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SELECT SUBCOMMITTEE ON THE
CORONAVIRUS CRISIS

— REPUBLICANS | WHIP STEVE SCALISE, RANKING MEMBER —

**RESOUNDING SUCCESS:
A REVIEW OF THE
PAYCHECK PROTECTION PROGRAM**

STAFF REPORT

**HOUSE SELECT SUBCOMMITTEE ON
THE CORONAVIRUS CRISIS | MINORITY**

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EXECUTIVE SUMMARY

The Paycheck Protection Program (PPP) is a forgivable loan program designed to provide a direct incentive for small businesses to keep their workers on the payroll. Congress appropriated \$659 billion for the program in the Coronavirus Aid, Relief, and Economic Security (CARES) Act and the Paycheck Protection Program and Health Care Enhancement Act. This enabled the Small Business Administration (SBA) to fund more than 4.9 million PPP loans.

Data show the PPP supported more than 51 million jobs across the country. The program demonstrated how the government can work with the private sector to quickly and efficiently get aid to those in need.

In the early weeks of the coronavirus crisis, much of the country shut down to limit the spread of the deadly virus. Dr. Megan Ranney – a witness invited by Subcommittee Democrats – testified at a hearing on May 21, 2020 that the economy was shut down to “flatten the curve of this infection so our hospitals across the country would not be overrun.” The effects of the broad shutdown orders, however, went far beyond the hospital population. Essential and non-essential sectors of the economy were effectively closed. Consequently, many small businesses faced bankruptcy and the country faced a burgeoning economic crisis. Republicans in Congress and the Trump Administration designed the PPP to address this need, prioritizing rapid distribution of funds to small businesses to keep employees on payroll while shutdown orders were in effect and until the economy was fully restored. The program’s focus on getting money to workers quickly saved millions of jobs and kept the economy from collapse.

Challenges related to connecting bank systems to the SBA’s E-Tran portal – which was receiving an unprecedented volume of loan applications – caused delays immediately after PPP went live on April 3, 2020. SBA and Treasury Department employees worked around the clock to address those technical issues, and the program was fully operational within a matter of days. The SBA and Treasury issued a series of guidance documents to clarify certain aspects of the program, many of which were issued in response to discrete questions from applicants, lenders, and Congress. The evolving nature of the program’s guidelines predictably caused confusion. The urgent need to disburse funds to millions of small businesses, however, justified the expedited rollout of the lending program, as Congress intended.

The SBA distributed PPP loans through thousands of financial institutions across the country. SBA directed financial institutions to work with small businesses in their communities and rapidly process loan applications. SBA and our nation’s banks worked tirelessly to provide \$342.3 billion in loans in 14 days. Behind the scenes, SBA and Treasury worked together to quickly get funds to more than 84 percent of the country’s small businesses, with minimal fraud.

Under the lending terms of the PPP, small businesses may have their loans forgiven if they abide by the CARES Act and SBA employee retention requirements. These incentives ensured small businesses used the funds to pay employees and prevented abuses.

The Trump Administration's fast and efficient work with financial institutions across the country should be commended. Indeed, SBA and Treasury officials, and their counterparts at financial institutions, worked around the clock in March and April 2020 to stand up and execute the PPP. Their efforts may have prevented an apocalyptic scenario for American small businesses.

PRESIDENT TRUMP’S SWIFT ACTION PROVIDED RELIEF

In the early weeks of the coronavirus crisis much of the country was forced to shut down to limit the spread of the deadly virus. Dr. Megan Ranney – a witness invited by Democrats to testify before the Subcommittee – stated, under oath, the economy was shut down to “flatten the curve of this infection so our hospitals across the country would not be overrun.” These broad and inflexible shutdowns drastically limited commercial activity. Consequently, many small businesses faced bankruptcy and the country faced a burgeoning economic crisis. President Trump and his Administration designed the PPP with Congress to address this need, prioritizing rapid distribution of funds to small businesses to keep employees on payroll and keep their doors open. On March 27, 2020, President Trump signed the CARES Act which included \$349 billion in initial funding for the PPP.¹ The PPP saved millions of jobs and kept the economy from collapse.

Due to the hard work of President Trump, SBA, and the Treasury Department, it took only six days to stand up the PPP.² In the following 14 days, lenders of various shapes and sizes worked with SBA to process a deluge of loan applications.³ The scale of this economic relief effort was unprecedented. Over the course of two weeks, loans totaling \$349 billion were approved for more than 1.6 million small businesses, nonprofits, veterans’ organizations, tribal businesses, sole proprietors, and independent contractors. Thousands of additional small businesses remained in the queue when PPP funds ran out.

The demand for PPP loans made clear the program was the most successful aspect of the CARES Act and was serving as a lifeline for America’s small businesses, as it was intended. On April 7, 2020, Treasury Secretary Steven Mnuchin asked congressional leaders to provide an additional \$250 billion for the PPP program, which was immediately supported by Republicans, with the Senate set to pass additional funds on April 9, 2020.⁴

House Democrats, however, jeopardized paychecks for millions of small business employees by attaching conditions to additional funding for the program during negotiations for the successor to the CARES Act. On April 8, 2020, Speaker Nancy Pelosi and Senate Minority Leader Chuck Schumer said they would block a vote on additional funds for the PPP.⁵ Democrat leaders used funds for small businesses on the brink of insolvency as a bargaining chip to push progressive priorities including federal workplace standards and more funding for state and local

¹ Pub. L. No. 116-136 (2020).

² Johnathan O’Connell, et. al, *Following messy start, enormous Paycheck Protection Program shows signs of buttressing economy*, Washington Post, (Jun. 10, 2020), <https://www.washingtonpost.com/business/2020/06/09/how-effective-is-ppp-small-business/>.

