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# UNDERSERVED AND UNPROTECTED

**How the Trump  
Administration Neglected  
the Neediest Small  
Businesses in the PPP**

**SELECT SUBCOMMITTEE ON THE CORONAVIRUS CRISIS**  
STAFF REPORT / OCTOBER 2020

## I. EXECUTIVE SUMMARY

This report provides preliminary findings from the Select Subcommittee’s ongoing investigation of the implementation of the Paycheck Protection Program (PPP) by the Small Business Administration (SBA) and the Department of the Treasury (Treasury). The report finds that contrary to Congress’s clear intent, the Trump Administration and many big banks failed to prioritize small businesses in underserved markets, including minority and women-owned businesses. As a result, small businesses that were truly in need of financial support during the economic crisis often faced longer waits and more obstacles to receiving PPP funding than larger, wealthier companies.

Congress established the PPP in the Coronavirus Aid, Relief, and Economic Security (CARES) Act in March 2020 to help small businesses and non-profit organizations survive the coronavirus crisis by providing forgivable loans to cover payroll, rent, and utility payments. The CARES Act urged SBA to issue guidance “to ensure that the processing and disbursement of covered loans prioritizes small business concerns and entities in underserved and rural markets,” including businesses owned by veterans, members of the military community, socially and economically disadvantaged individuals, and women.

On June 15, 2020, the Select Subcommittee launched an investigation into the Trump Administration’s implementation of the PPP following reports that the program favored larger companies over the neediest small businesses.<sup>1</sup> The Select Subcommittee sent letters to SBA, Treasury, two banking industry associations,<sup>2</sup> and eight financial institutions: JPMorgan Chase (JPMorgan), Citibank (Citi), PNC Bank (PNC), Bank of America, U.S. Bank, Truist, Wells Fargo, and Santander.<sup>3</sup> The Subcommittee obtained over 30,000 pages of documents, conducted briefings, and interviewed community lenders and other stakeholders. The Subcommittee also obtained detailed loan data from seven financial institutions.

The Select Subcommittee’s investigation revealed that Treasury, SBA, and several large financial institutions failed to implement the PPP as Congress intended in at least three critical respects:

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<sup>1</sup> Select Subcommittee on the Coronavirus Crisis, *Press Release: Select Subcommittee Launches Investigation Into Disbursement Of PPP Funds* (June 15, 2020) (online at <https://coronavirus.house.gov/news/press-releases/select-subcommittee-launches-investigation-disbursement-ppp-funds>).

<sup>2</sup> Letter from Chairman James E. Clyburn, Select Subcommittee on the Coronavirus Crisis, to Greg Baer, President and Chief Executive Officer, Bank Policy Institute (Sept. 10, 2020) (online at [https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/2020-09-10.Clyburn%20to%20Baer%20re%20BPI\\_.pdf](https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/2020-09-10.Clyburn%20to%20Baer%20re%20BPI_.pdf)); Letter from Chairman James E. Clyburn, Select Subcommittee on the Coronavirus Crisis, to Richard Hunt, President and Chief Executive Officer, Consumer Bankers Association (Sept. 10, 2020) (online at [https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/2020-09-10.Clyburn%20to%20Hunt%20re%20CBA\\_.pdf](https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/2020-09-10.Clyburn%20to%20Hunt%20re%20CBA_.pdf)).

<sup>3</sup> The Select Subcommittee sent letters to the largest PPP lenders and financial institutions that were the subject of public reporting indicating that they created a two-tier system for processing PPP loan applications.

1. **Treasury privately encouraged banks to limit their PPP lending to existing customers, excluding many minority and women-owned businesses.** Documents obtained by the Subcommittee show that Treasury privately told lenders to “go to their existing customer base” when issuing PPP loans. Banks recognized this created “a heightened risk of disparate impact on minority and women-owned businesses,” but many banks followed Treasury’s direction. In response to questions from Select Subcommittee staff, Treasury officials claimed inaccurately that the Department “never addressed anything about lenders prioritizing existing customers.”
2. **SBA and Treasury failed to issue guidance prioritizing underserved markets, including minority and women-owned businesses.** SBA and Treasury did not issue any meaningful guidance to lenders to prioritize underserved markets as Congress urged in the CARES Act. Instead, SBA sent a vague tweet—immediately after the Select Subcommittee launched its investigation and just two weeks before the program expired—which lenders said had no impact on the program.
3. **Several lenders processed bigger PPP loans for wealthy customers at more than twice the speed of smaller loans for the neediest small businesses.** Several financial institutions set up PPP lending programs in which larger commercial clients enjoyed a separate, faster process. JPMorgan—the biggest PPP lender—processed loans above \$5 million almost four times faster than loans under \$1 million. PNC and Truist processed their largest loans at approximately twice the speed of the smallest loans. These three lenders also processed loans to larger companies with more than 100 employees on average 70% faster than loans to smaller companies with 5 or fewer employees.

The Administration’s implementation failures had consequences. The Federal Reserve Bank of New York reported, “Since the onset of the COVID-19 pandemic, Black business ownership has sharply dropped.” Forty-one percent of businesses owned by African Americans failed between February and April 2020, higher than any other demographic group and more than double the percentage of White-owned businesses that closed over the same period. The New York Fed identified “racial disparities in access to federal relief funds,” including “stark PPP coverage gaps” in hard-hit communities with many minority-owned businesses.<sup>4</sup> While legislative updates to the PPP provided additional funds, targeted funds to community financial institutions, and extended the application deadline, these improvements came too late to benefit businesses that had already failed.

To address these problems and ensure that relief funds reach those who need them most, this report makes several recommendations for SBA and Treasury if the PPP is extended, including (1) issuing clear and detailed guidance to enable lenders to prioritize underserved markets, including minority and women-owned business; (2) investing in Community

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<sup>4</sup> Federal Reserve Bank of New York, *Double Jeopardy: COVID-19’s Concentrated Health and Wealth Effects in Black Communities* (Aug. 2020) (online at [www.newyorkfed.org/medialibrary/media/smallbusiness/DoubleJeopardy\\_COVID19andBlackOwnedBusinesses](http://www.newyorkfed.org/medialibrary/media/smallbusiness/DoubleJeopardy_COVID19andBlackOwnedBusinesses)).

Development Financial Institutions (CDFIs) and Minority Depository Institutions (MDIs) to ensure they are equipped to handle the demand for PPP loans; and (3) adding a demographic questionnaire to the PPP application form to provide transparency about disparities in this program. However, because PPP is only available to existing small businesses, these improvements will not benefit businesses that have already failed. For this and other reasons, any PPP extension must be part of a broader, comprehensive response to the coronavirus crisis.

