among Black workers was 7.6% in August 2007, a rate that was only slightly lower than the peak financial crisis unemployment rates among white workers of 9.2% in October 2009 (Figure 1). The severity of the current unemployment crisis can also be measured in the rate of increase. The lowest pre-financial crisis unemployment rates occurred in early- to mid-2007, with the peak crisis unemployment rates in most communities not occurring until the end of 2009, nearly two and a half years later. In contrast, in 2020, unemployment figures by race and ethnic group jumped between 149% and 255% from March 2020 to April 2020 (Figure 1).

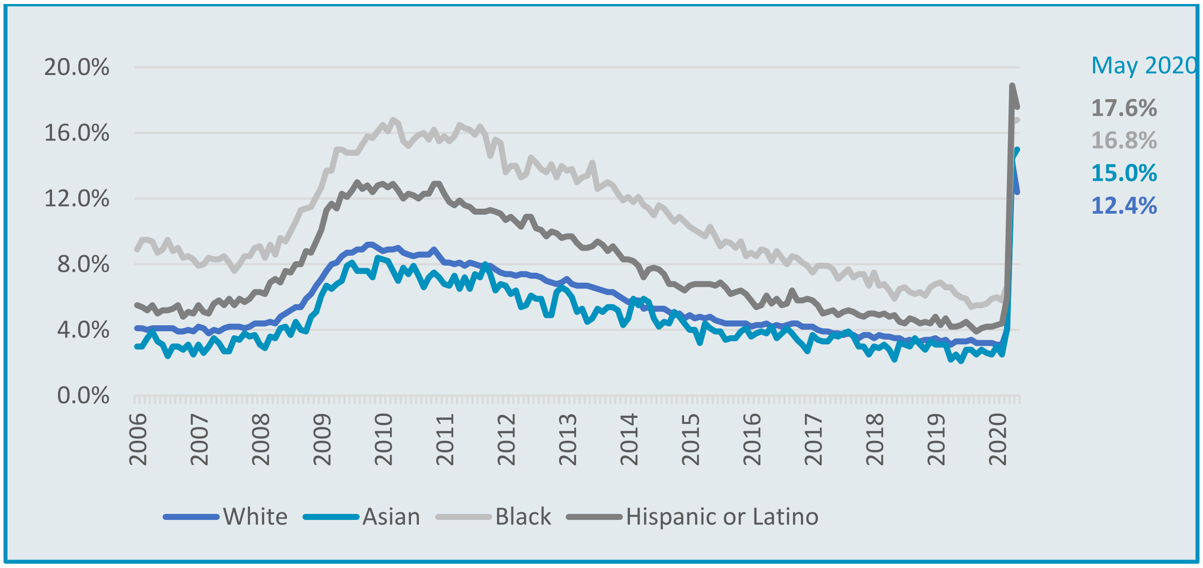
Unlike the last financial crisis and accompanying unemployment levels, this unemployment rate increase and recession are driven by federal and state policies effectuated in response to a health pandemic. As such, the federal and state response must equitably restore and make whole those who are disproportionately impacted. It is imperative that we take steps now to make sure relief and recovery efforts reach all communities.

---

[3] Bocian, Debbie Gruenstein, Peter Smith, and Wei Li. "Collateral Damage: The Spillover Costs of Foreclosures." Center for Responsible Lending, October 2012. https://www.responsiblelending.org/mortgage-lending/research-analysis/collateral-damage.pdf.

[4] Bureau of Labor Statistics Current Population Survey, Table A-2 and A-3.

Figure 1. Monthly unemployment rate from 2006 to present, seasonally adjusted



Source: Bureau of Labor Statistics Current Population Survey, Table A-2 and A-3.

B. The Impact of the Crisis on Small Businesses

The effect of the crisis on small businesses has been profound—more than half of small businesses said the crisis has had a large negative effect on their businesses and 50.3% of small businesses said they have had a decrease in operating revenues in the last week. In late April, temporary closings impacted 41.5% of small businesses, and 26.5% were impacted in late May. These impacts were far worse for some hardest-hit sectors, including education, foodservice and accommodations, and recreation.[5]

The crisis has impacted industry sectors differently, with widely varying responses to two key measures of hardship measured by the U.S. Census Small Business Pulse Survey. For example, small business owners in the accommodation and food service sector were 15 times more likely to say that the crisis has had a large negative effect on their business than owners of utilities. Variation is likely due to the extent that the business is subject to a temporary shutdown order or other factors that have resulted in a steep decline in revenue. Industry sectors with higher than average ownership by people of color averaged higher response rates to two key measures of hardship, however. On average, 50.7% of business owners in sectors with above-average ownership by people of color said that the crisis had a large negative impact on their business compared to 34.3% of business owners in sectors with below average ownership by people of color. Likewise, 12.4% of business owners in sectors with above-average ownership by people of color said that their businesses were unlikely to return to a normal level of operations relative to one year ago compared to 7.5% of business owners in sectors with below-average ownership by people of color (Appendix A).[6]

C. Federal Relief for Small Businesses was Quick but Inequitable

[5] "Small Business Pulse Survey – May 31 to June 6," June 11, 2020. https://portal.census.gov/pulse/data/#data. The survey target population was all nonfarm, single nonfarm, single-location employer businesses with between 1-499 employees and receipts of $1,000 or more in the 50 states, District of Columbia, and Puerto Rico. Some industries were excluded, a complete list is provided in the survey methodology available at https://portal.census.gov/pulse/data/#methodology. The Small Business Pulse Survey The Small Business Pulse Survey may be subject to non-response bias, as businesses that have closed due to COVID-19 may not be receiving the invitation to participate and unable to respond.

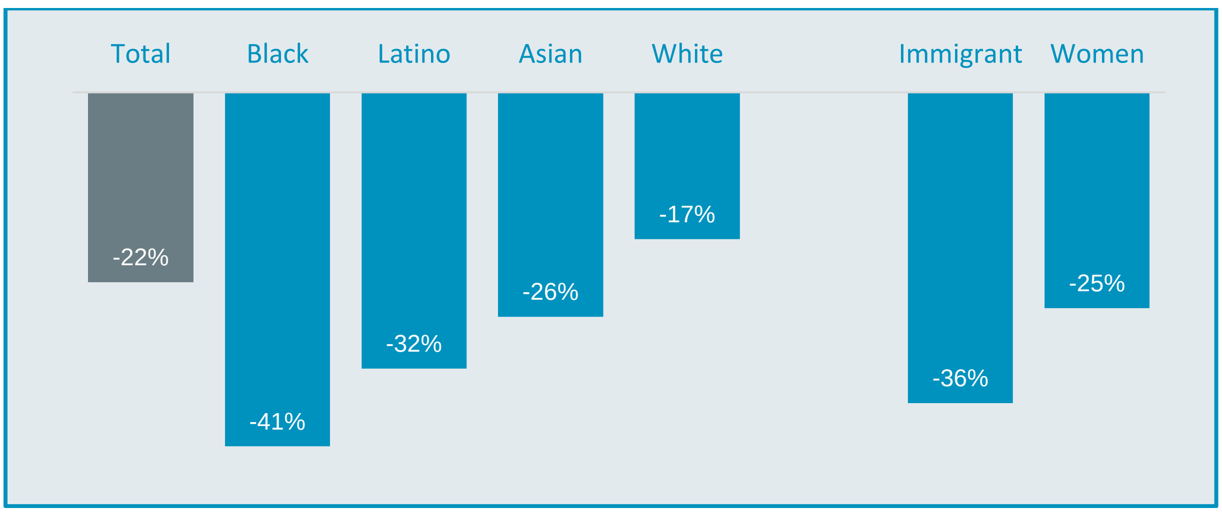
[6] See "Small Business Pulse Survey Questionnaire." Small Business Administration. Accessed June 14, 2020. https://www.census.gov/content/dam/Census/data/experimental-data-products/small-business-pulse-survey/small-business-pulse-survey-questionnaire.pdf.

One of the largest economic support components of the federal response to this pandemic has been the PPP, representing a $670 billion investment in small businesses which serve as the backbone to the American economy. According to the Small Business Administration (SBA), as of June 12, 2020, the program has dispersed 4.6 million loans totaling over more than $512 billion.[7] However, despite this substantial investment, it is clear that many small businesses have not been able to access this vital relief.

At the outset of the program and during the first round of funding from April 3 to April 16, 2020, it was clear that structural inequities were built-in to the administration of the program, the application process, and the fee structure. These structural inequities made it extremely difficult for small businesses—and particularly businesses owned by people of color--to qualify for assistance or receive it in time to save their businesses and the jobs of the employees that depend on them. The expected effects of these policies have already borne out.