³ *Id.*

⁴ Erica Werner, et. al., *Treasury’s Mnuchin seeks additional \$250 billion to replenish small-business coronavirus program*, The Washington Post, (Apr. 7, 2020), <https://www.washingtonpost.com/us-policy/2020/04/07/treasury-coronavirus-small-business/>

⁵ The Editorial Board, *Pelosi Holds Up Small Business*, Wall Street Journal, (Apr 8. 2020), <https://www.wsj.com/articles/pelosi-holds-up-small-business-11586388710>.

governments, even though the original funds for states and localities had not been expended at that time.⁶

Meanwhile, other senior Democrats refused to fund PPP based on concerns about transparency and the availability of data. For instance, Small Business Committee Chairwoman Nydia Velazquez said a lack of borrower data “has left unanswered questions as to whether taxpayer funding is going to those the program was intended to serve. Before Congress allocates billions of additional dollars, the administration must show a greater commitment to transparency.”⁷

In fact, the SBA had just released a trove of PPP data voluntarily that showed small businesses in the manufacturing and health care/social assistance sectors were approved for more than \$58 billion in loans, or nearly one-quarter of the total approved dollars as of the date that PPP funds expired.⁸ According to the North American Industry Classification System (NAICS), those sectors included businesses that manufacture medical equipment and pharmaceuticals,⁹ and establishments providing health care and social assistance for individuals, among many other important businesses.¹⁰

The lapse in PPP funding harmed the most vulnerable enterprises. On April 15, 2020, Citigroup, JPMorgan Chase, and Bank of America provided data that showed the nation’s largest financial institutions are focused on ensuring PPP and other relief loans are available to a diverse group of people and entities. For example, Citigroup received nearly 500 applications from not-for-profit clients including churches, skills training programs, and schools for people with special needs and at-risk students.¹¹ JPMorgan Chase established a new program to focus on underserved entrepreneurs, including women and racial/ethnic minority owners and hardest hit communities.¹² Bank of America conducted extensive outreach to small business clients in low and moderate income (LMI) neighborhoods to raise awareness about PPP loans.¹³

As Democrats attempted to leverage the desperation of the small business community to push partisan policies, the need for PPP loans remained urgent, and the queue disproportionately consisted of small, family-owned, and independent businesses and independent contractors. Indeed, due to the tactics of Speaker Pelosi and Minority Leader Schumer, PPP funds ran out on

⁶ *Supra* n. 12. See also Erica Werner, Mike DeBonis, *Worried that \$2 trillion law wasn’t enough, Trump and Congressional leaders converge on need for new coronavirus economic package*, Washington Post, (Apr. 6, 2020), <https://www.washingtonpost.com/us-policy/2020/04/06/trump-democrats-coronavirus-stimulus-trillion/>

⁷ Warmbrodt, Everett, and Caygle, *supra* note 3.

⁸ SBA Payroll Protection Program (PPP) Report, Approvals Through 4/13/20 (Apr. 14, 2020), <https://content.sba.gov/sites/default/files/2020-04/PPP%20Report%20SBA%204.14.20%20-%20Read-Only.pdf> (last accessed Apr. 16, 2020).

⁹ NAICS Sector 32: Manufacturing.

¹⁰ NAICS Sector 62: Health Care and Social Assistance.

¹¹ Letter from David Chubak, Head of U.S. Retail Banking, Citigroup, to Hon. Maxine Waters and Hon. Nydia Velazquez (Apr. 15, 2020).

¹² Letter from Jason Rosenberg, Head of U.S. Gov’t Relations, JPMorgan Chase & Co., to Hon. Maxine Waters and Hon. Nydia Velazquez (Apr. 15, 2020).

¹³ Letter from John Collingwood, Dir., Fed. Gov’t Relations, Bank of America, to Hon. Maxine Waters and Hon. Nydia Velazquez (Apr. 15, 2020).

April 16, 2020.¹⁴ As a result, hundreds of thousands of small businesses were unable to access PPP funds and had to consider layoffs and furloughs.¹⁵

On April 24, 2020, President Trump signed the Paycheck Protection Program and Health Care Enhancement Act, providing an additional \$310 billion in PPP funds.¹⁶ These funds provided desperately needed relief to small businesses across the country, but the damage was already done. Many small businesses that missed the first round of PPP funds were unable to bring back their employees and discontinued services.¹⁷

¹⁴ Thomas Franck, *Small Business rescue loan program hits \$349 billion limit and is now out of money*, CNBC, (Apr. 16, 2020), <https://www.cnbc.com/2020/04/16/small-business-rescue-loan-program-hits-349-billion-limit-and-is-now-out-of-money.html>.

¹⁵ Tom Huddleston Jr., *As small business loan money runs out, many approved businesses still await checks or clarity on strict guidelines*, CNBC, (Apr. 17, 2020), <https://www.cnbc.com/2020/04/17/small-businesses-await-checks-clarity-as-ppp-loan-program-runs-dry.html>.

¹⁶ Lisa Nagele-Piazza, *Trump Signs Coronavirus Relief Bill with \$310 Billion More for Small Businesses*, SHRM, (Apr. 24, 2020), <https://www.shrm.org/resourcesandtools/legal-and-compliance/employment-law/pages/house-approves-small-business-coronavirus-relief.aspx>

¹⁷ *Id.*

THE ADMINISTRATION’S GUIDANCE FOR PROGRAM LENDING

SBA and Treasury Guidance

Five days after the passage of the CARES Act, on April 2, 2020, SBA posted the Interim Final Rule (IFR) implementing the Paycheck Protection Program, and on April 3, 2020, released the affiliation rules so small businesses and lenders could easily determine whether they qualified for the program.¹⁸ Through April 30, SBA issued five more IFRs and 39 FAQs to address many aspects of the PPP implementation.¹⁹ The IFRs and FAQs were necessary to quickly respond to new issues within the rapidly evolving and unprecedented program.²⁰ Lenders were frustrated by the evolving nature of the guidance but their employees worked tirelessly to adapt their interactions with applicants to push the program forward.