## II. BACKGROUND

As coronavirus cases surged across the country in Spring 2020 and states began to implement lockdowns to stem the spread of the virus, thousands of small businesses were forced to shutter or suffered steep drops in business. Minority and women-owned businesses faced heightened risk, in part because they are overrepresented in industries hardest hit by the pandemic such as food services, retail, and hotels.<sup>5</sup>

In response, Congress passed the CARES Act and established the PPP to provide a lifeline for small businesses that otherwise might be forced to lay off employees or permanently close. The CARES Act stated that SBA “should issue guidance to lenders and agents to ensure that the processing and disbursement of covered loans prioritizes small business concerns and entities in underserved and rural markets,” including businesses owned by veterans, members of the military community, socially and economically disadvantaged individuals, and women.<sup>6</sup>

To implement the PPP, Treasury and SBA relied on private lenders to collect borrower application materials, review them for eligibility, and process loans. Treasury and SBA provided the PPP loan application to lenders, but they excluded the standard demographic questionnaire that is part of the application for SBA’s 7(a) loan program on which the PPP was modeled.

Due to high demand, the initial round of \$349 billion in PPP funding was exhausted in 14 days. In April 2020, Congress expanded the program by an additional \$321 billion through the Paycheck Protection Program and Health Care Enhancement Act. Congress dedicated \$60 billion of these funds for community lenders. This included CDFIs and MDIs which traditionally serve clients in economically distressed areas who may lack relationships with

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<sup>5</sup> *Businesses Owned by Women and Minorities Have Grown. Will COVID-19 Undo That?*, Brookings Institution (Apr. 14, 2020) (online at [www.brookings.edu/research/businesses-owned-by-women-and-minorities-have-grown-will-covid-19-undo-that/](http://www.brookings.edu/research/businesses-owned-by-women-and-minorities-have-grown-will-covid-19-undo-that/)).

<sup>6</sup> Coronavirus Aid, Relief, and Economic Security Act (CARES Act), Pub. L. No. 116-136, §§ 1102, 1106 (2020).



traditional banks.<sup>7</sup> On May 28, 2020, Treasury and SBA designated an additional \$10 billion from this appropriation for CDFIs.<sup>8</sup>

After a brief hiatus, Congress extended the program again through August 8, 2020, when the PPP application window finally expired.<sup>9</sup> At that time, SBA had approved more than 5.2 million PPP loans totaling over \$525 billion. CDFIs and MDIs processed approximately 221,000 loans worth \$16.4 billion—accounting for 3.1% of the total loan value.<sup>10</sup>

The New York Fed review of the PPP found “significant coverage gaps,” concluding that the program reached “only 20% of eligible firms in states with the highest densities of Black-owned firms,” and “in counties with the densest Black-owned business activity, coverage rates were typically lower than 20%.”<sup>11</sup>

### III. THE TRUMP ADMINISTRATION AND BIG BANKS PRIORITIZED LARGER COMPANIES OVER TRULY STRUGGLING SMALL BUSINESSES IN UNDERSERVED COMMUNITIES

#### A. Treasury Privately Encouraged Banks to Limit Their PPP Lending to Existing Customers, Excluding Many Minority and Women-Owned Businesses.

##### 1. Treasury pushed banks to limit PPP lending to existing customers, but denied doing so when pressed by the Select Subcommittee.

After the CARES Act was enacted on March 27, 2020, lenders began preparing to accept PPP applications on the day the program was set to open, April 3, 2020. Unfortunately, SBA did not issue its first Interim Final Rule governing PPP until April 2, and that guidance lacked key information. One bank explained that the “abstractly articulated” guidance from SBA and Treasury created confusion for lenders and prevented them from implementing the program as

<sup>7</sup> Paycheck Protection Program and Health Care Enhancement Act, Pub. L. No. 116-139, § 101 (2020); see also Congressional Research Service, *Community Development Financial Institutions (CDFI) Fund: Programs and Policy Issues* (Jan. 25, 2018) (online at <https://crsreports.congress.gov/product/pdf/R/R42770>).

<sup>8</sup> Small Business Administration, *Press Release: SBA and Treasury Announce \$10 Billion for CDFIs to Participate in the Paycheck Protection Program* (May 28, 2020) (online at [www.sba.gov/article/2020/may/28/sba-treasury-department-announce-10-billion-cdfis-participate-paycheck-protection-program](http://www.sba.gov/article/2020/may/28/sba-treasury-department-announce-10-billion-cdfis-participate-paycheck-protection-program)).

<sup>9</sup> An Act to Extend the Authority for Commitments for the Paycheck Protection Program, Pub. L. No 116-147 (2020).

<sup>10</sup> Small Business Administration, *Paycheck Protection Program (PPP) Report* (Aug. 8, 2020) (online at <https://home.treasury.gov/system/files/136/SBA-Paycheck-Protection-Program-Loan-Report-Round2.pdf>).

<sup>11</sup> *Id.*

Congress intended.<sup>12</sup> The Consumer Bankers Association (CBA) informed SBA and Treasury that “one business day into the program, by SBA’s estimates, over 13 thousand applications have been processed without the benefit of interpretive guidance.” CBA wrote, “Additional and clear guidance providing direction to lenders in their efforts to assist small businesses as quickly as possible would be of tremendous help.”<sup>13</sup>

Despite the lack of clear written guidance, documents and information obtained by the Select Subcommittee show that Treasury privately encouraged banks to limit their PPP lending programs to existing customers, which had the impact of excluding many minority and women-owned businesses that did not have established relationships with these banks.

In an email obtained by the Select Subcommittee dated March 28, 2020, the head of the American Bankers Association (ABA) described to ABA’s board of directors a call with Treasury officials on March 27, the day the CARES Act was enacted. He explained that “Treasury would like for banks to go to their existing customer base.”<sup>14</sup> The American Bankers Association represents “the entire banking industry.”<sup>15</sup>

In a briefing for Select Subcommittee staff, JPMorgan corroborated this account, explaining, “From early on there was an understanding from Treasury that banks were working with existing clients.”<sup>16</sup>

Yet when the Select Subcommittee staff asked Treasury about this “understanding,” they denied it ever existed. Treasury told the Select Subcommittee that they “never addressed anything about lenders prioritizing existing customers.”<sup>17</sup>

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<sup>12</sup> Briefing by T.J. Hughes, Senior Vice President for Specialty Lending, Truist, to Staff, Select Subcommittee on the Coronavirus Crisis (July 6, 2020); *see also* Letter from Lakhbir Lamba, Executive Vice President and Head of Retail Lending and Asset Resolution, PNC Bank, to Chairman James E. Clyburn, Select Subcommittee on the Coronavirus Crisis (June 29, 2020) (noting that “the ongoing issuance of Interim Final Rules and informal FAQs by SBA throughout the PPP’s history has required both lenders and borrowers to modify their processes or applications, respectively, to implement these changing requirements”).