Using data from the April 2020 Current Population Survey, recent research found that the number of active business owners in the United States decreased by 3.3 million or 22 percent from February to April 2020. This decline was the largest on record and spanned nearly all industries. Business owners of color, women-owned businesses, and business owned by immigrants were especially hard hit. Black and Latino business owners declined by 41% and 32%, respectively. Asian business owners dropped by 26%. Active white business owners, comparatively, declined by 17%. Immigrant business owners declined by 36%, and women business owners declined by 25%.[8]

Figure 2. Active businesses owners of color declined sharply since February



Source: Fairlie, Robert. "The Impact of Covid-19 on Small Business Owners: Evidence of Early-Stage Losses from the April 2020 Current Population Survey."

As businesses of color struggle to get the same access to federal relief dollars as white businesses, they are busy keeping their businesses alive just as businesses all across this country are doing. As Black

---

7 "Paycheck Protection Program (PPP) Report Approvals through 06/12/2020." Small Business Administration. Accessed June 16, 2020. https://www.sba.gov/sites/default/files/2020-06/PPP_Report_20200612-508.pdf.

8 Fairlie, Robert. "The Impact of Covid-19 on Small Business Owners: Evidence of Early-Stage Losses from the April 2020 Current Population Survey." Stanford Institute for Economic Policy Research, May 23, 2020. https://siepr.stanford.edu/research/publications/impact-covid-19-small-business-owners-evidence-early-stage-losses-april-2020.

businesses owners and other business owners of color innovate, re-organize, and work tirelessly to be successful, just as they have done despite years of marginalization, they will not have as much aid in their recovery as white-led businesses who benefitted from billions of dollars of relief. We must collectively work to ensure the entrepreneurial spirit of this nation's businesses owners is fully supported and that support does not fall along the same lines of historical discrimination for communities of color.

III. <u>The structure and implementation of the Paycheck Protection Program continue to disadvantage to smaller businesses, including the self-employed. Businesses of color were more likely than White-owned businesses to be disadvantaged by the structural limitations built into the PPP program.</u>

Several issues were baked into the structure of the PPP from its inception and launch. Minority-owned small businesses, already hardest hit by the pandemic, were also hardest hit by these structural limitations. To fully understand the impact of the inequities, it is imperative to have a full picture of the make-up of small businesses in this country and how ownership and success is directly tied to historic exclusionary policies and ongoing racial discrimination.

Businesses owned by people of color are likely to have fewer employees and less revenue than white-owned businesses. As a result, they were less likely to qualify for larger loans that would yield the higher fees that would make them a priority for lenders at the outset of the program. Businesses owned by people of color are even more likely to have no employees, putting them at an even greater disadvantage to larger businesses that could garner higher fees. Further, businesses of color have historically lacked access to SBA loans and credit generally, just as individuals and communities of color writ large. Thus, by creating a program that relied on traditional mainstream financial institutions as its intermediary, it effectively ensured that business owners of color were likely to face barriers in accessing critical PPP loans. Other exclusionary and administrative hurdles also resulted in long delays in the distribution of funding and small businesses and businesses owned by people of color had to wait to receive critical PPP loans to retain their employees and stabilize their businesses. These unnecessary delays amount to perilous pressures for the smallest of businesses and businesses of color in particular during a period of economic uncertainty coupled with very real dual public health emergencies of COVID-19 and racism.

A. The PPP fee structure heavily discourages small loans to smaller businesses and non-employer firms. Businesses owned by people of color are likely to have fewer employees, less revenue, and to lack a relationship with a commercial lender.

The PPP fee structure heavily incentivizes loans to larger firms that can garner higher fees. PPP loans are capped at 2.5 times average monthly payroll, resulting in smaller maximum loan amounts for very small businesses, businesses employing lower-wage workers, and non-employer businesses. Lenders earn an origination fee equal to 5% of the loan balance for loans under $350,000, 3% for loans between $350,000 and $2,000,000, and 1% for loans above $2,000,000. For a loan of $25,000, a lender would make just $1,250, while the $10 million loan given to Shake Shack and later returned, would have garnered $100,000 in fees.[9] This fee structure created a powerful incentive to make larger loans to larger firms and put very small businesses, businesses in critical but lower-paid sectors, and non-employer businesses at a distinct disadvantage.

Businesses headed by people of color are less likely to have employees, have fewer employees when they do, and have less revenue compared to white-owned businesses. These disparities are the result of structural inequities resulting from less wealth compared with whites who were able to accumulate wealth with the support of public policies. White-owned businesses are twice as likely to be employers and hire 50% more employees than businesses owned by people of color.[10] This made businesses of color less likely to garner the higher lender fees that would make them attractive borrowers at the outset of the program.

In addition to the over 5.7 million businesses with fewer than 500 employees, there are over 26 million non-employer firms.[11] Though this was created as a payroll protection plan, two thirds (63%) of non-employers rely on their businesses as their primary source of income, and 20% of non-employers started their businesses because they lacked other options.[12] Non-employer businesses are far more likely to be owned by people of color. Nearly 95% of Black-owned firms were non-employers, and 91% of Latino-owned firms were non-employers. In comparison, 78% of white firms are non-employer businesses.[13] Of all small businesses, businesses without employees were the most likely to face challenges accessing PPP funds in the initial round.[14] Along with other very small businesses with few employees, the PPP fee structure continues to ensure that these businesses may face challenges finding lenders willing to make small, but critical loans.

B. **While access to PPP funding is heavily dependent on traditional financial institutions and prior banking relationships, business owners of color have historically lacked access to credit through these channels and are more likely to not have these relationships.**

To receive a PPP loan, applicants must apply with an eligible SBA-approved lender, almost all of which are conventional banks. While additional financial institutions were allowed to become PPP lenders, the process to approve these additional lenders took several weeks. By requiring applicants to go through an SBA-approved lender, rather than directly applying to the PPP program, the program ensured that those businesses with existing conventional lending relationships were more likely to access PPP funds quickly and efficiently, especially in a program where "speed" was the first priority.

There are profound disparities in how business owners fund their enterprises. Research from the Federal Reserve found that in the previous five years, 46% of white-owned businesses with employees accessed credit from a bank, and 6% accessed credit from a credit union. During that same time, just 23% of Black-owned employer firms accessed credit from a bank, and 8% from a credit union and 32% of

---

9 "Shake Shack Will Return Its $10 Million Loan Amid Furor Over Stimulus Program - The New York Times." https://www.nytimes.com/2020/04/20/business/shake-shack-returning-loan-ppp-coronavirus.html.

10 McManus, Michael. "Minority Business Ownership: Data from the 2012 Survey of Business Owners." US Small Business Administration, September 14, 2016. https://cdn.advocacy.sba.gov/wp-content/uploads/2016/09/07141514/Minority-Owned-Businesses-in-the-US.pdf.

11 See U.S. Census Bureau 2018 Annual Business Survey (ABS) and 2018 Nonemployer Statistics (NES)

12 "Small Business Credit Survey: Report on Nonemployer Firms." Washington, DC: Board of Governors of the Federal Reserve System, 2019. https://www.fedsmallbusiness.org/medialibrary/fedsmallbusiness/files/2019/sbcs-nonemployer-firms-report-19.pdf.

13 McManus, 2016.

14 The availability of Pandemic Unemployment Assistance does not solve the problem of lack of access to the PPP program, for many small businesses. While the PUA gives states the option to offer expanded unemployment assistance to self-employed business owners, it should not be considered a substitute for the critical lifeline provided to businesses through the PPP program, which replaces considerably more lost income.