On April 23, 2020, in an effort to ensure loans were going to small businesses in need, SBA and Treasury updated PPP FAQ guidance. The updated guidance stated “a public company with substantial market value and access to capital markets “is *unlikely* to be able to make the certification on its PPP application in good faith that “[c]urrent economic uncertainty makes this loan request necessary to support the ongoing operations of the Applicant.”²¹ Borrowers that falsely certify their loan application must repay PPP loans in full by May 7, 2020, or else face agency scrutiny of the loan applications, which carries the possibility of a criminal referral.²² SBA and Treasury provided private-equity-owned businesses the same opportunity to repay their loans to avoid such scrutiny.²³

On April 29, 2020, SBA and Treasury created a dedicated window for accepting PPP applications from “the smallest lenders and their small business customers.”²⁴ During that window, SBA only accepted loans from small lending institutions with asset sizes less than \$1 billion because many of these lenders served different communities than their larger counterparts.²⁵ This dedicated window guaranteed the smallest borrowers had access to funds. During the course of the Subcommittee’s investigation, Democrats stated certain banks were unnecessarily limiting access to the PPP to existing customers to the detriment of applicants who lacked pre-existing banking relationships. Documents and information obtained by the Subcommittee, however, show lenders were constrained by the requirements to vet new

¹⁸ SMALL BUSINESS ADMINISTRATION OFFICE OF THE INSPECTOR GENERAL, FLASH REPORT SMALL BUSINESS ADMINISTRATION’S IMPLEMENTATION OF THE PAYCHECK PROTECTION PROGRAM REQUIREMENTS, (May 8, 2020), https://www.sba.gov/sites/default/files/2020-05/SBA_OIG_Report_20-14_508.pdf

¹⁹ *Id.*

²⁰ *Id.*

²¹ U.S. Small Bus. Admin., Paycheck Protection Program Loans Frequently Asked Questions (Jun. 25, 2020), <https://home.treasury.gov/system/files/136/Paycheck-Protection-Program-Frequently-Asked-Questions.pdf> (*emphasis added*).

²² *Id.*

²³ *Id.*

²⁴ Press Release, U.S. Small Bus. Admin., Joint Statement by Administrator Jovita Carranza and Secretary Steven T. Mnuchin on Establishing Dedicated Hours for Small Lender Submissions of PPP Applications (Apr. 29, 2020), <https://www.sba.gov/about-sba/sba-newsroom/press-releases-media-advisories/joint-statement-administrator-jovita-carranza-and-secretary-steven-t-mnuchin-establishing-dedicated>

²⁵ *Id.*

customers pursuant to the Bank Secrecy Act, also known as the Anti-Money Laundering law (BSA/AML) – statutes aimed at thwarting criminal activity and terrorist financing.

On April 30, 2020, SBA and Treasury issued an IFR stating that “businesses that are part of a single corporate group shall in no event receive more than \$20 [million] of PPP loans in the aggregate.” Businesses are part of a single corporate group if they are majority owned, directly or indirectly, by a common parent. The limitation goes into effect for any loan that has not been fully disbursed as of April 30, 2020. It is the PPP loan applicant's responsibility to notify the lender if the applicant has applied for or received PPP loans in excess of the amount permitted and withdraw or request cancellation of any pending PPP loan application or approved PPP loan not in compliance with the limitation.

Since April 30, SBA and Treasury have continued to respond to all manner of questions from small businesses, financial institutions, Congress, and the public on the implementation of the PPP.²⁶ These responses include 16 additional IFRs and guidance documents, near daily updates of the FAQs, and additional information for the loan forgiveness process.²⁷ SBA’s rapid response has enabled it to quickly and efficiently implement the PPP saving millions of small businesses and American jobs.

PPP Loan Forgiveness

Loan forgiveness is dependent upon an employer maintaining or quickly rehiring employees and maintaining salary levels.²⁸ To qualify for loan forgiveness, employers may use PPP funds on payroll, payments of mortgage interest, rent, and utilities.²⁹ Originally, employers were required to use 75 percent of PPP funds received on payroll costs within eight weeks in order to qualify for forgiveness.³⁰ In response to concerns from borrowers whose unique circumstances made it difficult to comply with the eight week deadline, Congress responded and on June 5, President Trump signed the PPP Flexibility Act, which reduced the payroll obligation to 60 percent and increased the expenditure period to 24-weeks or December 31, 2020, whichever comes first, to qualify for forgiveness.³¹

All these actions ensured the smallest businesses got relief quickly. Instead of helping American workers, Democrats bullied companies that complied with the terms of PPP loan and fought against extending the program.³² President Trump and his Administration provided lenders and borrowers with the guidance necessary to make PPP a success.

²⁶ U.S. Small Business Administration, Paycheck Protection Program, <https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/paycheck-protection-program>

²⁷ *Id.*

²⁸ 13 C.F.R. 120 (2020).

²⁹ *Id. see also*

³⁰ *Id.*

³¹ PPP Flexibility Act of 2020, Pub. L. No. 116-142.

³² SELECT SUBCOMM. ON THE CORONAVIRUS CRISIS, HOUSE CORONAVIRUS PANEL DEMANDS THAT LARGE PUBLIC CORPORATIONS RETURN TAXPAYER FUNDS INTENDED FOR SMALL BUSINESSES, (May 8, 2020), <https://coronavirus.house.gov/news/letters/letter-ceo-tim-abood-evo-transportation-energy-services-inc>, (Letters from Chairman Clyburn to EVO Transportation & Energy Services, Inc., Gulf Island Fabrication, Inc., MiMedx Group, Inc., Quantum Corporation, and Universal Stainless & Alloy Products, Inc.). *See also supra* n. 13.

OVERVIEW OF THE SELECT SUBCOMMITTEE DEMOCRATS' PARTISAN INVESTIGATION

On June 15, 2020, Select Subcommittee Democrats initiated a partisan investigation into the disbursement of PPP funds by sending letters to the Treasury Department, SBA and eight banks (JPMorgan Chase, Bank of America, PNC Bank, Truist Bank, Wells Fargo Bank, U.S. Bank, Citibank, and Santander) seeking thousands of documents and written responses.³³ These letters came as banks were still working to get PPP funds to small businesses across the country, and made baseless accusations that banks had created a two-tiered system benefiting the most wealthy clients.³⁴

All eight banks responded to the Democrats' burdensome requests by June 29, 2020, with thousands of documents, detailed responses to the Democrats' questions, and lengthy virtual briefings to Select Subcommittee staff.³⁵ After receiving these responses, Ranking Member Steve Scalise wrote Chairman James Clyburn urging him to narrow his inquiry because the evidence available to the Select Subcommittee "shows the systems [the banks] built – in a matter of weeks – did not consider an applicant's wealth, as you allege. In fact, bank staff who processed and submitted applications to SBA had no way to determine whether an application came from an existing client or a new customer."³⁶

Documents and Information Show Democrat Allegations Are Wrong

The evidence clearly shows that the Democrats mischaracterized why banks processed categories of applications in different ways, and confirmed that the banks were limited by the requirement to collect and verify BSA/AML information from any new customers.³⁷ The information required from new customers is extensive to prevent money laundering, and failure to abide by those requirements can carry significant fines. Financial institutions therefore take BSA/AML requirements very seriously.³⁸ The evidence shows the regulatory framework for the banking and lending industries made implementation of such an enormous program difficult.