<sup>13</sup> Letter from Richard Hunt, President, Consumer Bankers Association, and Greg Baer, President, Bank Policy Institute, to Willian Manger, Associate Administrator, Small Business Administration, and Michael Faulkender, Assistant Secretary for Economic Policy, Department of the Treasury (Apr. 5, 2020) (online at [https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/CBA%20BPI%20letter%20to%20Treasury%20SBA%20April%205%202020\\_Redacted.pdf](https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/CBA%20BPI%20letter%20to%20Treasury%20SBA%20April%205%202020_Redacted.pdf)).

<sup>14</sup> Email from Jennifer Roberts, Chief Executive Officer, Business Banking Division, JPMorgan Chase, to JPMorgan Staff (Mar. 29, 2020), (online at [https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/HSSC\\_JPMC\\_00001386%20-%20Redacted.pdf](https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/HSSC_JPMC_00001386%20-%20Redacted.pdf)).

<sup>15</sup> American Bankers Association, *Membership Opportunities* (online at [www.aba.com/about-us/membership/membership-opportunities](http://www.aba.com/about-us/membership/membership-opportunities)).

<sup>16</sup> Briefing by Jennifer Roberts, Chief Executive Officer, Business Banking Division, JPMorgan Chase, to Staff, Select Subcommittee on the Coronavirus Crisis (July 6, 2020).

<sup>17</sup> Briefing by Associate Administrator William Manger, Small Business Administration, and Assistant Secretary Bimal Patel, Department of the Treasury, to Staff, Select Subcommittee on the Coronavirus Crisis (July 2, 2020).

From: Rob Nichols  
 Sent: Saturday, March 28, 2020 1:09:40 PM  
 To: ABA Board of Directors  
 Subject: PPP state of play as of last night  
 Board-

After intense negotiations, the House and Senate approved and the President signed into law the Coronavirus Aid, Relief and Economic Security Act (CARES Act). ABA was successful in advocating for some meaningful banking provisions that will help banks serve the needs of their customers during the crisis. While these provisions are meaningful, ABA spent and continues to expend a great deal of time working on the provision that significantly expands lending through the Small Business Administration (SBA).

During our call yesterday with Treasury officials, we learned that Treasury has taken over the task of developing the guidelines and loan application. Although SBA will continue to play a significant role in this program, Treasury at the highest levels is committed to turning this process around quickly - the goal is within the next 24-72 hours. Their commitment is to have guidelines, which waive several traditional 7(a) loan requirements and that require minimum information from customers and a one-page loan application, available on SBA, Treasury and lender's websites by early next week. Treasury would like for banks to go to their existing customer base as lenders will have all of the businesses information (payroll, etc). This will allow loans to move quickly.

*Source: Email from Rob Nichols, CEO of the American Bankers Association, to American Bankers Association Board of Directors (Mar. 28, 2020).*

Despite Treasury's denial, the Department's private guidance to banks appears to have had an impact. Seven of the eight financial institutions involved in this investigation limited their PPP lending programs to existing customers.<sup>18</sup> Some imposed further limitations. PNC and Truist permitted only existing customers with business banking accounts to apply for PPP.<sup>19</sup> Small business applicants with only a personal checking account—including many sole

<sup>18</sup> Letter from Reginald Brown, WilmerHale LLP, Counsel to Bank of America, to Chairman James E. Clyburn, Select Subcommittee on the Coronavirus Crisis (Sept. 4, 2020); Briefing by Jennifer Roberts, Chief Executive Officer, Business Banking Division, JPMorgan Chase, to Staff, Select Subcommittee on the Coronavirus Crisis (July 6, 2020); Letter from Lakhbir Lamba, Executive Vice President and Head of Retail Lending and Asset Resolution, PNC Bank, to Chairman James E. Clyburn, Select Subcommittee on the Coronavirus Crisis (Aug. 24, 2020); Letter from Candida P. Wolff, Global Government Affairs, Citi, to Staff, Select Subcommittee on the Coronavirus Crisis (Sept. 11, 2020); Letter from Peter Mahoney, Executive Vice President and Deputy General Counsel, Truist, to Chairman James E. Clyburn, Select Subcommittee on the Coronavirus Crisis (June 29, 2020); Briefing by Seth Goodall, Director of Corporate Responsibility, Santander, to Staff, Select Subcommittee on the Coronavirus Crisis (July 10, 2020); Letter from Steve Troutner, Head of Small Business, Wells Fargo, to Chairman James E. Clyburn, Select Subcommittee on the Coronavirus Crisis (June 29, 2020).

<sup>19</sup> Letter from Lakhbir Lamba, Executive Vice President and Head of Retail Lending and Asset Resolution, PNC Bank, to Chairman James E. Clyburn, Select Subcommittee on the Coronavirus Crisis (June 29, 2020); Letter from Peter Mahoney, Executive Vice President and Deputy General Counsel, Truist, to Chairman James E. Clyburn, Select Subcommittee on the Coronavirus Crisis (June 29, 2020).

proprietors and independent contractors—could not initially apply for PPP funds at those institutions.<sup>20</sup>

These lenders asserted that the Bank Secrecy Act’s anti-money laundering and know-your-customer requirements also contributed to these decisions, and that permitting new customers to submit PPP applications would have slowed down the processing of loan applications. However, the evidence suggests this concern is overblown. In contrast to these seven financial institutions, U.S. Bank allowed non-customers to apply for PPP loans through its online portal starting the first day of the program.<sup>21</sup> Including non-customers in the program did not hinder U.S. Bank’s ability to process PPP loans. On the contrary, the bank was able to secure SBA approval for non-customers on average within 15.33 days of application, compared to 16.68 days for existing customers.<sup>22</sup>

2. Limiting PPP lending to existing customers had a “disparate impact on minority and women-owned businesses.”

By limiting their PPP loan programs to existing customers, lenders shut out many minority-owned businesses that did not have pre-existing business banking relationships. This is particularly true for the smallest minority-owned firms, including “nonemployer firms” that do not have any employees. According to the New York Fed:

[F]ewer than 1 in 4 Black-owned employer firms has a recent borrowing relationship with a bank. This number drops to 1 in 10 among Black nonemployer firms, compared with 1 in 4 white-owned nonemployers.<sup>23</sup>

At least one bank acknowledged the negative effect of limiting its program to existing customers at the time it made the decision. The Select Subcommittee obtained an internal Citi presentation dated April 4, 2020, which highlighted that “a policy of not taking non-customers might create heightened risk of disparate impact on minority and women-owned businesses.”<sup>24</sup> The presentation was made to the bank’s Product Approval Committees, which include the

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<sup>20</sup> Truist informed Select Subcommittee staff that it later revised its procedure and enabled clients with existing Truist retail accounts used for business purposes to apply for PPP.

<sup>21</sup> Briefing by Lynn Heitman, Executive Vice President, U.S. Bank, to Staff, Select Subcommittee on the Coronavirus Crisis (July 1, 2020).