Latino-owned employer firms accessed credit from a bank and 4% from a credit union.[15] Lacking access to credit can be harmful in the normal course of business, but these disparities also put them at a distinct disadvantage when accessing PPP funds through banks at a time when so many were already on precarious financial footing. In the period April 26 to May 2, the U.S. Census reported that 30.1% of businesses had less than two weeks of cash on hand for business operations and 48% had less than four weeks. While the cash on hand position for many businesses has improved as of the period May 31 to June 6, with 16% reporting two weeks or less, 33.9% of businesses still reported that they had four weeks or less of cash on hand.[16]

Relationship banking may have also played a role in lenders' application processing decisions, and thus pre-existing disparities in access to capital have posed further disadvantages for business owners of color. These disparities made it less likely that they would have the commercial lending relationships necessary to access the PPP program and discouraged many from applying. A recent study by the National Community Reinvestment Coalition found steep reductions in SBA 7(A) lending to Black businesses between 2008 and 2016. That same study also found that Black and Hispanic testers when applying for loans were required to produce more documentation to support their loan application and received less information about fees, and less friendly service when visiting a small business lender.[17] Additional research found that business owners of color are more likely than white business owners to feel discouraged from seeking loans.[18] Research from the Federal Reserve also found that business owners of color were more likely to rely on personal funds and personal credit scores to finance their business. Twenty-eight percent of Black and Asian owners and 29% of Latino owners relied on personal funds as the primary funding source for their business, compared to 16% of white business owners. Black and Latino business owners were also more likely to use their personal credit scores when obtaining financing with 52% and 51% doing so, respectively, compared to 45% of white and 43% of Asian business owners.[19] In addition, in SBA's fiscal years ending September 30, 2019 and 2018, for all SBA 7(a) loans made, only 5% were made to Black-owned businesses, and only 9% were made to Hispanic-owned businesses.[20]

C. SBA and Treasury failed to take steps to ensure businesses owned by people of color would be able to access the PPP. In fact, several administrative decisions actively prevented many owners of color from participating in the program.

Despite a Congressional requirement in the CARES Act, the SBA and Treasury failed to issue guidance to lenders about prioritizing borrowers in underserved and rural markets. A report by the SBA Inspector General did not find any evidence that the SBA issued guidance to lenders to ensure that they prioritized

[15] "Small Business Credit Survey: Report on Employer Firms," 2020. https://www.fedsmallbusiness.org/medialibrary/FedSmallBusiness/files/2020/2020-sbcs-employer-firms-report.
[16] "Small Business Pulse Survey, April 26 to May and May 31 to June 6. https://portal.census.gov/pulse/data/#data
[17] "Disinvestment, Discouragement and Inequity in Small Business Lending." National Community Reinvestment Coalition, 2019. https://ncrc.org/wp-content/uploads/2019/09/NCRC-Small-Business-Research-FINAL.pdf.
[18] See McManus, 2016. ("Research also finds that minority business owners are more likely to feel discouraged from seeking private loans. In a Census survey, only 16% of nonminorities felt discouraged from seeking a loan, while almost 30% of minorities felt the same way. These, in combination with other reasons, may be why minority business owners have a heavier reliance on personal finances.") (citing Christine Kymn, January 2014, "Access to Capital for Women- and Minority-owned Businesses: Revisiting Key Variables." U.S. Small Business Administration, Office of Advocacy, available at https://www.sba.gov/sites/default/files/Issue%20Brief%203%20Access%20to%20Capital.pdf)
[19] "Small Business Credit Survey: Report on Minority-Owned Firms." Federal Reserve, 2019. https://www.fedsmallbusiness.org/medialibrary/fedsmallbusiness/files/2019/20191211-ced-minority-owned-firms-report.pdf.
[20] "SBA Business Loan Approval Activity Comparisons for Fiscal Years 2012 to 2019, for the Period Ending 08-30-2019." Small Business Administration. Accessed June 16, 2020. https://www.sba.gov/sites/default/files/aboutsbaarticle/WebsiteReport_asof_20190830.pdf.

underserved markets, including rural, minority, and women-owned businesses.[21] As of today, SBA has has yet to provide this guidance.

The SBA and Treasury also did not collect demographic data on the initial application to determine if lenders prioritized, or even served, underserved markets and businesses. The SBA Inspector General noted that the SBA did not include the "optional standard demographic information for principals" on its PPP loan application form. As a result of this failure to collect data, the SBA Inspector General found that it was unlikely that the SBA would be able to determine whether funds reached underserved markets.[22] Without the data, it will also be hard to measure the full impact of the PPP and provide the necessary oversight of this $660 billion taxpayer funded lifeline.

More than just inaction, the unnecessary hurdles and delays created for non-employer firms disproportionately impacted businesses owned by people of color. For instance, non-employer businesses, which represent 95% of black-owned firms and 91% of Latino-owned firms, were forced to sit on the sidelines for days, while billions of dollars went to large and well-connected businesses. PPP rules prevented non-employer firms, such as the self-employed, from applying for loans until April 10, one week after the program opened to other businesses.[23] As of April 13, 2020, almost $250 billion of the initial $350 billion had already been allocated.[24] The first round of PPP funding was depleted entirely by April 16, 2020. This delay likely caused irreparable harm to smaller businesses with no employees, which had to wait to receive PPP funds more than 10 days for the second round to start.

Non-employer firms were also forced to provide tax documentation not required for employer firms. SBA guidance for the program requires non-employer firms that file their business taxes on IRS 1040 Schedule C (the most common option for non-employer firms) to submit a draft or filed copy of their 2019 IRS 1040 Schedule C. Although Congress extended the tax filing deadline to July 15th as a result of the COVID-19 crisis, non-employer firms were forced to prepare their 2019 taxes in order to be eligible for a PPP loan – incurring additional costs and delays to which employer firms were not subjected.

Second, though community development financial institutions (CDFIs) and minority-depository institutions (MDIs) have historically best-served businesses and communities of color, many CDFIs and MDIs were unable to participate in the first round of PPP funding. Non-depository institutions that have not had a loan volume of $50 million within the last three years were unable to serve as lenders during the first round, despite the fact that size of the loans needed for most small businesses does not require a loan volume capacity of anywhere close to that level. Almost half of CDFIs are loan funds that do not take deposits. Many of these CDFIs had loan volumes below $50 million but also demonstrated significant lending capacity.[25] Treasury did not revise this rule until April 30, 2020.[26] The revision, however, only lowered the volume threshold to $10 million. This threshold still excluded many CDFIs

---

[21] "Flash Report Small Business Administration's Implementation of the Paycheck Protection Program Requirements." Washington, DC: SBA Inspector General, May 8, 2020. https://www.sba.gov/sites/default/files/2020-05/SBA_OIG_Report_20-14_508.pdf.

[22] SBA Inspector General, 2020.

[23] "Small Business Paycheck Protection Program." US Department of Treasury. https://home.treasury.gov/system/files/136/PPP%20--%20Overview.pdf

[24] "Paycheck Protection Program (PPP) Report Approvals through 4/13/2020." Small Business Administration, April 13, 2020. https://www.sba.gov/sites/default/files/2020-04/PPP%20Report%20SBA%204.14.20%20%20-%20%20Read-Only.pdf.

[25] According to an analysis by the Hope Policy Institute of 2017 CDFI Fund Awardee reports (the most recent available), in 2017, there were 315 Awardees, 212 of which reported originating commercial loans during the year. Twenty-seven of those CDFIs (13%) did more than $50 million in commercial loan originations that year. However, 146 of CDFIs who did commercial lending (67%) did more than $1 million in commercial loan originations.

[26] https://home.treasury.gov/system/files/136/IFR--Corporate-Groups-and-Non-Bank-and-Non-Insured-Depository-Institution-Lenders.pdf

that had received CDFI Fund Awards. Further, recognizing that many financial institutions would need additional liquidity in order to serve as lenders through the PPP, on April 8, 2020, the Federal Reserve Board of Governors voted to create a lending facility for eligible PPP lenders.[27] The facility became operational on April 16. However, eligibility was limited to depository institutions. Many non-depository CDFIS also faced liquidity issues, yet the facility was not extended to all PPP lenders, including non-depository CDFIs (that met the other Treasury eligibility requirements) until April 30.[28]

The program also out-right excluded people based on many forms of criminal legal system involvement, including people who have been charged, but not tried or convicted of a crime. Given the myriad of barriers some system-involved individuals already face to employment, self-employment is a major source of income and opportunity, strengthening family incomes.[29] This program, however, excludes business owners with past felony convictions, penalizing those who have already served their sentences and have returned to their communities for a fresh start. Additionally, employees of these business owners also suffer from this restriction to access of the PPP program, given that system-involved individuals are not eligible. Racial disparities in all aspects of the criminal justice system are well-documented, and there is some evidence that this provision in the PPP has already negatively impacted business owners of color, their employees, and their communities.[30] While this particular barrier was partially removed earlier this week, with only $100 billion and 2 weeks left in the program, it is unlikely that the businesses that have already been irreparably harmed by this exclusion will be made whole.

D. Second-round funding remains available and some improvements have been made, but structural issues remain that continue to limit PPP access for owners of the smallest businesses and business owners of color. The negative impact on business' long-term prospects may be difficult to reverse.