Banks are particularly concerned with the BSA/AML risks of new small business clients because small businesses are more likely than medium and large businesses to be used as shell

³³ Select Subcomm. on the Coronavirus Crisis, Select Subcommittee Launches Investigation into Disbursement of PPP Funds, (Jun. 15, 2020), <https://coronavirus.house.gov/news/letters/select-subcommittee-launches-investigation-disbursement-ppp-funds>.

³⁴ *Id.*

³⁵ Documents on file with the Select Subcommittee on the Coronavirus Crisis.

³⁶ Letter from Steve Scalise, Ranking Member, Select Subcomm. on the Coronavirus Crisis, to James Clyburn, Chairman, Select Subcomm. on the Coronavirus Crisis, (Jul 2, 2020) (citing numerous briefings from some of the largest PPP lender banks), <https://republicans-oversight.house.gov/wp-content/uploads/2020/07/Scalise-to-Clyburn-re-withdraw-PPP-requests.pdf>

³⁷ *Id.*

³⁸ Know Your Customer in Banking, Thales Group, (2019), <https://www.thalesgroup.com/en/markets/digital-identity-and-security/banking-payment/issuance/id-verification/know-your-customer>

companies for money laundering.³⁹ BSA/AML violations carry potential monetary penalties of millions of dollars for financial institution's negligence or willful violation.⁴⁰ Employees of financial institutions also share BSA/AML risk because violations can result in criminal fines of \$250,000 and up to five years in prison.⁴¹ Recent legislative proposals to amend the BSA would create new information requirements for small businesses to enable law enforcement and financial institutions to better identify entities being used for money laundering.⁴² While these legislative proposals are still being negotiated they highlight the risks associated with small business lending, in particular the need for rigorous review of new customers' information and continuous review of existing client information.

Overview of the PPP Lending Process

Every financial institution created a proprietary approval process to suit its existing infrastructure and potential customers. Each one also made individual decisions including: (1) whether to serve new customers or only existing customers, (2) how to engage in outreach within their communities, (3) how to target minority or underserved communities and businesses, and (4) whether to proceed on a first come, first served basis or provide preference to a certain category of applicants. Some financial institutions chose to only provide loans to existing customers due to concerns that they would be unable to conduct adequate research into the background of those companies to meet their obligations under the Anti-Money Laundering and Bank Secrecy Act (BSA/AML).⁴³

The need to quickly develop the online or manual infrastructure to process thousands of applications required banks to make decisions that in any other circumstance would likely take months of review. SBA and the Treasury Department enabled banks to make their own decisions within a set framework in order to get PPP funds to small businesses in need. Congress was clear that the goal for SBA, the Treasury Department and the banks was to get funds to small businesses as quickly as possible while still meeting regulatory requirements. This effort did not come without challenges. Banks told the Subcommittee they struggled to establish online portals for small businesses to apply, their systems were inundated with applications, and transmitting the information to the SBA was initially problematic.⁴⁴

³⁹ Kristin Broughton, *Small Businesses Brace for Compliance Hurdles Under Shell-Company Bills*, Wall Street Journal, (Nov. 3, 2019), <https://www.wsj.com/articles/small-businesses-brace-for-compliance-hurdles-under-shell-company-bills-11572782401>.

⁴⁰ Shari Pogach, et. al., *BSA Violation Civil Penalties Increase*, National Association of Federally-Insured Credit Unions, (Nov. 13, 2019), <https://www.nafcu.org/compliance-blog/bsa-violation-civil-penalties-increase#:~:text=As%20the%20chart%20indicates%2C%20a,range%20from%20%2457%2C317%20to%20%24229%2C269.>

⁴¹ *Id.*

⁴² *Supra* n. 1.

⁴³ *Bank Secrecy Act (BSA) & Related Regulations*, Office of the Comptroller of Currency Dep't of the Treasury, (last visited Aug. 14, 2020); AML/BSA was created to in 1970 to combat money laundering by requiring financial institutions to keep detailed records, report suspicious activities, and work with government agencies. Among the many requirements is one called Know Your Customer (KYC) which requires a financial institution to verify the identity of a client opening an account and over time. Failure to abide by KYC regulations can carry significant fines therefore financial institutions take it very seriously and include it in their risk assessment protocols for any new customer.

⁴⁴ Briefing from Banks for SSOCC Staff (June 29 – July 6, 2020).

Generally, the process for borrowers was very similar regardless of the financial institution that processed the loan application. Below is a general description of the application process:

1. The client completes the SBA Paycheck Protection Program Borrower Application Form on the lender’s website.
2. The application goes through the financial institution’s eligibility check, based on SBA eligibility guidelines. Some financial institutions implemented additional checks to determine whether the potential borrower had an existing relationship with the financial institution.
3. The financial institution may require additional information or corrections to incomplete information provided by the client.
4. The application is sent to SBA for approval through the E-Transaction (E-Tran) system.
5. The SBA approves or denies the application.
6. If approved, the client is provided with documentation related to the terms of the PPP loan and offered the opportunity to sign the loan documents.
7. The client receives the loan distribution.

PPP Data for Select Financial Institutions

JPMorgan Chase & Co.