<sup>22</sup> Letter from Matthew S. Miner, Morgan Lewis & Bockius LLP, Counsel to U.S. Bank, to Chairman James E. Clyburn, Select Subcommittee on the Coronavirus Crisis (Sept. 15, 2020) (attachment describing average time from application to funding for customers and non-customers).

<sup>23</sup> Federal Reserve Bank of New York, *Double Jeopardy: COVID-19’s Concentrated Health and Wealth Effects in Black Communities* (Aug. 2020) (online at [www.newyorkfed.org/medialibrary/media/smallbusiness/DoubleJeopardy\\_COVID19andBlackOwnedBusinesses](http://www.newyorkfed.org/medialibrary/media/smallbusiness/DoubleJeopardy_COVID19andBlackOwnedBusinesses)) (internal citations omitted).

<sup>24</sup> Citi Presentation, *CARES Act and Small Business Lending Presentation* (Apr. 4, 2020) (online at [https://edit-democrats-coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/CITI\\_PPP\\_00000014.pdf](https://edit-democrats-coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/CITI_PPP_00000014.pdf)).



bank's senior executives and members of the legal, compliance, finance, and operations teams. Nonetheless, Citi proceeded to limit its lending program to existing customers.<sup>25</sup>

## Compliance Risks: Non-Citi Customers

The below approach as it relates to Disparate Impact has been approved by ICRM

**Disparate Impact:** A policy of not taking non-customers might create heightened risk of disparate impact on minority and women-owned businesses

### Business Rationale:

Timing is critical to respond to the demand in the market and Citi's desire to implement CARES Act Paycheck Protection Program ("PPP") loan program quickly and efficiently. Citi evaluated opening the program to current Citi and non-customers on day one. However, Management determined that opening the program day one to both non-customers and for existing Citi customers is not viable. The drivers for this determination are: 1) that unlike many of our peers Citi had to develop a new digital platform; 2) non-customers require more manual intervention than existing customers; and 3) the current market demand. Accepting applications initially from non-customers will seriously challenge the existing capacity to appropriately process the applications and fund the loans timely. As a result, the business desires to initially restrict the implementation of PPP to existing Citi customers meeting the following criteria:

- Customer certification that business meets SBA PPP Eligibility Criteria
- Existing Citi small business deposit or Citi small business lending clients
- Customer able to provide IRS Form 941 documentation to support Loan Amount

*Source: Internal Citi Presentation, "CARES Act and Small Business Lending," to Citi's Global Product Approval Committee, North America Consumer Product Approval Committee, Global Commercial Product Approval Committee, and North America Business Practices Committee" (Apr. 4, 2020).*

When asked by Select Subcommittee staff about the bank's decision to limit its lending program despite the "heightened risk of disparate impact," Citi's Head of U.S. Retail Banking explained that the bank was "sensitive to the perception of disparate impact on minorities," but "decided that it was better to serve partners through MDIs and CDFIs."<sup>26</sup> As described below, the reliance on CDFIs and MDIs by the big banks, SBA, and Treasury failed to adequately address the needs of minority and women-owned small businesses.

## **B. SBA and Treasury Failed to Issue Guidance Prioritizing Underserved Markets, including Minority and Women-Owned Businesses**

### **1. The Administration's failure to issue guidance.**

SBA and Treasury failed to issue adequate guidance to lenders to ensure the PPP "prioritizes small business concerns and entities in underserved and rural markets," as called for by the CARES Act.<sup>27</sup> None of the lenders interviewed by Select Subcommittee staff recalled receiving any formal or informal guidance from the Administration on how to service

<sup>25</sup> Briefing by David Chubak, Head of U.S. Retail Banking, Citi, to Staff, Select Subcommittee on the Coronavirus Crisis (Aug. 26, 2020).

<sup>26</sup> *Id.*

<sup>27</sup> CARES Act, Pub. L. No. 116-136, § 1102 (a)(2)(P)(iv) (2020).

underserved communities, and the documents produced to the Select Subcommittee do not reflect such guidance.<sup>28</sup>

JPMorgan explained that the bank “did not receive guidance from Treasury or the SBA on prioritizing loan applications benefiting underserved and rural markets” and noted that because “there was almost daily guidance from SBA, the bank’s expectation was that SBA or Treasury would have issued guidance on those areas if they felt it was necessary.”<sup>29</sup> SBA’s Inspector General similarly reported that it “did not find any evidence that SBA issued guidance to lenders to prioritize the markets indicated in the Act.”<sup>30</sup>

On June 15, 2020—the same day the Select Subcommittee launched its investigation into the PPP and urged Treasury and SBA “to take immediate steps to ensure that remaining PPP funds are allocated to businesses truly in need,”<sup>31</sup> the SBA Administrator released a tweet asking lenders “to redouble your efforts to assist eligible borrowers in underserved and disadvantaged communities before the upcoming #PaycheckProtection program application deadline of June 30.” This tweet was issued just two weeks before the initial expiration for the program, and long after the first round of PPP funding had dried up. It included no guidance on how banks were supposed to accomplish the goal of assisting underserved communities.<sup>32</sup>

The SBA Administrator’s tweet appears to have had zero impact on their implementation of the program. Wells Fargo explained in a briefing to Select Subcommittee staff, “anything coming out on June 15th is late with a June 30th expiration date.”<sup>33</sup> None of the banks that briefed the Subcommittee staff identified any changes to their programs in response to the Administrator’s tweet. By the time the tweet was issued, lenders had already designed their loan programs and processed millions of loan applications.

Banks could have done more to support women and minority businesses in their own lending programs. Yet several banks asserted that they were hindered by the lack of guidance from the Administration about how to prioritize underserved markets consistent with other legal

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<sup>28</sup> See, e.g., Letter from Greg D. Andres, Davis Polk & Wardwell LLP, Counsel to JPMorgan Chase, to Chairman James E. Clyburn, Select Subcommittee on the Coronavirus Crisis (June 29, 2020).

<sup>29</sup> *Id.*

<sup>30</sup> Small Business Administration, Office of Inspector General, *Flash Report: Small Business Administration’s Implementation of the Paycheck Protection Program Requirements* (May 8, 2020) (online at [www.sba.gov/document/report-20-14-flash-report-small-business-administrations-implementation-paycheck-protection-program-requirements](https://www.sba.gov/document/report-20-14-flash-report-small-business-administrations-implementation-paycheck-protection-program-requirements)).

<sup>31</sup> Letter from Chairman James E. Clyburn, Select Subcommittee on the Coronavirus Crisis, to Secretary Steven Mnuchin, Department of the Treasury and Administrator Jovita Carranza, Small Business Administration (June 15, 2020) (online at <https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/2020-06-15.Select%20Committee%20to%20Mnuchin%20Carranza-%20SBA%20re%20PPP.pdf>).

<sup>32</sup> Administrator Jovita Carranza (@SBAJovita), Small Business Administration, Twitter (June 15, 2020) (online at <https://twitter.com/SBAJovita/status/1272550003576373250>).