There is growing evidence that the structural barriers at the outset of the program and carried over to the second round resulted in either no access or delayed access to critical PPP funding.

At the end of the first round of funding on April 16, 2020, the average loan size was $206,000. Second round funding averaged $72,296 as of May 12, 2020[31] and the average loan size for both rounds of the program to date was $112,126 as of June 12, 2020.[32] Smaller businesses that were pushed to the end of the line by larger and more connected businesses at the outset of the program, however, were forced to go weeks without critical support to keep their employees on payroll and their businesses afloat.

---

[27] https://www.federalreserve.gov/publications/files/paycheck-protection-program-lending-facility-4-16-20.pdf

[28] https://www.federalreserve.gov/newsevents/pressreleases/monetary20200430b.htm

[29] The program excludes businesses for which "An owner of 20 percent or more of the equity of the applicant is incarcerated, on probation, on parole; presently subject to an indictment, criminal information, arraignment, or other means by which formal criminal charges are brought in any jurisdiction; or has been convicted of a felony within the last five years; has been convicted of a felony within the last five years." SBA Business Loan Program Temporary Changes; Paycheck Protection Program, Interim Final Rule, 85 FR 20811, https://www.federalregister.gov/documents/2020/04/15/2020-07672/business-loan-program-temporary-changes-paycheck-protection-program

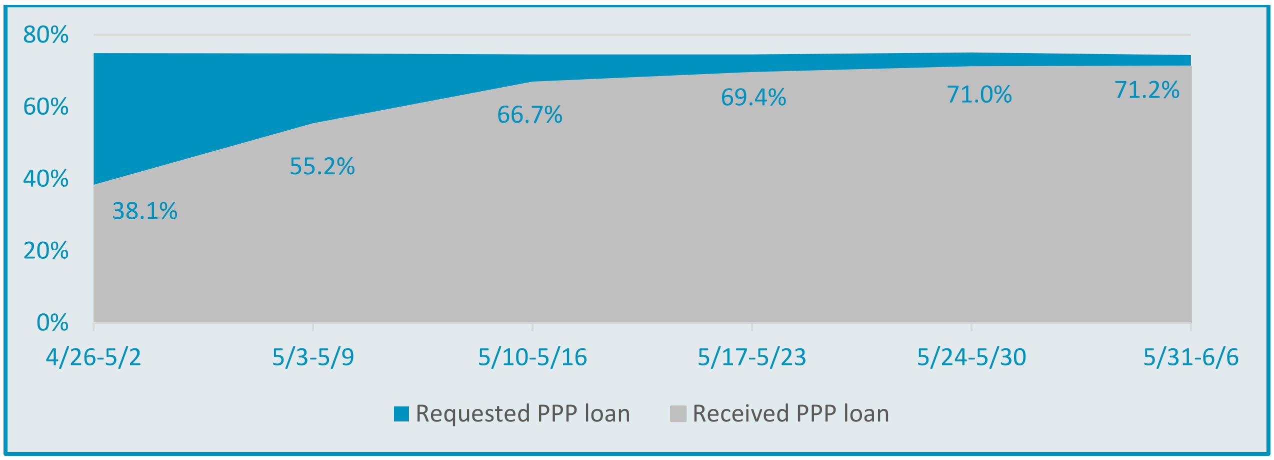
[30] Brooks, Khristopher. "A Criminal Past Means No Paycheck Protection Program Loan." *CBS News*, April 21, 2020. https://www.cbsnews.com/news/paycheck-protection-program-loans-small-business-owners-criminal-convictions-excluded-coronavirus/.

[31] See "Paycheck Protection Program (PPP) Report Approvals through 12 PM EST 4/16/2020." Small Business Association: 4/16/2020, "Paycheck Protection Program (PPP) Report: Second Round Approvals from 4/27/2020 through 05/01/2020." Small Business Administration, 2020. https://home.treasury.gov/system/files/136/PPP2-Data-05012020.pdf and "Summary of Paycheck Protection Program Round 2 Data as of 5:00 P.m. EDT, Wednesday, May 6, 2020." Small Business Administration. https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/paycheck-protection-program#section-header-11.

[32] "Paycheck Protection Program (PPP) Report Approvals through 05/30/2020." Small Business Administration, May 30, 2020. https://www.sba.gov/sites/default/files/2020-06/PPP_Report_200530-508.pdf.

The U.S. Census Small Business Pulse Survey, a weekly survey of small businesses with 500 or fewer employees in certain sectors, provides some insight into the early delays small businesses faced accessing PPP funds.[33] Businesses with no other employees other than the owner are not included and no information on the race, ethnicity, gender or veteran status of the business owner is available. Since late April, approximately 75% of small businesses with 500 or fewer employees responded that they had requested funds from the PPP program. As of the first week of the survey, which follows the end of the first round and the beginning of the second round of PPP funding, only 38.1% of businesses responded that they had received funding. Two weeks later, 66.7% of businesses responded that they had received funding. Not until a month after the beginning of the survey did the received rate begin to track the application rate (Figure 4).

Figure 4. Business owners faced long delays at the outset of the program



Source: U.S. Census Small Business Pulse Survey weekly data 4/26 to 6/6.

In May 2020, Color of Change and UnidosUS released a survey conducted by Global Strategy Group, documenting the challenges that Black and Latino business owners faced when attempting to access PPP loans.[34] The survey found that 51% of Black and Latino small business owners who sought assistance applied for less than $20,000, with only 12% responding that they received the full amount of assistance requested. In all 41% of Black and Latino business owners responded that they had been denied assistance. As of the date the survey was fielded, 21% indicated that they were still waiting to hear if they will receive any assistance. As discussed in the prior section, PPP applicants faced long delays at the outset of the program. Of the Black and Latino business owners who received either partial or full assistance, 45% responded that they had to wait more than two weeks to receive their funds.[35]

[33] For details on the survey methodology, see United States Census Bureau. "Small Business Pulse Survey Data - About the Data." Accessed June 14, 2020. https://portal.census.gov/pulse/data/#about

[34] Global Strategy Group conducted a national online survey of 500 Black and Latinx small business owners, 609 Black workers, and 610 Latinx workers, from April 30 through May 11, 2020 on behalf of Color of Change and UnidosUS. The precision of online surveys is measured using a credibility interval. In the case of the surveyed population of Black and Latinx small business owners the interval is +/-4.4% when analyzed in aggregate. Complete findings are available at https://colorofchange.org/press_release/first-covid-19-survey-of-black-and-latino-small-business-owners-reveals-dire-economic-future/ and https://colorofchange.org/press_release/first-covid-19-survey-of-black-and-latino-small-business-owners-reveals-dire-economic-future/.

[35] Global Strategy Group

This same survey also found that 56% Black and Latino business owners said that they strongly support direct federal assistance to prevent mass layoffs and keep them afloat so they can quickly and safely restart and rehire their workers.[36]

In a survey conducted by Goldman Sachs of more than 1,700 small business owners, Black-owned firms were less likely to apply for and less likely to be approved for PPP during the first round of funding. While 91% of all firms in the survey applied for funding, just 79% of Black-owned firms applied. Of those that applied, just 40% of black-owned firms were approved for funding, while 52% of total firms were approved. Black-owned firms were more likely to indicate that their finances had been hurt and that they had less than one month's cash reserves on hand.[37] Even these disparities in application and approval are likely understated. The study was based on a convenience sample of firms participating in the Goldman Sachs *10,000 Small Businesses Program*, suggesting these firms may have advantages and connections not readily available to most small businesses.

While funding is still available in round two, the lost opportunity for prompt relief may have compounded financial hardship for many businesses and may increase the amount of assistance required to get them back on their feet. Given that the number of business owners of color has declined sharply since the beginning of the crisis, falling on communities hardest hit by the Great Recession that have yet to fully recover.

Ensuring these firms were fully supported at the outset of the crisis should have been a top priority. Among non-employers, those firms with no employees besides the owner, 71% have plans to expand, and one in four (24%) plan to hire employees in the next 12 months.[38] According to the SBA, the number of non-employer firms increased 58% between 1997 and 2015 and owners of non-employer firms are younger and more diverse than employer firms.[39] Barring them from funds at the outset of the program may have imposed additional long-term challenges to economic growth, future hiring, and entrepreneurship opportunities for some firms. These harms should be considered in assessing the extent of necessary further relief.