- Total Loans: 280,000+
- Total Amount: \$29 billion+
- Average Loan: \$104,760⁴⁵

JPMorgan Chase & Co. (JPM) launched its digital intake form on April 3. Within one hour, they received more than 75,000 expressions of interest from clients and non-clients.⁴⁶ JPM initially chose to serve only existing clients who had an account open with the bank prior to February 15, 2020.⁴⁷ In a letter to Treasury and SBA on April 6, 2020, JPM stated that the need for a lender to have “exercised due diligence to obtain true and correct information,” conflicted with the SBA Interim Final Rule, in SBA Form 2484, which set forth relaxed due diligence requirement intent on getting funds to businesses quickly.⁴⁸ While there was an initial lack of clarity, that was resolved and most other major financial institutions allowed non-customers to apply for PPP funds, though JPM has maintained they will only provide PPP loans to existing

⁴⁵ *Supra* n. 4.

⁴⁶ HSSC_JPMC_00000013

⁴⁷ HSSC_JPMC_00000074

⁴⁸ HSSC_JPMC_00000002-00000005

customers. The week before the Paycheck Protection Program and Health Care Enhancement Act was signed, JPM’s focused on underserved communities and worked to develop a plan for outreach to such communities. JPM submitted loan applications to SBA on a first come first serve basis.⁴⁹

Citi Group Inc.

- Total Loans: 29,000+
- Total Amount: \$3.3 billion+
- Average Loan: \$175,000⁵⁰

Prior to the PPP program, Citi Group Inc. (Citi) did not have a digital lending capability for small businesses, instead requiring small businesses to go to the bank’s physical locations to apply for a small business loan.⁵¹ As it became clear that PPP was going to be included in the CARES Act, Citi began working with Foundation, a company that specializes in small business lending capabilities, to create a digital lending capability for small businesses in less than three weeks.⁵² Citi required Foundation to complete the BSA/AML Know-Your-Customer (KYC) verification and any mismatches were reviewed by a Citi branch KYC team.⁵³ Additionally, Citi still required loans of more than \$1 million to go through a separate more difficult underwriting process to reduce the risks associated with larger loans.⁵⁴

Citi operated on a “first in first out” basis and no loan amount preference was given to any borrower.⁵⁵ Citi made a \$100 million commitment to get PPP loans to the communities hardest hit by the coronavirus crisis. That commitment contained a partnership with Community Development Financial Institutions (CDFIs) to get funds to underserved communities. Citi recognized that “not taking non-customers might create a heightened risk of disparate impact on minority and women-owned businesses.”⁵⁶ Citi provided loans to only existing customers due to BSA/AML concerns, then opened the program to non-customers after working with their risk management team to develop controls to limit their risks.⁵⁷

⁴⁹ Tel. Call, JPMorgan Chase Staff and minority staff, Select Subcomm. on the Coronavirus Crisis H. Comm. on Oversight & Reform (Jul. 6, 2020).

⁵⁰ Letter From David Chubak, Head of U.S. Retail Banking, Citigroup, to James Clyburn, Chairman, Select Subcomm. on the Coronavirus Crisis, (Jun. 29, 2020).

⁵¹ CITI_PPP_00000037

⁵² CITI_PPP_00000005

⁵³ CITI_PPP_00000011.jpg

⁵⁴ CITI_PPP_00000112

⁵⁵ CITI_PPP_00000112

⁵⁶ *Id.*

⁵⁷ CITI_PPP_00000186

Bank of America

- Total Loans: 343,000+
- Total Amount: \$25.5 billion+
- Average Loan: \$74,376⁵⁸

Bank of America (BofA) was able to leverage its existing systems to begin accepting PPP applications at 9:00 a.m. on April 3, 2020, making them the first financial institution to begin accepting PPP applications.⁵⁹ While these capabilities enabled BofA to quickly accept applications for clients with pre-existing business relationships, the bank still had AML concerns for businesses without a pre-existing relationship.⁶⁰ BofA was accused but has denied that it prioritized larger clients, citing that near the end of the first round of funding the bank focused on the smallest loan applications first.⁶¹

BofA conducted outreach to existing small business clients, and clients in low- and moderate-income (LMI) areas to get them involved in the process.⁶² In addition, BofA committed \$250 million to CDFIs and Minority Depository Institutions (MDIs) to provide funds to underserved communities.⁶³ More than 74,000 loans went to businesses in low- and moderate-income areas.⁶⁴

Wells Fargo

- Total Loans: 194,000+
- Total Amount: \$10.5 billion+
- Average Loan: \$54,501⁶⁵

Wells Fargo began accepting expressions of interest on April 4, while the bank began preparing an online application.⁶⁶ During this time, Wells Fargo also began conducting outreach to its existing customers.⁶⁷ Wells Fargo began accepting PPP applications on April 6.⁶⁸ Due to the pre-existing asset cap imposed on Wells Fargo by the Federal Reserve, the bank initially provided \$10 billion in loans to non-profits and businesses with fewer than 50 employees.⁶⁹ On April 8, the Federal Reserve temporarily relaxed these restrictions, and Wells Fargo expanded its

⁵⁸ *Supra* n.4.

⁵⁹ *Supra* n. 54.

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² Letter from Reginald Brown et. al, att’y WilmerHale, to James Clyburn, Chairman of the Select Subcomm. on the Coronavirus Crisis, (Jun. 29, 2020).

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ *Supra* n. 4.

⁶⁶ Letter from Steve Troutner, Head of Small Business at Wells Fargo, to James Clyburn, Chairman of the Select Subcomm. on the Coronavirus Crisis, (Jun. 29, 2020).

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ WF-Subcommittee-00000159-00000162. *See also*, WF-Subcommittee-00001075-1079

PPP loan capabilities to their small business customers with more than 50 employees.⁷⁰ Wells Fargo had three requirements for PPP loan eligibility for businesses: (1) meet SBA’s eligibility requirements; (2) have a Wells Fargo business checking account as of February 15, 2020; and (3) be enrolled in one of Wells Fargo’s online banking platforms.⁷¹ The second requirement was based on Wells Fargo’s determination that in order to meet its BSA/AML obligations without causing significant delays in getting funding to businesses, they could only service existing customers.⁷² Applications were transmitted to SBA on a first come, first served basis.

In addition, 41 percent of Wells Fargo’s PPP loans went to low- and moderate-income areas or to areas with over 50 percent minority populations.