<sup>33</sup> Briefing by Steve Troutner, Head of Small Business, Wells Fargo, to Staff, Select Subcommittee on the Coronavirus Crisis (July 7, 2020).

obligations.<sup>34</sup> JPMorgan stated that favoring certain applicants based on the race or gender of the business owner could implicate the Equal Credit Opportunity Act (ECOA) and Regulation B, which implements ECOA.<sup>35</sup> According to JPMorgan, if SBA and Treasury had provided specific guidance on how to prioritize women and minority-owned businesses, “we could do that while balancing Reg. B and ECOA today.”<sup>36</sup> Bank of America similarly pointed to Regulation B as a reason for not collecting demographic information from PPP applicants, which would have enabled the bank to prioritize underserved markets consistent with the spirit of the CARES Act.<sup>37</sup>

## 2. SBA and Treasury delayed the processing of applications from self-employed individuals and independent contractors.

SBA and Treasury did not begin accepting PPP applications from self-employed individuals and independent contractors until April 10, 2020—a week after the Administration launched PPP for other types of businesses.<sup>38</sup> This delay is particularly concerning because SBA issued guidance that lenders should process loans on a first-come, first-served basis,<sup>39</sup> and minority-owned businesses “are far less likely to be employers,” according to SBA.<sup>40</sup> In fact, approximately 96% of Black-owned businesses do not have payroll employees, as compared to roughly 80% of all small businesses.<sup>41</sup>

According to the Center for Responsible Lending, the Administration’s delay, “may have caused irreparable harm to smaller businesses with no employees, which had to wait to receive PPP funds.”<sup>42</sup> By April 10, 2020—when self-employed individuals and independent contractors

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<sup>34</sup> See, e.g., Briefing by Jennifer Roberts, Chief Executive Officer, Business Banking Division, JPMorgan Chase, to Staff, Select Subcommittee on the Coronavirus Crisis (July 6, 2020); Letter from Lakhbir Lamba, Executive Vice President and Head of Retail Lending and Asset Resolution, PNC Bank, to Chairman James E. Clyburn, Select Subcommittee on the Coronavirus Crisis (June 29, 2020).

<sup>35</sup> Letter from Greg D. Andres, Davis Polk & Wardwell LLP, Counsel to JPMorgan Chase, to Chairman James E. Clyburn, Select Subcommittee on the Coronavirus Crisis (June 29, 2020).

<sup>36</sup> Briefing by Jennifer Roberts, Chief Executive Officer, Business Banking Division, JPMorgan Chase, to Staff, Select Subcommittee on the Coronavirus Crisis (July 6, 2020).

<sup>37</sup> Letter from Reginald Brown, WilmerHale LLP, Counsel to Bank of America, to Chairman James E. Clyburn, Select Subcommittee on the Coronavirus Crisis (June 29, 2020).

<sup>38</sup> Department of the Treasury, *Small Business Paycheck Protection Program* (Mar. 30, 2020) (online at <https://home.treasury.gov/system/files/136/PPP%20--%20Overview.pdf>); *Paycheck Protection Aid Opens for Sole Proprietorships and Independent Contractors*, CNBC (Apr. 10, 2020) (online at [www.cnbc.com/2020/04/10/paycheck-protection-program-opens-for-sole-proprietorships.html](http://www.cnbc.com/2020/04/10/paycheck-protection-program-opens-for-sole-proprietorships.html)).

<sup>39</sup> Small Business Administration, Interim Final Rule: Business Loan Program Temporary Changes; Paycheck Protection Program (Apr. 2, 2020).

<sup>40</sup> Small Business Administration, Office of Advocacy, *Minority Business Ownership: Data from the 2012 Survey of Business Owners* (Sept. 14, 2016) (online at <https://cdn.advocacy.sba.gov/wp-content/uploads/2016/09/07141514/Minority-Owned-Businesses-in-the-US.pdf>).

<sup>41</sup> Federal Reserve Bank of New York, *Double Jeopardy: COVID-19’s Concentrated Health and Wealth Effects in Black Communities* (Aug. 2020) (online at [www.newyorkfed.org/medialibrary/media/smallbusiness/DoubleJeopardy\\_COVID19andBlackOwnedBusinesses](http://www.newyorkfed.org/medialibrary/media/smallbusiness/DoubleJeopardy_COVID19andBlackOwnedBusinesses)).

<sup>42</sup> Center for Responsible Lending, *The Paycheck Protection Program Continues to be Disadvantageous to Smaller Businesses, Especially Businesses Owned by People of Color and the Self-Employed* (May 27, 2020) (online

could begin applying for PPP—many lenders were already flooded with loan applications. PNC informed the Select Subcommittee that by April 10, the bank “had already received tens of thousands of applications...which meant that relatively few applications from self-employed individuals and independent contractors could be processed and registered with the SBA before the initial round of PPP funding was exhausted on April 16th.”<sup>43</sup>

3. The Administration blocked community lenders from participating in the first round of PPP, shutting out thousands of small businesses that rely on CDFIs and MDIs.

During a staff briefing on July 2, 2020, Treasury claimed that it prioritized underserved communities by onboarding CDFIs and MDIs as lenders and setting aside funds for those institutions to lend.<sup>44</sup> Many of the largest financial institutions similarly stated that they provided financing to CDFIs and MDIs instead of prioritizing minority and women-owned small businesses in their own lending programs.<sup>45</sup> Yet the Select Subcommittee’s investigation revealed that CDFIs and MDIs were largely excluded from the first round of PPP funding and faced several other obstacles to participating in the program.

Treasury prohibited most CDFIs and MDIs from participating in the first round of PPP funding.<sup>46</sup> Specifically, Treasury required lenders to have a historical lending volume of over \$50 million to participate in PPP, shutting out many CDFIs and MDIs.<sup>47</sup> During the first round of PPP, CDFIs and MDIs made just 65,000 out of 1.67 million loans.<sup>48</sup>

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at [www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl-cares-act2-smallbusiness-apr2020.pdf](https://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl-cares-act2-smallbusiness-apr2020.pdf)).

<sup>43</sup> Letter from Lakhbir Lamba, Executive Vice President and Head of Retail Lending and Asset Resolution, PNC Bank, to Chairman James E. Clyburn, Select Subcommittee on the Coronavirus Crisis (June 29, 2020) (online at <https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/PNC%20Response%20to%20House%20Select%20Subcommittee.pdf>).

<sup>44</sup> Briefing by Associate Administrator William Manger, Small Business Administration, and Assistant Secretary Bimal Patel, Department of the Treasury, to Staff, Select Subcommittee on the Coronavirus Crisis (July 2, 2020).

<sup>45</sup> See, e.g., Briefing by T.J. Hughes, Senior Vice President for Specialty Lending, Truist, to Staff, Select Subcommittee on the Coronavirus Crisis (July 6, 2020); Briefing by David Chubak, Head of U.S. Retail Banking, Citi, to Staff, Select Subcommittee on the Coronavirus Crisis (Aug. 26, 2020).