IV. **The loan forgiveness requirements present substantial challenges to small businesses whose survival depends on PPP loan forgiveness rather than conversion to long-term debt.**

PPP loans are, of course, intended to be forgivable if the proceeds are used for payroll and other eligible expenses. But for those micro-businesses that were fortunate enough to obtain a PPP loan, the process they must go through to obtain forgiveness is so complex and time-consuming, it may strain those businesses to the breaking point. And for the lenders who made these loans, the process they must go through before submitting the forgiveness application will cost far more than the origination fees they received.

---

[36] Global Strategy Group

[37] "Survey: US Small Business Owners Need More Funding and Immediate Legislative Action." Goldman Sachs, 2020. https://www.goldmansachs.com/citizenship/10000-small-businesses/US/infographic-small-business-relief/.

[38] "Small Business Credit Survey: Report on Nonemployer Firms." Washington, DC: Board of Governors of the Federal Reserve System, 2019. https://www.fedsmallbusiness.org/medialibrary/fedsmallbusiness/files/2019/sbcs-nonemployer-firms-report-19.pdf.

[39] "A Look at Nonemployer Businesses." Small Business Administration, August 2018. https://www.sba.gov/sites/default/files/advocacy/Nonemployer-Fact-Sheet.pdf.

A. **The forgiveness application is unnecessarily burdensome and complicated, especially for the smallest businesses.**

The loan forgiveness application process is set forth in an eleven-page packet of instructions and forms issued by the SBA "in consultation with" the Treasury Department. The forms require borrowers, among other things, to calculate the amount paid to each employee during the "Covered Period" or the "Alternative Payroll Covered Period," and, for each employee who also was employed during the first calendar quarter of 2020, the amount paid during that period. The borrower also must calculate the average number of full-time equivalent employees during the Covered Period or Alternative Payroll Covered Period and during the "chosen reference period," which can be either the period from February 15 to June 30, 2019, or the period from January 1 to February 29, 2020. In the case of seasonal employees, it can be any consecutive twelve-week period between May 1, 2019, and September 15, 2019. As to all of this, the borrower must certify – under penalty of what amounts to perjury and threat of civil and criminal penalties including significant fees and jail time – that the borrower has accurately verified the amounts claimed and made all applicable reductions.

Further, the borrower must submit with a loan forgiveness application documentation verifying the amount paid to each employee during the Covered Period or Alternative Payroll Covered Period, and the amount paid for non-cash benefit payments, including bank statement or payroll service provider reports; tax forms or equivalent reports; and payment receipts, canceled checks, or account statements documenting contributions for health insurance and retirement plans. Borrowers seeking forgiveness for amounts spent on mortgage or rent must submit additional documentation. Documentation requirements for mortgage payments must show the amount of the payments attributable to interest separate from principal, and rental payment documentation must show the amount of rent that was due under the lease and the amount that was paid. Borrowers seeking forgiveness for amounts spent on utilities must submit invoices and receipts or canceled checks verifying those payments. When submitting the application, the borrower must certify – again under penalty of what amounts to perjury -- that it has submitted all the required documentation.

Additionally, the instructions list four other categories for which the borrower must maintain documents for six years, including documentation supporting the listing of each individual employee in PPP Schedule A Worksheet Table 1 and Table 2.

These complex instructions were issued on May 15, 2020. Three weeks later, Congress enacted changes to the PPP, which created welcome exceptions to some of the provisions of the CARES Act governing the calculation of loan forgiveness. However, those exceptions will only add to the complexity of the application process. Borrowers may now be required to submit – in addition to all the other documentation requirements – documents verifying efforts to recall or replace laid-off employees or verifying the business' inability to return to its prior level of business activity for reasons related to worker or customer safety requirements related to COVID-19. While these are welcome exceptions, in all likelihood, the eleven-page application package will soon grow even bigger and more complex.

Despite SBA's estimate that the complex, eleven-page form should take 3 hours to complete, recent research by AQN Strategies estimates that the time necessary to complete the forgiveness form ranges from 20 hours to 100 hours at the high end.[40] For large businesses with well-staffed human resources

[40] Sabloff, Ben, Jason Ford, and Gaby Garcia. "Is It Easier to Ask for Forgiveness Than Permission? Not for PPP Loans Under $150K." AQN Strategies, June 1, 2020. https://bpi.com/wp-content/uploads/2020/06/CBA-BPI-Letter-Forgiveness-Proposal-6.2.20.pdf.

and finance functions, these requirements, while burdensome, would not be prohibitively difficult. But for the small businesses the PPP was designed to serve – and especially for micro-businesses with a handful of employees – it is simply not realistic to expect the business to do all these calculations and assemble all the required papers while still attempting to operate their business in a challenging business environment. Combined, the complexity of the form and the related civil and criminal penalties for inaccuracies are tantamount to a requirement that these small firms pay significant fees to accountants or financial advisors to assist in completing their forgiveness application – funds these businesses need instead for their ongoing operations. Moreover, businesses that might otherwise have applied for PPP loans in round two have been discouraged from doing so because of the gauntlet of paperwork they would have to navigate to obtain forgiveness.

B. Lenders who well serve small businesses will also be burdened by unduly application and documentation requirements for small loans.

For the lenders who made these loans, the burden is equally crushing. The SBA has issued an Interim Final Rule which requires lenders to review each borrower's forgiveness application and "Confirm receipt of the documentation borrowers must submit … as specified in the Loan Forgiveness Application Form," and, after "reviewing the documentation," "Confirm the borrower's calculations on the Loan Forgiveness Application, including the dollar amount … claimed on Lines 1,4,6,7,8 and 9 on PPP Schedule A and … on Lines 2, 3, and 4 on the PPP Calculation Form." The regulation allows for "minimal review of calculations based on a payroll report by a recognized third-party payroll processor." But where the borrower is not big enough to use such a processor – which will be true for the smallest of the businesses which obtained PPP loans -- "more extensive review of calculations and data would be appropriate." Based on all this, the lender must decide whether "the borrower is entitled to forgiveness of some or all of the amount applied for under the statute and applicable regulations."[41]

Simply to state these requirements is to make plain the problem. Perhaps for those lenders whose average PPP loan exceeded $200,000 – and who thus were paid, on average, $10,000 per loan – it is economically feasible to undertake this kind of review. However, the regulations will surely discourage even those lenders from making smaller loans going forward. But for the PPP lenders who have been making loans averaging $50,000 or less – most of whom are themselves small businesses with limited staff and who averaged only $2,500 or so per loan – processing these loan forgiveness applications will be prohibitively difficult. Without changes to the forgiveness process and requirements, many lenders will likely conclude that they cannot afford to continue in the program.

C. Despite Congressional intent, some borrowers will also have their forgiveness amount reduced due to receipt of an EIDL Advance.

It was the intention of this Congress when it drafted the CARES Act to expedite the delivery of EIDL loan proceeds by providing advances of up to $10,000 in the form of grants to loan applicants. The EIDL advance was meant to be received within days, but the actual execution took much longer. If the Small Business Administration ultimately approved the EIDL loan, then the lender would enter a loan agreement with the borrower and release the remaining loan amount if it exceeded $10,000. As a grant, the $10,000 advance portion was not meant to be repaid even if the SBA ultimately denied the EIDL loan. SBA reference materials have consistently said that EIDL advances did not need to be repaid, and

[41] 85 Fed. Register 33010, 33013 (June 1, 2020).

many borrowers entered into these agreements with that expectation. Borrowers deserve better than a bait and switch in emergency assistance.

Further, the CARES Act clearly permitted borrowers to seek both an EIDL and a PPP loan. If the EIDL loan were utilized for payroll, it was required to be refinanced into its PPP loan. Since the entire amount could then be forgiven as a PPP loan, the PPP forgiveness amount would be reduced by any EIDL advance. Should the borrower choose to use its EIDL for other purposes, it would not have to refinance its EIDL into the PPP loan. In that case especially, reducing PPP forgiveness by the amount of an EIDL advance used for other business purposes creates an unfair disadvantage for businesses that permissibly obtained emergency loans to help them survive. However, even in the case of an EIDL grant used for payroll expenses there is little justification for decreasing PPP forgiveness by the EIDL amount. If these funds were used according to the express purpose of the program, there should not be a penalty for seeking support that was available quicker and with fewer hurdles for some borrowers.

To date, we have seen numerous cases of PPP loans that should be considered for full forgiveness as they were spent on eligible expenses. Instead, PPP borrowers will be saddled with repaying their EIDL advances in 2-5 years, instead of receiving the advance as the promised grant.