Truist

- Total Loans: 82,000+
- Total Amount: \$12 billion+
- Average Loan: \$153,956⁷³

Truist began accepting PPP loan applications on April 4.⁷⁴ Truist received a significant number of PPP applications between April 4 and April 7, but many of these businesses missed the first round of PPP funds.⁷⁵ As a result, Truist prioritized the applications received on those dates for the second round of funding, regardless of whether another application was ready for approval.⁷⁶ If Truist’s underwriters determined that the amount a client could receive was less than the client’s PPP worksheet or less than the E-Tran determination, Truist would adjust the amount down to the underwriter’s determination, without communicating that with the client.⁷⁷ If the underwriters determined that the amount a client could receive was more than the E-Tran amount, within \$500, they would fund the higher loan amount.⁷⁸ If the difference was greater than \$500, Truist would work with SBA to make the appropriate adjustment.⁷⁹

Truist worked hard to serve as many existing business clients as possible during the first round of PPP funding and well into the second round.⁸⁰ Truist opened the application process to sole proprietors and non-business clients in accordance with the proscribed SBA schedule.⁸¹ During the second round of funding, Truist began accepting existing clients without an existing

⁷⁰ *Id.*

⁷¹ *Supra* n. 63.

⁷² *Id.*

⁷³ *Supra* n. 4.

⁷⁴ Truist_PPP_0001964.

⁷⁵ Truist_PPP_0001455.

⁷⁶ *Id.*

⁷⁷ Truist_PPP_0001456.

⁷⁸ *Id.*

⁷⁹ *Id.*

⁸⁰ Truist_PPP_0001177

⁸¹ Email from Peter Mahoney, Executive Vice President, Truist, to Republican Staff, Select Subcomm. on the Coronavirus Crisis, (Aug. 26, 2020, 1:11p.m.).

business relationship.⁸² The company's retail banks also began outreach within their local communities to existing customers that owned and operated small businesses.⁸³

U.S. Bank

- Total Loans: 108,000+
- Total Amount: \$7.6 billion+
- Average Loan: \$70,212⁸⁴

U.S. Bank launched its online platform for accepting applications on April 4, for single-owned businesses.⁸⁵ A few days later, the company expanded lending to dual-owned businesses, and on April 19, for multi-owner businesses.⁸⁶ The technical rollout of the online platform was delayed, particularly during round one of PPP funding, causing some applications for multi-owner businesses to need to be input manually.⁸⁷ Those technical issues were quickly addressed and only three percent of the U.S. Bank PPP loan applications required manual applications.⁸⁸ On June 19, U.S. Bank stopped accepting PPP loan applications even though there was more than \$130 billion left in available PPP funds.⁸⁹ U.S. Bank has said it is shifting its focus to preparing for and managing the loan-forgiveness phase of PPP, though it is unclear how many resources will be necessary for this portion of the program.⁹⁰

Only 10 percent of U.S. Bank's PPP loan applications came from existing customers, though new customers were not included until round two. U.S. Bank was largely a first come, first served provider of PPP loans, however, new customer applications took longer to process due to BSA/AML requirements. In June, U.S. Bank prioritized direct outreach to minority-owned business customers.⁹¹ Around 23.9 percent of U.S. Bank's PPP loans went to LMI communities and 8.7 percent of their loans went to rural areas.⁹² U.S. Bank also provided \$50 million to seven CDFIs focused on providing funds to women and minority-owned businesses, and LMIs.

PNC Bank

- Total Loans: 73,000+
- Total Amount: \$13 billion+
- Average Loan: \$175,906⁹³

⁸² Truist_PPP_0001299

⁸³ *Id.*

⁸⁴ *Supra* n. 4.

⁸⁵ Letter from Timothy Welsh, Vice Chair, Consumer and Business Banking, U.S. Bank, to James Clyburn, Chairman, Select Subcomm. on the Coronavirus Crisis, (Jun. 29, 2020).

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ *Id.*

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² *Id.*

⁹³ *Supra* n. 4.

PNC Bank built a new online portal to accept PPP loan applications, which launched on April 4, 2020.⁹⁴ PNC resolved some early technical difficulties and quickly and efficiently processed applications.⁹⁵ PNC chose to only accept PPP applications from existing customers “[d]ue to the Bank Secrecy Act and anti-money launder (BSA/AML) compliance obligations . . . as well as the volume of PPP applications that we expected to (and did) receive from existing PNC customers.”⁹⁶

PNC dedicated more than 4,000 employees to processing PPP applications.⁹⁷ This massive effort enabled PNC to provide more than 85 percent of its loans to businesses with less than \$5 million in annual revenues.⁹⁸ PNC did not prioritize applicants from larger businesses, or prioritize based on the requested loan.⁹⁹ PNC also specifically targeted small businesses in LMI communities soon after the PPP went online.¹⁰⁰ As a result, they provided more than \$3.3 billion in loans to small businesses in LMI communities.¹⁰¹ PNC also committed more than \$45 million to eight CDFIs starting in March of 2020, even before the PPP was created.¹⁰²

Santander

- Total Loans: 10,700+
- Total Amount: \$1.2 billion+
- Average Loan: \$112,150¹⁰³

Prior to the start of the PPP, Santander averaged between 25 and 30 SBA loan applications per month, but did not have a digital platform for SBA loans.¹⁰⁴ Santander contracted with a technology vendor to develop a digital platform for the PPP applications, while the bank made an expression of interest form available to begin collecting customer interest and information.¹⁰⁵ The vendor was unable to provide the platform, requiring manual entry and causing a delay in Santander’s ability to process loan applications.¹⁰⁶ After the first round of PPP, Santander continued processing applications into a batch in preparation for Congress’ approval of a second round of PPP funding.¹⁰⁷ During this time, Santander also streamlined its manual submission process.¹⁰⁸ Santander is a smaller financial institution and did not have a

⁹⁴ Letter from Lakhbir Lamba, Executive Vice President, Head of Retail Lending and Asset Resolution, PNC Bank, to James Clyburn, Chairman, Select Subcomm. on the Coronavirus Crisis, (Jun. 29, 2020).

⁹⁵ *Id.*

⁹⁶ *Id.*

⁹⁷ *Id.*

⁹⁸ *Id.*

⁹⁹ *Id.*

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² *Id.*

¹⁰³ *Supra* n. 4.