<sup>46</sup> See Letter from Chairwoman Maxine Waters, Committee on Financial Services, to Secretary Steven Mnuchin, Department of Treasury, and Administrator Jovita Carranza, Small Business Administration (Apr. 1, 2020) (online at [https://financialservices.house.gov/uploadedfiles/treasury-sba\\_letter\\_re\\_ppp\\_lender\\_participation\\_040120.pdf](https://financialservices.house.gov/uploadedfiles/treasury-sba_letter_re_ppp_lender_participation_040120.pdf)).

<sup>47</sup> Small Business Administration, Interim Final Rule: Business Loan Program Temporary Changes; Paycheck Protection Program, 85 Fed. Reg. 20811 (April 15, 2020) (online at <https://www.govinfo.gov/content/pkg/FR-2020-04-15/pdf/2020-07672.pdf>).

<sup>48</sup> Briefing by Associate Administrator William Manger, Small Business Administration, and Assistant Secretary Bimal Patel, Department of the Treasury, to Staff, Select Subcommittee on the Coronavirus Crisis (July 2, 2020); Small Business Administration, *Paycheck Protection Program (PPP) Report* (Aug. 16, 2020) (online at <https://home.treasury.gov/system/files/136/SBA%20PPP%20Loan%20Report%20Deck.pdf>).



Two weeks after the first round of \$349 billion in funding was depleted, Treasury lowered the lending volume threshold to \$10 million, which enabled more CDFIs and MDIs to participate.<sup>49</sup> Nonetheless, as one CDFI explained, “CDFIs felt like an afterthought in PPP.”<sup>50</sup> The U.S. Black Chambers similarly emphasized that “CDFIs struggled to be admitted into the process.”<sup>51</sup>

Even after SBA and Treasury lowered the lending volume threshold, many CDFIs reported that they lacked adequate capital to issue PPP loans.<sup>52</sup> To help address this need, the Federal Reserve created the Paycheck Protection Program Liquidity Facility.<sup>53</sup> This program has helped many CDFIs and MDIs, but it only became available to them on April 30, after the first round of funding was exhausted, and after 41 percent of Black-owned businesses operating at the start of the pandemic had already failed.<sup>54</sup>

Many CDFIs also faced technical challenges submitting applications and providing the technical assistance needed to help customers collect documentation and complete their applications. One CDFI explained that even after securing access to the program, it could not submit applications electronically until it petitioned a U.S. Senator’s office to gain access to SBA’s electronic system.<sup>55</sup> Another CDFI recommended dedicated grants to cover operating costs to CDFIs because of the additional time required to help borrowers prepare their applications.<sup>56</sup>

As a result of these delays and challenges, many minority and women-owned small businesses that traditionally bank with CDFIs and MDIs faced difficulties obtaining PPP loans during the critical early phase of the program. Overall, CDFIs and MDIs processed a total of

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<sup>49</sup> Small Business Administration, Interim Final Rule: Business Loan Program Temporary Changes; Paycheck Protection Program – Requirements – Corporate Groups and Non-Bank and Non-Insured Depository Institutions Lenders, 85 Fed. Reg. 26324 (May 4, 2020) (online at [https://home.treasury.gov/system/files/136/IFR--Corporate-Groups-and-Non-Bank-and-Non-Insured-Depository-Institution-Lenders.pdf?utm\\_campaign=NEWSBYTES-20200501&utm\\_medium=email&utm\\_source=Eloqua](https://home.treasury.gov/system/files/136/IFR--Corporate-Groups-and-Non-Bank-and-Non-Insured-Depository-Institution-Lenders.pdf?utm_campaign=NEWSBYTES-20200501&utm_medium=email&utm_source=Eloqua)).

<sup>50</sup> Briefing by Chief Executive Officer, Community Development Financial Institution, to Majority Staff, Select Subcommittee on the Coronavirus Crisis (Aug. 13, 2020).

<sup>51</sup> Briefing by U.S. Black Chambers, to Majority Staff, Select Subcommittee on the Coronavirus Crisis (Aug. 31, 2020).

<sup>52</sup> Briefing by Executive Vice President, Community Development Financial Institution, to Majority Staff, Select Subcommittee on the Coronavirus Crisis (Aug. 17, 2020).

<sup>53</sup> Federal Reserve Board of Governors, *Press Release: Federal Reserve Expands Access to its Paycheck Protection Program Liquidity Facility (PPPLF) to Additional Lenders, and Expands the Collateral That Can Be Pledged* (Apr. 30, 2020) (online at [www.federalreserve.gov/newsevents/pressreleases/monetary20200430b.htm](http://www.federalreserve.gov/newsevents/pressreleases/monetary20200430b.htm)).

<sup>54</sup> Federal Reserve Bank of New York, *Double Jeopardy: COVID-19’s Concentrated Health and Wealth Effects in Black Communities*, (Aug. 2020) (online at [www.newyorkfed.org/medialibrary/media/smallbusiness/DoubleJeopardy\\_COVID19andBlackOwnedBusinesses](http://www.newyorkfed.org/medialibrary/media/smallbusiness/DoubleJeopardy_COVID19andBlackOwnedBusinesses)).

<sup>55</sup> Briefing by Chief Executive Officer, Community Development Financial Institution, to Majority Staff, Select Subcommittee on the Coronavirus Crisis (Aug. 13, 2020).

<sup>56</sup> Briefing by Executive Vice President, Community Development Financial Institution, to Majority Staff, Select Subcommittee on the Coronavirus Crisis (Aug. 17, 2020).

\$16.4 billion in loans—accounting for only 3.1% of the total loan value.<sup>57</sup> CDFIs and MDIs would likely have had a greater impact if the Administration had allowed them to participate in the PPP earlier and eliminated hurdles to access the program.

**C. Several Financial Institutions Processed Big PPP Loans for Larger Existing Clients at More Than Twice the Speed of Smaller Loans to the Neediest Small Businesses.**

**1. Many financial institutions designed lending programs in which the largest commercial clients benefited from a separate and faster process.**

Many of the financial institutions investigated by the Select Subcommittee created a single portal for PPP applications.<sup>58</sup> However, because most of these banks limited PPP lending to existing customers, many applicants were served by the line of business that ordinarily managed their primary banking relationship.<sup>59</sup> In practice, banks' larger commercial clients, private banking clients, and high net-worth individuals often benefitted from a faster, more personalized experience when submitting their PPP applications.