V. Improvements to the Paycheck Protection Program are necessary for more businesses to access to relief and recover.

To date, SBA has already spent more through the PPP program than through all of its lending over the past three decades. As one of the largest government small business programs ever and a key component of the federal government's pandemic relief program, it is imperative that the funding and benefits are distributed equitably and that communities are not left out of our relief and recovery going forward. Several key fixes are critically important for ensuring that the smallest and most vulnerable businesses, including those owned by people of color, have sufficient access to PPP funding and forgiveness. To address these issues, we recommend the following:

A. Ensure remaining funding reaches businesses that were previously unable to access the PPP.

- **Congress should immediately extend the origination period and separate the PPP from other SBA 7(a) programs**. Over $100 billion remains in the second PPP allocation. Congress should ensure that these funds are available for PPP loans to new borrowers until they are exhausted. Currently, the PPP is set to expire at the end of this month whether or not funds remain.

- **Institute a minimum origination fee of the lesser of $2,500 or 50% of the loan amount.** A minimum fee is required to address the higher cost of reaching and serving underserved borrowers and to incentivize more lenders to serve smaller businesses.

- **Provide adequate support and resources for community development financial institutions (CDFIs) and minority-depository institutions (MDIs) (not to include bank-affiliated CDFIs).** Reserve $10 billion of the remaining PPP small business loan funding for loans by CDFIs and MDIs of which $5 billion should be reserved for loans of up to $75,000. Congress should also make a $1 billion emergency allocation to the CDFI Fund. Though Treasury recently created a set-aside for CDFIs, it did not include MDIs and the allocation only included $7 billion in new funding.

The changes made between Round 1 and Round 2 of the PPP somewhat increased CDFIs' and MDIs' access to deploying PPP funds. For example, since May 8, CDFI lending more doubled, and as of June 12, MDI lending exceeds $10 billion.[42] Minority-led financial institutions in particular are "uniquely positioned to cater to the needs of their communities, which are often people of color."[43] These institutions "have significant social capital within the communities they serve. Through close ties and engagement, they are able to develop and deploy financial products that address the needs of their communities."[44] The nation's largest MDI decided to become a PPP lender in Round 2 because of the extent to which Black businesses were locked out of access in Round 1.[45] This is promising evidence of their capacity to supporting the survival and growth of small businesses of color. It is not, however, enough to fully address the reality of businesses of color being locked out by program design and the exclusionary way in which banks deployed the overwhelming majority of the PPP dollars. Now and in the future, more support will be needed to ensure CDFIs, particularly minority-led CDFIs, and MDIs have sufficient resources to adequately meet the depths of the needs of small businesses of color harmed by this crisis and unserved by the federal relief dollars that have flowed from it.

- **Require SBA and Treasury to immediately issue guidance to lenders on prioritizing underserved markets and businesses with fewer than ten employees located in low- and moderate-income census tracts.**

- **Expand the list of eligible expenses that can be used to determine loan amount and forgiveness**. Include necessary ongoing business costs, such as business insurance, inventory, costs associated with vehicles and equipment (loan payments, insurance, maintenance), costs needed to adapt to the pandemic, including safety equipment, retrofitting spaces, and payments to IRS Form 1099 independent contractors, on whom small businesses rely.

- **Revise existing guidance that prohibits businesses from including documented IRS Form 1099 payments to independent contractors in their PPP loan amount calculations and forgiveness requests**. By requiring independent contractors to apply for their own, necessarily smaller, PPP loans, SBA has made it less likely that independent contractors will receive funding, and less likely that the small businesses that rely on independent contractors will be able to continue to operate.

- **Allocate funding for outreach and enrollment assistance**: $30 million in funding for grants to Community Development Corporations and community-based organizations for outreach, enrollment assistance, and technical support for compliance and loan forgiveness, for eligible businesses. Many of the eligible borrowers that have not yet accessed the PPP do not have a "preferred" banking relationship or lawyers and accountants to assist them in

[42] "Paycheck Protection Program (PPP) Report Approvals through 06/12/2020." Small Business Administration. Accessed June 16, 2020. https://www.sba.gov/sites/default/files/2020-06/PPP_Report_20200612-508.pdf.
[43] Kiyadh Burt, Hope Policy Institute, Closing the CDFI Asset Gap, http://hopepolicy.org/blog/closing-the-cdfi-asset-gap/
[44] Id.
[45] 'That was it—silence': As bailout funds evaporate, minority-owned businesses say they've been shut out, https://www.fastcompany.com/90498767/that-was-it-silence-as-bailout-funds-evaporate-minority-owned-businesses-say-theyve-been-shut-out ("Due to the minority underbanking crisis, especially since African-American and Hispanic communities have been hardest hit by the coronavirus, Williams says that her bank decided over the weekend to participate as a lender in the second round of the program").

understanding the program. The time and resources needed to reach out to underserved businesses and support them through the application and loan forgiveness process will be significantly greater than for larger businesses. To expand their reach, many CDFI and MDI lenders are engaging non-profit "agents," including community-based organizations, that have experience working with underserved borrowers, and particularly those that provide culturally and linguistically relevant services to business owners of color.

B. **Provide automatic forgiveness with safe harbor treatment for any loan under $100,000 based on a simple certification from the business owner.** Although CRL believes that SBA has the discretion to reduce the burden imposed by its loan application forgiveness requirements, we also believe that a full solution requires Congressional action. Specifically, we urge Congress to enact a streamlined set of forgiveness requirements for loans under 100,000 and, for such loans, a safe harbor which permits lenders to rely on borrowers' certification without having to review and confirm borrower calculations. To receive forgiveness on a loan, a borrower need only submit a simple form including demographic information, a statement of the total amount spent on payroll and the total amount spent on eligible non-payroll expenses with a cap on the latter relative to the former, and an attestation that the information is true to the best of the applicant's knowledge. In addition, now that the covered period for expenses is 24 weeks, Congress, SBA and Treasury should also ensure that borrowers are able to apply for forgiveness as soon as they have exhausted the funding.

As of May 30, 79.2% of PPP loans originated were for amounts of less than $100,000, representing 19.6% of the total dollars lent.[46] The average loan size was $114,000. The smallest PPP loans are being provided to microbusinesses and sole proprietors that have the least capacity and resources to engage in a complex process with their financial institution and the SBA and that should not be saddled with debt or ongoing audit risk as a result of participating in the PPP program. Applying automatic PPP loan forgiveness for loans of $100,000 or less would likely exempt firms with, on average, 13 or fewer employees and save 71 million hours of small business staff time (Figure 5). Based on the average monthly payroll per employee of $3,108 for smaller firms (1-9 employees) and the PPP application formula, a firm that qualified for a $100,000 loan would likely have a monthly payroll of $40,000 supporting, on average 13 employees.[47] Firms with 1 to 9 employees make up 68% of total businesses with employees, and firms with 1-19 employees make up 78% of total businesses with employees.[48]

[46] "Paycheck Protection Program (PPP) Report Approvals through 05/23/2020." Small Business Administration, May 23, 2020. https://www.sba.gov/sites/default/files/2020-05/PPP__200523.pdf.
[47] Annual Business Survey: Employment Size of Firm Statistics for Employer Firms by Sector, Sex, Ethnicity, Race, and Veteran Status for the U.S., States and Metro Areas: 2017. Estimated monthly payroll represents the total PPP loan amount divided by 2.5. Average payroll of $37,299 annually per employee is based on the total payroll for all firms with 1-9 employees divided by the total number of employees for all firms with 1-9 employees. Using the same method, the next employee category of 1 to 19 employees results in an annual average payroll per employee of $37,944 or $3,162 per month. Firms reporting payroll but no employees in the pay period that included March 12 of the reference year were excluded to determine the annual and monthly payroll per employee. For more information on the Annual Business Survey see https://www.census.gov/programs-surveys/abs/about.html.
[48] 2017 Annual Business Survey.

Figure 5. Automatic loan forgiveness for small loans would benefit small firms and save millions of hours of labor

	$100,000 or less	**$350,000 or less**
PPP loans as of May 30[49]		
Count	3,544,335 (79.2%)	4,196,555 (93.8%)
Dollars lent	$100,003,285,235 (19.6%)	$217,574,329,726 (42.6%)
Number of employees based on average payroll per employee[50]	13 (based on average payroll per employee for firms with 1-9 employees)	42 (based on average payroll per employee for firms with 20-49 employees)
Percent of total employer firms[51]	~68 to 78% of employer firms	~86% of employer firms
Hours of labor saved[52]	71 million hours	84 million hours

C. **Expressly permit lender and SBA reliance on good faith borrower certification –** For PPP loans under $2,000,000, borrowers should submit a forgiveness application and basic documentation. The application should include a good faith certification that all PPP funds have been used on eligible expenses and per the statutory guidelines. It must be made clear that lenders submitting forgiveness applications on behalf of borrowers to SBA may rely on the borrower's certification, absent outside evidence of fraud, as sufficient to establish the borrower's eligibility for forgiveness without lender review and re-calculation of the forgiveness amount, and the amount of forgiveness to which the borrower is entitled shall be based on such borrower certification. The SBA, likewise, may rely on all information submitted by the lenders for these loans absent outside evidence of fraud. Without the ability to rely on these certifications, borrowers will still be subject to extensive documentation requirements and costs for the lender to review, whether or not that documentation must then be sent to the SBA.