¹⁰⁴ Letter from Emily Loeb, Counsel for Santander, to James Clyburn, Chairman of the Select Subcomm. on the Coronavirus Crisis, (Jun. 29, 2020).

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

digital platform to meet BSA/AML requirements which partially delayed their ability to quickly review applications, though they only provided loans to existing customers.¹⁰⁹ Santander processed loans on a first come, first served basis in batches.

Oriental Bank:

- Total Loans: 4,700+
- Total Amount: \$304 million+
- Average Loan: \$63,825¹¹⁰

Banco Popular

- Total Loans: 28,000+
- Total Amount: \$1.42 billion+
- Average Loan: 45,000¹¹¹

On August 20 and 21, 2020, leadership of two large banks in Puerto Rico (PR) – Oriental Bank and Banco Popular – provided voluntary briefings for Subcommittee staff. Bank executives expressed appreciation for the PPP program and discussed the positive effects it had on the island. Accounting firms were not deemed essential businesses in Puerto Rico, which made it difficult for loan applicants to access their financial documents. Employees at both banks went to extraordinary lengths to provide service for the island’s small business population. Banco Popular, for instance, kept branches open to provide access to PPP for those applicants who had no internet access – a vestige of the island’s ongoing remediation from recent hurricanes and other weather events.

The bank executives stated the program was a success – the PPP saved countless small businesses on the island. The banks identified the fact that the program was managed by the federal government, and not the local government, as one of the reasons for its effectiveness.

¹⁰⁹ *Id.*

¹¹⁰ Paycheck Protection Program (PPP) Our numbers, Oriental, (Aug. 18, 2020), <https://covid.orientalbank.com/en-us/ppp>.

¹¹¹ Popular Updates Loans Granted Under the SBA Payroll Protection Program (PPP), Newsroom, (Jul. 8, 2020), <https://newsroom.popular.com/press-release/english/popular-updates-loans-granted-under-sba-payroll-protection-program-ppp>

IMPACTS ON UNDERSERVED COMMUNITIES

On April 24, 2020, President Trump signed the Paycheck Protection Program and Health Care Enhancement Act (PPPHCEA), which increased the total lending authority in the PPP to \$659 billion, an increase of \$310 billion over the \$349 billion authorized in the CARES Act. The PPPHCEA included a set aside of no less than \$30 billion for “community financial institutions,” which includes Community Development Financial Institutions (CDFIs) and Minority Depository Institutions (MDIs).

The Administration made additional efforts to ensure that PPP loans were reaching small businesses that need capital. For example, the Department of Treasury and SBA issued supplemental guidance that required applicants to consider an applicant’s access to other sources of liquidity before certifying the necessity of their application. Moreover, the SBA and Treasury committed to reviewing loans in excess of \$2 million as part of the forgiveness determination.¹¹²

In addition to the PPP, lenders have taken steps to ensure funding reaches diverse and vulnerable populations. On April 15, 2020, in response to a request from House Democrats, lenders such as Citigroup, JPMorgan Chase, and Bank of America provided data highlighting their work to ensure that PPP is available to a diverse group of customers. For example, JPMorgan set up a new program to focus on underserved entrepreneurs, including women and minority owners and those in the hardest hit communities.¹¹³ Additionally, Bank of America conducted extensive outreach to small business clients in low- and moderate-income neighborhoods to raise awareness about PPP and other loans facilities.¹¹⁴

The Administration’s and the financial institutions’ focus on reaching diverse communities and businesses helped support those hit hardest by the coronavirus. Most financial institutions made direct outreach to minority-owned businesses and underserved communities early in the process.¹¹⁵ Around \$117 billion in loans were provided to small businesses in economically distressed areas known as Historically Underutilized Business (HUB) zones.¹¹⁶ In addition, PPP supports 13 million jobs in HUB zones.¹¹⁷ The PPP program provided \$79.8 billion in loans and about 12 million jobs in rural communities.¹¹⁸

These efforts were all part of a dedicated outreach program by the Trump Administration to ensure those communities hit hardest by the ongoing pandemic, particularly minority communities, had access to the relief necessary to withstand the crisis.

¹¹² <https://home.treasury.gov/system/files/136/Paycheck-Protection-Program-Frequently-Asked-Questions.pdf>.

¹¹³ JPMC response to House Democrat Request, April 15, 2020, on file with the Committee. See also <https://www.jpmorganchase.com/corporate/news/pr/eocf-exceeds-9mm-with-new-investments.htm>.

¹¹⁴ Bank of America response to House Democrat Request, April 15, 2020, on file with the Committee.

¹¹⁵ Briefings from eight banks for SSOCC staff.

¹¹⁶ *Supra* n. 5.

¹¹⁷ *Id.*

¹¹⁸ *Supra* n. 2.

CONCLUSION

The deliberate actions by President Trump's Administration, in partnership with financial institutions, to stand up the PPP program saved the small business community. Small businesses are the backbone of our nation's economy, employing more than 58 million Americans. Without access to PPP loans, the vast majority of small businesses would likely go bankrupt or lay off employees due to broad economic shutdowns.

SBA has never engaged in a program near the scale of PPP. Yet, through the focused resolve of the Trump Administration, SBA accepted applications within six days of the passage of the CARES Act. While there were some challenges implementing the program, as would be expected in implementing a program of this size on an expedited timeline, SBA processed applications quickly and avoided fraud to the extent that is typical of disaster relief and other large government programs, such as those associated with Hurricane Sandy,¹¹⁹ Hurricane Katrina,¹²⁰ and Medicaid.¹²¹

As the PPP transitions from processing loan applications to reviewing loan forgiveness applications, SBA should remain vigilant to ensure loan forgiveness only extends to businesses who complied with the letter of the law. Given the success of the development and implementation of the program, it is expected SBA will be well positioned to oversee this process and provide further relief for America's small businesses, if needed.

President Trump's leadership guided many of America's small businesses through this crisis. Coast to coast, America's main street is recovering. The policies established by this Administration will restore the American way of life and rebuild the greatest economy in the world.

¹¹⁹ Luis Ferre-Sadurni, *City Admits Defrauding FEMA After Hurricane Sandy; Agrees to pay \$5.3 Million*, NYTimes, (Feb. 20, 2020), <https://www.nytimes.com/2019/02/20/nyregion/fema-hurricane-sandy-fraud.html>.