At JPMorgan, the Wholesale Banking arm—which serves JPMorgan's high-net worth individuals and companies with over \$20 million in revenue—provided relationship managers to personally assist clients in completing their PPP applications.<sup>60</sup> By contrast, the bank's Business Banking arm, which processed the majority of the bank's PPP loans, required customers to complete the online application.<sup>61</sup> At Citi, three different divisions managed the bank's PPP loans: the Private Bank managed high-net worth individuals, its Commercial Bank served applications for clients with \$10 million or more in revenue, and its Retail Bank handled everyone else.<sup>62</sup> Similarly, PNC's Retail Bank managed the majority of its loan applications, while its Corporate and Institutional banking arm served the bank's largest customers and provided relationship managers.<sup>63</sup>

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<sup>57</sup> Small Business Administration, *Paycheck Protection Program (PPP) Report* (Aug. 8, 2020) (online at <https://home.treasury.gov/system/files/136/SBA-Paycheck-Protection-Program-Loan-Report-Round2.pdf>).

<sup>58</sup> See, e.g., Briefing by Lakhbir Lamba, Executive Vice President and Head of Retail Lending and Asset Resolution, PNC Bank, to Staff, Select Subcommittee on the Coronavirus Crisis (June 29, 2020); Briefing by David Chubak, Head of Retail Banking, Citi, to Staff Select Subcommittee on the Coronavirus Crisis (July 1, 2020); Briefing by T.J. Hughes, Senior Vice President for Specialty Lending, Truist, to Staff, Select Subcommittee on the Coronavirus Crisis (July 6, 2020).

<sup>59</sup> Briefing by Jennifer Roberts, Chief Executive Officer, Business Banking Division, JPMorgan Chase, to Staff, Select Subcommittee on the Coronavirus Crisis (July 6, 2020); Briefing by T.J. Hughes, Senior Vice President for Specialty Lending, Truist, to Staff, Select Subcommittee on the Coronavirus Crisis (July 6, 2020).

<sup>60</sup> Briefing by Jennifer Roberts, Chief Executive Officer, Business Banking Division, JPMorgan Chase, to Staff, Select Subcommittee on the Coronavirus Crisis (July 6, 2020). JPMorgan's Wholesale Banking group includes the Private, Commercial, and Corporate and Investment banks.

<sup>61</sup> *Id.*

<sup>62</sup> Briefing by David Chubak, Head of Retail Banking, Citi, to Staff Select Subcommittee on the Coronavirus Crisis (July 1, 2020).

<sup>63</sup> Briefing by Lakhbir Lamba, Executive Vice President and Head of Retail Lending and Asset Resolution, PNC Bank, to Staff, Select Subcommittee on the Coronavirus Crisis (June 29, 2020).

Data produced to the Select Subcommittee reveals that the average time from application to funding varied substantially across lines of businesses, with wealthier clients often receiving PPP funds much more quickly than retail clients. As detailed in Table 1, JPMorgan’s Wholesale Banking clients received PPP funding in only 3.1 days on average, whereas Business Banking clients waited 14.9 days.<sup>64</sup> PNC similarly processed loans from its Corporate and Institutional Banking clients in 15 days on average, but took 27 days to process retail banking customers.<sup>65</sup>

Two other banks, Bank of America and Wells Fargo, also processed PPP applications by line of business but were able to process applications without substantial timing discrepancies across the business lines.<sup>66</sup>

**Table 1. Average Time from Application to Funding by Line of Business**

Line of Business	Average Days from Application to Funding
<b>JPMorgan<sup>67</sup></b>	
Wholesale Bank (customers with \$20M revenue; high net-worth individuals)	3.1
Business Bank	14.9
<b>PNC</b>	
Corporate and Institutional Banking (largest customers)	15.0
Retail	27.0

*Source: Aggregate loan data as of July 31, 2020, from JPMorgan and PNC Bank.<sup>68</sup>*

<sup>64</sup> Letter from Greg Andres, Davis Polk & Wardwell LLP, Counsel to JPMorgan Chase, to Staff, Select Subcommittee on the Coronavirus Crisis (Sept. 16, 2020) (attachment).

<sup>65</sup> Letter from Lakhbir Lamba, Executive Vice President and Head of Retail Lending and Asset Resolution, PNC Bank, to Chairman James E. Clyburn, Select Subcommittee on the Coronavirus Crisis (Aug. 24, 2020) (attachment).

<sup>66</sup> Letter from Reginald Brown, WilmerHale LLP, Counsel to Bank of America, to Chairman James E. Clyburn, Select Subcommittee on the Coronavirus Crisis (Sept. 4, 2020) (attachment); Email from Julie Slocum, Federal Government Relations, Wells Fargo, to Staff, Select Subcommittee on the Coronavirus Crisis (Aug. 28, 2020) (attachment).

<sup>67</sup> JPMorgan informed the Select Subcommittee that Business Banking loans are generally tracked as of the day the borrower submitted an application through Business Banking’s automated portal. For the Wholesale lines of business, loans are generally tracked as of the day the banker manually entered an application into the Wholesale system.

<sup>68</sup> Letter from Greg Andres, Davis Polk & Wardwell LLP, Counsel to JPMorgan Chase, to Staff, Select Subcommittee on the Coronavirus Crisis (Sept. 16, 2020) (attachment); Letter from Lakhbir Lamba, Executive Vice President and Head of Retail Lending and Asset Resolution, PNC Bank, to Chairman James E. Clyburn, Select Subcommittee on the Coronavirus Crisis (Aug. 24, 2020) (attachment).

2. Many banks processed higher-value loans from their largest customers much faster than lower-value loans from smaller businesses.

Data from the largest lenders reveals that several banks also processed higher-value loans from their largest customers at much faster rates than lower-value loans from smaller clients, as measured by the average time from application to funding. As illustrated in Table 2:

- JPMorgan processed loans above \$5 million almost four times faster than loans under \$1 million. The bank processed applications from companies with over 100 employees in only 8.7 days on average but took more than 14 days to process smaller applicants.
- PNC processed loans above \$5 million more than twice as fast as loans under \$1 million. PNC also processed loans for businesses with more than 100 employees at almost twice the speed of loans for smaller businesses.
- Truist processed loans greater than \$5 million in approximately 18 days on average, yet took 35.5 days to process loans under \$100,000. The bank processed loans for businesses with more than 100 employees in less than 20 days, but took over 30 days to process applicants with fewer than 100 employees.