---

[49] "Paycheck Protection Program (PPP) Report Approvals through 05/30/2020." Small Business Administration, May 30, 2020. https://www.sba.gov/sites/default/files/2020-06/PPP_Report_200530-508.pdf.

[50] Annual Business Survey: Employment Size of Firm Statistics for Employer Firms by Sector, Sex, Ethnicity, Race, and Veteran Status for the U.S., States and Metro Areas: 2017. Estimated monthly payroll represents the total PPP loan amount divided by 2.5. Average payroll of $37,299 annually per employee is based on the total payroll for all firms with 1-9 employees divided by the total number of employees for all firms with 1-9 employees. Using the same method, the next employee category of 1 to 19 employees results in an annual average payroll per employee of $37,944 or $3,162 per month and the annual average payroll for firms of 20-49 employees is $40,796 or $3,400 per month. Firms reporting payroll but no employees in the pay period that included March 12 of the reference year were excluded to determine the annual and monthly payroll per employee. For more information on the Annual Business Survey see https://www.census.gov/programs-surveys/abs/about.html.

[51] Percent of total employer firms exempted under each automatic loan forgiveness threshold based on the number of employer firms with 1-9, 1-19, or 1-49 employees. Based on the maximum per employee payroll eligible for PPP payroll calculations, it is likely that non-employer firms that received PPP funds would be included as well.

[52] Based on the estimate of 20 hours saved per loan subject to automatic loan forgiveness. See Sabloff, Ben, Jason Ford, and Gaby Garcia. "Is It Easier to Ask for Forgiveness Than Permission? Not for PPP Loans Under $150K." AQN Strategies, June 1, 2020. https://bpi.com/wp-content/uploads/2020/06/CBA-BPI-Letter-Forgiveness-Proposal-6.2.20.pdf.

D. Require all lenders who receive support from any federal lending facility or program to offer technical assistance to small and micro businesses. To date, the federal government has provided billions of dollars in relief and incentives to financial institutions and large corporate entities. These companies can and should play a critical role in supporting small businesses and the economy.

E. Implement and require a robust data collection and public reporting process for all PPP loans. SBA should collect and report demographic information on race, national origin, and gender of principal owners of each applicant and each approved loan, and require SBA to publicly release data on applications and approvals by race, national origin, and gender by lender. As reported by the SBA Inspector General in its Flash Report of May 8, 2020, the SBA has not implemented the program in a way that aligns with the provisions of the CARES Act. The report specifically identified four areas that need strengthening: prioritizing underserved and rural markets, providing clear guidance for forgiveness, providing guidance on loan deferments, and establishing a registry of loans. Transparency is essential to this program, and true transparency and impact can only be determined if data is collected and analyzed. Data tells the American public which businesses are being served with public dollars. Businesses of color deserve their fair share. We estimated that more than 90% of businesses of color were unlikely to access the original $349 billion. Further, SBA loan programs, in general have a poor track record of serving Black and Latino businesses in particular.[53]

F. Ensure robust data collection on small business lending going forward. Even before the transparency issues with this massive influx of government support, the dearth of data on small business lending has been a major obstacle for ensuring equity for decades. The limited data masks the lack of equitable investment of taxpayer-supported funds and access to business capital for communities of color and those in rural markets. In fact, in addition to data collection being one of the much-needed improvements to the PPP program, robust data collection is also needed for existing laws enacted to incentivize community investment and job creation through access to business capital. Without publicly available data, it is difficult to prove or disprove, or adequately address, inequities in small business lending.

The Community Reinvestment Act (CRA), enacted in 1977 to encourage federally regulated depository institutions to meet the credit needs of all families and communities, mandates some small business data disclosure, but CRA data only provides the aggregate dollar volume of loans originated to businesses with revenues less than $1 million, not individual loan amount or type of loan, and is only required from institutions with assets over $1.2 billion (as of 2019).[54] In fact, ten years ago, Congress took steps to address this issue through Section 1071 of The Wall Street Reform and Consumer Protection Act, requiring much more comprehensive data collection for small business loans. However, Section 1071 has yet to be implemented by the Consumer Financial Protection Bureau. Congress should urge an immediate rulemaking under Section 1071 of Dodd-Frank for the overall business lending market.

A recently released Office of the Comptroller of the Currency final rule took steps to weaken the effectiveness of the Community Reinvestment Act and its ability to encourage lending in low-

[53] In FY2019, SBA 7a program approvals were 6.3% Hispanic and 3.3% African American. https://fas.org/sgp/crs/misc/R41146.pdf
[54] "Disinvestment, Discouragement and Inequity in Small Business Lending." National Community Reinvestment Coalition, 2019. https://ncrc.org/wp-content/uploads/2019/09/NCRC-Small-Business-Research-FINAL.pdf.

and moderate-income communities and to small business owners and did not sufficiently improve the disclosure of small business data. The final rule will not require the collection of data on race and ethnicity.

VI. **Conclusion: Congress, Treasury and the SBA must ensure all small businesses owners can participate in the coming economic recovery.**

During this major economic and public health disruption, we must take care not to continue a legacy of discrimination and harmful outcomes laid upon communities of color, who are already suffering disproportionate health effects from COVID-19. The Great Recession drained communities of color of a trillion dollars of wealth that they have yet to recover and now these same communities are experiencing the brunt of this pandemic, including higher levels of lives lost, illnesses, and job losses. Despite this, there is already overwhelming evidence that one of the largest COVID-19 relief programs has excluded businesses of color and exacerbated the underlying racial wealth gap.

To ameliorate some of this damage, at a minimum, we must ensure that those excluded are more easily able to access the remaining PPP funds; that the loan forgiveness process is not overly burdensome; and that data on recipients of PPP loans is collected and made available.

In a time of economic uncertainty, as we continue to reckon with our nation’s history and racial injustice permeates every facet of our society, we should be taking every step to ensure that individuals and communities of color are well served and supported going forward.

While the above fixes are necessary to ensure that at least some relief reaches communities of color, much more will be needed. Bold new policies and programs are needed to create equity in small business lending and ensure that business owners have access to the credit and relief they deserve. We also must move towards solutions that are not reliant on credit and financial intermediaries, such as providing grant funding for micro businesses. These grants could be distributed monthly directly by the IRS, SBA or FEMA, in an amount sufficient to cover payroll and other expenses until the business is able to reopen and return to normal or similar operations. There must also be dedicated efforts and targeted help for underserved communities to curb the effects of this pandemic on income and wealth inequality. The current wealth and public health disparities did not occur by happenstance. We cannot allow federal policies and investments to continue the centuries old practice of excluding people of color.

Appendix A. Industry sectors with above-average small business ownership by people of color hard hit by the crisis

Industry Sector	Percent of small businesses majority-owned by people of color	Crisis has had a large negative effect	I do not believe this business will return to its normal level of operations relative to one year ago
Accommodation and food service	34.4%	73.7%	19.2%
Other services (except Public administration)	23.2%	52.6%	14.5%
Health care and social assistance	22.5%	55.7%	10.8%
Retail trade	22.4%	39.8%	9.6%
Transportation and warehousing	19.4%	42.5%	11.6%
Wholesale trade	18.1%	40.5%	8.8%
Firms with <500 employees, all sectors	**17.6%**	**41.3%**	**10.1%**
Administrative and support and waste management and remediation services	15.3%	35.0%	8.3%
Professional, scientific, and technical services	14.0%	28.1%	7.6%
Educational services	12.8%	58.9%	14.3%
Information	12.0%	38.0%	8.3%
Construction	10.8%	20.6%	6.3%
Finance and insurance	10.5%	18.2%	6.1%
Real estate and rental	10.0%	37.0%	8.1%
Manufacturing	9.8%	37.1%	7.3%
Arts, entertainment, and recreation	7.0%	71.7%	14.1%
Mining, quarrying, and oil/gas extraction	4.3%	44.3%	9.9%
Management of companies and enterprises	4.0%	17.8%	0.0%
Utilities	3.1%	4.7%	0.0%
Above average concentration of small business owners of color		**50.8%**	**12.4%**
Below average concentration of small business owners of color		**34.3%**	**7.5%**

Source: 2018 Annual Business Survey (ABS) and U.S. Census Small Business Pulse Survey (SBPS). Responses to SBPS questions: "Overall, how has this business been affected by the COVID-19 pandemic?" and "In your opinion, how much time do you think will pass before this business returns to its normal level of operations relative to one year ago?" NAICS industry codes from the Annual Business Survey are included where U.S. Census SBPS data is available. Percent majority ownership by people of color determined based on all sectors available in the ABS for businesses with fewer than 500 employees. Majority ownership by people of color determined using the ABS minority ownership status defined as firms classified as any race and ethnicity combination other than non-Hispanic and white. Technical documentation is available at https://www.census.gov/programs-surveys/abs/technical-documentation/methodology0.html.