¹²⁰ Sarah Westwood, *10 years later, extent of Katrina fraud still unknown*, Washington Examiner, (Aug. 28, 2015), <https://www.washingtonexaminer.com/10-years-later-extent-of-katrina-fraud-still-unknown#:~:text=Botched%20contracts%2C%20rampant%20fraud%20and,help%20the%20victims%20of%20Katrina.&text=A%20Disaster%20Fraud%20Task%20Force,Hurricanes%20Katrina%2C%20Rita%20and%20Wilma.>

¹²¹ Peter Viechnicki, *Shutting down fraud, waste, and abuse*, Deloitte, (May 12, 2016), <https://www2.deloitte.com/us/en/insights/industry/public-sector/fraud-waste-and-abuse-in-entitlement-programs-benefits-fraud.html>.

APPENDIX A: KEY STATISTICS

- The PPP supports more than 51 million jobs for American workers.¹²²
 - For example, the PPP supports 4.5 million jobs in Texas, 3.2 million in Florida, 1.8 million in Pennsylvania, 1.9 million in Ohio, 1.6 million in Michigan, 1.5 million in Georgia, and 1.2 million in North Carolina.¹²³
- The PPP obligated \$659 billion under the CARES Act and the Paycheck Protection Program and Health Care Enhancement Act.¹²⁴
- The PPP supports as much as 84 percent of all small business employees in the country.¹²⁵

Figure 1: PPP Loans by State and Territory¹²⁶

States and Territories								
State	Loan Count	Net Dollars	State	Loan Count	Net Dollars	State	Loan Count	Net Dollars
AK	12,087	\$1,311,919,096	LA	78,866	\$7,461,129,155	OR	66,344	\$7,057,574,349
AL	70,331	\$6,245,496,446	MA	118,392	\$14,315,290,705	PA	173,552	\$20,742,750,517
AR	43,669	\$3,333,413,929	MD	87,007	\$10,054,456,506	PR	39,544	\$1,821,671,163
AS	296	\$12,233,986	ME	28,309	\$2,266,870,258	RI	17,942	\$1,905,859,786
AZ	85,771	\$8,683,213,943	MI	128,159	\$16,040,039,297	SC	67,176	\$5,791,085,572
CA	623,360	\$68,644,418,670	MN	102,352	\$11,269,172,424	SD	23,494	\$1,682,896,085
CO	109,170	\$10,402,528,373	MO	95,599	\$9,194,916,076	TN	99,579	\$8,970,935,809
CT	64,629	\$6,718,327,006	MP	482	\$38,700,116	TX	417,276	\$41,326,454,268
DC	13,510	\$2,145,594,401	MS	48,545	\$3,209,532,093	UT	52,275	\$5,257,258,177
DE	13,202	\$1,520,789,172	MT	23,908	\$1,780,415,878	VA	114,570	\$12,588,096,276
FL	432,893	\$32,251,422,436	NC	129,289	\$12,288,152,674	VI	2,067	\$126,446,683
GA	174,429	\$14,688,047,519	ND	20,510	\$1,775,524,393	VT	12,401	\$1,201,175,929
GU	2,208	\$192,074,123	NE	44,074	\$3,442,626,881	WA	107,669	\$12,464,918,993
HI	25,097	\$2,478,864,703	NH	24,741	\$2,563,295,034	WI	89,615	\$9,908,335,442
IA	61,418	\$5,124,660,961	NJ	157,405	\$17,360,085,952	WV	18,062	\$1,802,521,277
ID	31,066	\$2,593,497,832	NM	23,033	\$2,268,802,500	WY	13,586	\$1,052,798,882
IL	225,409	\$22,849,324,883	NV	45,771	\$4,215,380,081	To be confirmed	139	\$6,057,463
IN	83,246	\$9,558,833,007	NY	348,870	\$38,699,947,686			
KS	53,755	\$5,031,013,626	OH	149,144	\$18,532,840,346			
KY	50,655	\$5,282,244,302	OK	66,210	\$5,460,267,982			

Approvals through 08/08/2020

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¹²² U.S. SMALL BUSINESS ADMIN., PAYCHECK PROTECTION PROGRAM (PPP) REPORT (Jun. 30, 2020), <https://home.treasury.gov/system/files/136/PPP-Results-Sunday.pdf>

¹²³ Kathy Morris, *The States that Received the Most (and Least) in PPP Funds*, ZIPPIA (July 2020) <https://www.zippia.com/advice/states-least-most-ppp-loans/>.

¹²⁴ *Supra* n. 2.

¹²⁵ U.S. SMALL BUSINESS ADMIN., PAYCHECK PROTECTION PROGRAM (PPP) REPORT (Aug. 8, 2020), <https://home.treasury.gov/system/files/136/SBA-Paycheck-Protection-Program-Loan-Report-Round2.pdf>.

¹²⁶ *Id.*

- The PPP provided loans to nearly 4.9 million small businesses across the country totaling \$521 billion.¹²⁷
- The PPP sent loans to our nation's smallest businesses in need, with 87.4 percent of all loans for less than \$150,000 and more that 67 percent for \$50,000 or less.¹²⁸
- As of August 8, the PPP is still funded at over \$133 million.¹²⁹

¹²⁷ *Id.*

¹²⁸ *Id.*

¹²⁹ *Id.*

APPENDIX B: TIMELINE

- **March 27:** President Trump signed the CARES Act signed into law.
- **April 2:** Treasury published an Interim Final Rule and SBA released an updated borrower application, lender application form, and updated borrower information sheet.
- **April 3:** SBA began accepting PPP applications.
- **April 3 – 16:** First round of PPP funding.
- **April 16:** \$349 billion in CARES Act funding for the PPP was exhausted.
- **April 16 – 27:** Many banks prepared for a second round of funding.
- **April 24:** The Paycheck Protection Program and Health Care Enhancement Act was passed, providing an additional \$310 billion in PPP funds, bringing the total to \$659 billion.
- **April 27:** SBA began accepting applications for the second round of funding.
- **August 8:** SBA stopped accepting new PPP applications due to the statutory deadline leaving roughly \$136 billion left in the program.