**Table 2. Average Time from Application to Funding by Size of Loan and Applicant**

Loan Size	Average Days from Application to Funding		
	JPMorgan	PNC	Truist
>\$5M	3.7	11.0	17.9
>\$1M - \$5M	8.2	14.6	19.3
>\$100K to \$1M	14.9	22.4	23.5
\$100K and Under	14.5	26.8	35.5
Applicant's Employees			
> 100	8.7	15.0	19.5
6 - 100	15.0	24.6	30.1
5 and Under	14.3	26.3	33.5

Source: Aggregate loan data as of July 31, 2020, from JPMorgan, PNC, and Truist.<sup>69</sup>

Although some lenders, including JPMorgan, asserted to the Select Subcommittee that they processed loans from larger customers more quickly due to the customer's greater business acumen, the staff's investigation casts doubt on that explanation. U.S. Bank processed loans for applicants with over 100 employees in 15.6 days as compared to 15.7 days for single-employee applicants. Bank of America processed loans for both groups of applicants in roughly 22 days,

<sup>69</sup> Letter from Greg Andres, Davis Polk & Wardwell LLP, Counsel to JPMorgan Chase, to Staff, Select Subcommittee on the Coronavirus Crisis (Sept. 16, 2020) (attachment); Letter from Lakhbir Lamba, Executive Vice President and Head of Retail Lending and Asset Resolution, PNC Bank, to Chairman James E. Clyburn, Select Subcommittee on the Coronavirus Crisis (Aug. 24, 2020) (attachment); Email from Casey Lucier, McGuireWoods LLP, Counsel to Truist, to Staff, Select Subcommittee on the Coronavirus Crisis (Sept. 24, 2020) (attachment).



and Wells Fargo processed single-employee applicants only three days slower than its largest applicants. Citi was the only bank that failed to produce data regarding the average time from application to funding, asserting that it did not collect that information in the normal course of business.

Because the Administration did not collect demographic information from PPP applicants, the Select Subcommittee lacks hard data on how disparities in processing times impacted minority and women-owned businesses. However, data shows that minority and women-owned small businesses tend to be smaller than businesses with owners who are white and male. According to the Brookings Institution, minority and women-owned businesses tend to have 30% fewer employees compared to male or white-owned businesses.<sup>70</sup> As noted above, approximately 96% of Black-owned businesses do not have any payroll employees, as compared to roughly 80% of all small businesses.<sup>71</sup> This information suggests that minority and women-owned small businesses may have faced unnecessarily long wait times for PPP loans at some financial institutions, even if the business had a preexisting banking relationship with these lenders.

#### IV. RECOMMENDATIONS

Congress appropriated hundreds of billions of dollars for the PPP to help small businesses and non-profit organizations survive the coronavirus crisis through the provision of forgivable loans designed to cover payroll, rent, and utility payments. Unfortunately, implementation of the program by the Trump Administration and many large financial institutions deprived minority and women-owned businesses and small businesses in underserved markets of the much-needed support that Congress intended to provide to ensure their survival.

On October 1, 2020, the House passed comprehensive coronavirus response legislation that includes additional funding for the PPP, including targeted relief for the smallest businesses, struggling non-profits, and the hardest hit businesses.<sup>72</sup> Any PPP extension must be part of a comprehensive package, in part because the PPP can no longer assist owners and employees of businesses that closed as a result of previous implementation failures. To prevent more closures, Treasury and SBA should take the following actions if PPP is extended:

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<sup>70</sup> *Businesses Owned by Women and Minorities Have Grown. Will COVID-19 Undo That?*, Brookings Institution (Apr. 14, 2020) (online at [www.brookings.edu/research/businesses-owned-by-women-and-minorities-have-grown-will-covid-19-undo-that/](http://www.brookings.edu/research/businesses-owned-by-women-and-minorities-have-grown-will-covid-19-undo-that/)).

<sup>71</sup> Federal Reserve Bank of New York, *Double Jeopardy: COVID-19's Concentrated Health and Wealth Effects in Black Communities* (Aug. 2020) (online at [www.newyorkfed.org/medialibrary/media/smallbusiness/DoubleJeopardy\\_COVID19andBlackOwnedBusinesses](http://www.newyorkfed.org/medialibrary/media/smallbusiness/DoubleJeopardy_COVID19andBlackOwnedBusinesses)).

<sup>72</sup> House Committee on Appropriations, *House Democrats' Updated Version of the Heroes Act* (online at <https://appropriations.house.gov/sites/democrats.appropriations.house.gov/files/Updated%20Heroes%20Act%20Summary.pdf>); H.R. 8406.

**A. SBA and Treasury Should Issue Clear, Detailed Guidance to Enable Lenders to Prioritize Underserved Markets, Including Minority and Women-Owned Businesses.**

SBA and Treasury should heed Congress's recommendation and the concerns raised by lenders by issuing clear guidance that would instruct financial institutions to prioritize underserved markets, including minority and women-owned businesses, in a manner consistent with fair lending laws. Congress's decision to reserve some PPP funds for community lenders does not relieve the Administration of its responsibility to ensure that all PPP lenders prioritize underserved communities.

**B. The Administration Should Invest in CDFIs and MDIs to Ensure They Are Fully Equipped to Handle the Demand for PPP Loans.**

If Congress extends the PPP, SBA and Treasury should consult with participating CDFIs and MDIs to ensure that those institutions are fully equipped to handle the expected volume of additional loan applications. The Administration should also ensure that CDFIs and MDIs have adequate support—including funding for technical assistance—to handle applications.

To ensure CDFIs and MDIs have the resources they need to support another round of PPP loans, the updated Heroes Act passed by the House would set aside 25% of funds, up to \$15 billion, for distribution by community lenders, including CDFIs, MDIs, and microlenders.<sup>73</sup>

**C. SBA and Treasury Should Include a Demographic Questionnaire on the PPP Application.**

SBA and Treasury decided not to include a demographic questionnaire on the PPP loan application, even though the application was modelled on the similar SBA 7(a) loan application, which includes the demographic questionnaire.<sup>74</sup> Instead, the Administration opted to include this optional questionnaire as part of the PPP loan forgiveness process, which only began in late September 2020.<sup>75</sup> Treasury informed Select Subcommittee staff that the decision to omit the demographic questionnaire from the application was “driven by speed and simplicity.”<sup>76</sup>

Unfortunately, the Administration's decision to only capture demographic information at the loan forgiveness stage makes it impossible to determine conclusively the extent to which

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<sup>73</sup> *Id.*

<sup>74</sup> See Small Business Administration, Office of Inspector General, *Flash Report: Small Business Administration's Implementation of the Paycheck Protection Program Requirements* (May 8, 2020) (online at [www.sba.gov/document/report-20-14-flash-report-small-business-administrations-implementation-paycheck-protection-program-requirements](http://www.sba.gov/document/report-20-14-flash-report-small-business-administrations-implementation-paycheck-protection-program-requirements)).

<sup>75</sup> Committee on Small Business, *Hearing on Paycheck Protection Program: An Examination of Loan Forgiveness, SBA Legacy Systems, and Inaccurate Data* (Sept. 24, 2020) (online at <https://smallbusiness.house.gov/calendar/eventsingle.aspx?EventID=3431>).

<sup>76</sup> Briefing by Associate Administrator William Manger, Small Business Administration, and Assistant Secretary Bimal Patel, Department of the Treasury, to Staff, Select Subcommittee on the Coronavirus Crisis (July 2, 2020).

businesses from underserved markets, including minority and women-owned businesses, may have been excluded from the PPP at the application stage. If PPP is extended, the Administration should add a demographic questionnaire to the application form.