Congress of the United States
House of Representatives
Washington, DC 20515

April 2, 2020

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

The Honorable Jovita Carranza
Administrator
U.S. Small Business Administration
409 Third Street, S.W.
Washington, DC 20416

Dear Secretary Mnuchin and Administrator Carranza:

We appreciate your tireless efforts to help American businesses and workers weather the economic crisis brought on by the COVID-19 pandemic. This voluntary shutdown of the economy to address a far-reaching public health crisis resulted in tremendous hardship for businesses of all sizes and their employees.

Congress acted swiftly and decisively to bring immediate aid to struggling borrowers through the Coronavirus Aid, Relief and Economic Security (CARES) Act. We are grateful for your work with us in crafting the legislation and your efforts to create a program equipped to handle the scope of this crisis. The Paycheck Protection Program (PPP) was designed to allow small businesses to quickly access much needed capital to retain employees and build a bridge to the other side of this shutdown. Unfortunately, the implementation guidance released on March 31st threatens the viability of the Program, and compromises access to credit for borrowers struggling in the wake of the COVID-19 outbreak.

Community financial institutions will play a critical role in providing much-needed assistance to struggling borrowers. Active participation by these institutions is essential to ensuring no borrowers are left behind. In many communities, small, local financial institutions are the primary or exclusive source of credit. They lend based on relationships built over generations, knowledge of the local economy and a true desire to see their communities thrive. However, community financial institutions will be unable to participate if the Program does not make economic sense or creates the potential for liquidity challenges.

We are concerned that the March 31st guidance, as written, will make it economically infeasible for small financial institutions to serve their customers because it will require them to operate at a loss. The terms established by the guidance will not cover the operating costs for small community lenders and will inhibit the development of a secondary market for these loans. Further, the lack of clarity compounds the problem, leaving financial institutions uncertain how, or if, they can best serve their customers.

The guidance does not offer sufficient clarity that lenders are to be held harmless if they make good-faith efforts to comply with the rules of the Program. Mandating verification requirements without more explicit assurances that lenders won't be held liable if a borrower provides misleading information could lead to substantial delays in issuing loans. Updated guidance should include explicit limits on liability for lenders, which the Agencies are deputizing to administer the aid to borrowers, if they collect required information (e.g., payroll information) according to the Program's guidelines. This was the intent of the CARES Act and guidance should explicitly detail these limits of liability.

These deficiencies or omissions in the guidance may result in community financial institutions opting out of the Program. Without participation by community financial institutions, small businesses across the country will be unable to access the needed assistance intended by the Paycheck Protection Program.

We urge you to conform to congressional intent and establish guidelines for the Program that allow for full participation by financial institutions of all sizes and in all communities. We further request that you provide needed clarity for financial institutions and remain flexible with your guidance during this dynamic and trying time. If you are unable to make accommodations, we urge you to explore additional ways to mitigate liquidity uncertainties from smaller, community financial institutions.

We have heard from community financial institutions in our districts that are ready and willing to serve their customers. Many are already modifying loans to accommodate challenges from the COVID-19 outbreak. To do even more, these institutions will need access to the Program on terms that do not disincentivize participation. Many lenders are willing to participate at-cost, but are unable to lend under the Program if it means taking a loss. We ask that you refine your guidance to allow them to do what they do best—provide access to credit to small businesses in their communities.

Thank you for your consideration and your continued leadership in helping American workers.

Sincerely,

Andy Barr
Member of Congress

Bill Huizenga
Member of Congress

Ann Wagner
Member of Congress