Appendix B. Business owners describe their experience with the Paycheck Protection Program

1. Rahama Wright, a business owner in Washington, DC, was preparing to shut Shea Yeleen, her beauty supply business down, when she failed to get a PPP loan in the first round. She furloughed her entire staff of five, before finally receiving a loan in the second round. "I 100% feel like I got lucky," Wright said, who estimates the funding will give her a three to four month runout and allow her to bring back three of her staff members. Her storefront will remain closed as she boosts her online presence.[55]

2. Calvin Stevens, President of Bernard Irby Electric in Charlotte, North Carolina says the PPP loan received by Irby, a Black veteran-owned business, will allow him to maintain the entire staff of 30 employees.[56]

3. Bernard Loyd, a native of Chicago, Illinois's Bronzeville neighborhood, attributes the success of his community economic development organization Urban Juncture in receiving a PPP loan to his financial services background, and points out that many Black-owned enterprises in Chicago haven't been as lucky: he estimates that of the community businesses he's worked with, 90% were unable to access the first round of PPP loans.[57]

4. Pastors and clergy across America have also been finding mixed success through the PPP process: "We applied when the program first became public, but we did not receive any funding," said Rev. James Perkins, the pastor of Greater Christ Baptist Church, in Detroit, Michigan. Perkins was forced to lay off most of his nine church employees, and he has asked the remaining staff to take salary cuts. When the process has been successful, it has been extremely helpful: "It's a huge boon for us," said Father Carl Beekman, parish priest at the Church of St. Mary, which serves about 1,300 families in Sycamore, Illinois.[58]

5. Claudia Garza owns Bright and Early Productions in Dallas, Texas with her husband. The company, a photography and videography company, serves the real estate industry. To keep safe from COVID-19 they are currently only photographing unoccupied homes. The business has suffered as a result and had to reduce their employees' hours. Claudia Garza described struggling to get their bank, Wells Fargo, on the phone, and then when she did, she was not satisfied. "It feels like I'm a small fish... maybe they have people who have larger accounts or maybe contacts within the bank. They got the help a lot faster than I did. I don't have contacts at Wells Fargo," she said.[59]

---

[55] Presha, Alex. ABC News. "DC small business owner struggling to get PPP funds during coronavirus crisis", accessible at https://abcnews.go.com/Business/dc-small-business-owner-struggling-ppp-funds-oronavirus/story?id=70842196.

[56] Triangle Business Journal. "Opinion: How PPP helped minority-owned firms across the nation", accessible at https://www.bizjournals.com/triangle/news/2020/06/05/how-ppp-helped-minority-owned-businesses.html.

[57] Black, Curtis. The Chicago Reporter. "Minority-owned businesses largely miss out on federal relief", accessible at https://www.chicagoreporter.com/minority-owned-businesses-largely-miss-out-on-federal-relief/

[58] Gjelten, Tom. National Public Radio. "Black Pastors Say They Have Trouble Accessing SBA Loan Program", accessible at https://www.npr.org/2020/04/25/844802957/black-pastors-say-they-have-trouble-accessing-sba-loan-program

[59] Flahive, Paul. Texas Public Radio. "Latino Businesses Not Receiving 'Fair Share' Of Federal Relief, Say Advocates", accessible at https://www.keranews.org/post/latino-businesses-not-receiving-fair-share-federal-relief-say-advocates

6. Rosemary Ugboajah, owner of Neka Creative in Minneapolis, Minnesota applied through her credit union, but was unsuccessful: "They were hard to reach, but eventually I got through to someone and they emailed me back saying they can't process the loan because they don't process SBA loans," she said. "I wasn't aware of that."[60]

7. Dannesia Pullen, owner of PullenBoy Hauling in Rolesville, North Carolina, has experienced a difficult time during the COVID-19 crisis: “We have seen a 15-20 percent decline in cash flow,” she says. She has applied for a PPP loan and for an Economic Injury Disaster Loan and has been denied for both. She added, “When I see businesses like the NBA, Ruth Chris, and Potbelly receiving funding, I no longer have faith in the government.”[61]

8. Portia Kimble, sole proprietor of a hair salon in Hoover, Alabama, was encouraged to apply for a PPP loan by several peers. “I had a little savings, but didn’t know how long that would last," she said. HOPE Federal Credit Union was able to offer her a $5,200 PPP loan, which will allow her to weather the financial storm, and hopefully expand her business in the future. “This business, being an entrepreneur, it is a faith business,” Kimble says. “God is my source. You don’t know how things are gonna go. I’m glad we’re still standing.”[62]

9. Brighter Beginnings, is a non-profit with locations in Oakland, Richmond and Antioch, California. Brighter Beginnings has been responding to the needs of families in resource-poor neighborhoods since 1984 by providing tele-medicine services, intensive services to special needs children, and food for families struggling to make ends meet. Unable to obtain a PPP loan from its bank of many years, Brighter Beginnings was forced to furlough its eight-person staff and discontinue its critical community services. After receiving a PPP loan from Self-Help, it was able to bring back all eight staff members and is now supporting over 450 existing and new clients in its communities.[63]

10. ASI Services is a female person-of-color led non-profit organization that has served the Chicago area for 45 years. Through its 300-person staff, ASI provides quality supportive home-care services to post-acute patients, senior citizens and persons with disabilities; its services are available to persons of all backgrounds, but approximately 95% of its clients are people of color. Even though ASI had an existing banking relationship, it was unable to obtain a PPP loan from its bank and turned to Self-Help. ASI noted that the PPP loan has provided it a “runway to last through the summer,” allowing ASI to continue providing vital services and continue paying all 300 of its employees.[64]

11. Kiddie World Child Development Center is a child-care provider in rural eastern North Carolina. With an eight-person staff, this female person-of-color led nonprofit serves essential workers by providing child-care for workers of the local chicken factory, hospital and nursing homes. Obtaining a PPP loan from Self Help has allowed Kiddie World to keep its staff employed and continue providing high-quality, safe child-care.[65]

[60] Kurtzleben, Danielle. National Public Radio. “Minority-Owned Small Businesses Were Supposed to Get Priority. They May Not Have”, accessible at https://www.npr.org/2020/05/12/853934104/minority-owned-small-businesses-were-supposed-to-get-priority-they-may-not-have

[61] Allam, Chantal. WRAL Tech Wire. “Black-led businesses getting shut out of PPP loan program, owners and experts say”, accessible at https://www.wraltechwire.com/2020/05/22/black-led-businesses-getting-shut-out-of-ppp-loan-program-owners-and-experts-say/

[62] Johnson, Roy S. The Birmingham News. “Amid corona-crash, small businesses found savior in smaller banks, fund”, accessible at https://www.al.com/opinion/2020/05/johnson-in-corona-crash-small-businesses-found-savior-in-smaller-banks.html

[63] Story on file with Self Help Federal Credit Union

[64] Story on file with Self Help Federal Credit Union

[65] Story on file with Self Help Federal Credit Union

12. Shaw Legal Services is a female person-of-color owned law firm with a staff of six. After finding that she was unable to obtain a PPP loan from her business and personal lender of over 20 years, this Chicago-area small business owner learned about Self-Help. Her PPP loan has enabled her to keep all six employees on payroll, and to provide low-cost or pro bono legal services to help small business clients that were unable to obtain PPP funding in Round 1 negotiate out of leases and contracts they are no longer able to honor.[66]

[66] Story on file with Self Help Federal Credit Union