

The Honorable Janet Yellen  
Secretary of the Treasury  
U.S. Treasury Department  
1500 Pennsylvania Avenue, NW  
Washington, D.C. 20220

The Honorable Isabel Casillas Guzman  
Administrator  
U.S. Small Business Administration  
409 3rd St., SW  
Washington, D.C. 20416

September 15, 2022

Dear Secretary Yellen & Administrator Guzman,

At the onset of COVID-19, Congress quickly came together to create the Paycheck Protection Program (PPP), delivering urgently needed funds to small businesses and self-employed individuals to prevent mass unemployment of American workers. Designed as a forgivable loan, Congress explicitly promised that PPP funds spent properly would not have to be repaid, and America's small businesses relied in good faith on that promise to survive and retain their employees. Unfortunately, the January 15, 2021 Procedural Notice 5000-20078 (Good Faith Error Rule) issued by Small Business Administration (SBA) breaks this promise and places an undue burden on microbusinesses and self-employed individuals.

The Good Faith Error Rule requires lenders to deny forgiveness for any excess PPP loan amount received due to good faith errors of the borrower or the lender.<sup>1</sup> This ruling fails to appreciate PPP deadlines and limited funding that made it imperative for small businesses and self-employed individuals to apply for their fair share of relief as quickly as possible, while struggling to survive a global pandemic that shuttered much of the country for weeks at a time. It likewise fails to acknowledge the hundreds of pages of complicated PPP guidance, often issued by SBA after business hours and effective immediately; notably, in April of 2020 alone, SBA and Treasury issued over twenty separate PPP rules documents and guidance updates.<sup>2</sup> For microbusinesses and self-employed individuals, who are less likely to have access to attorneys or accountants or established banking relationships to help navigate complex program rules, these chaotic circumstances made good faith errors inevitable. To now hold the smallest and most economically vulnerable businesses responsible for good faith errors is contrary to the intent of PPP and the promise made by Congress.

Further, the Good Faith Error Rule places an undue burden on microbusinesses and businesses owned by people of color. Due to the program's design, which limited loan amounts to 2½ months of payroll costs, loans of \$25,000 or less are overwhelmingly held by self-employed individuals and microbusinesses.<sup>3</sup>

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<sup>1</sup> *Paycheck Protection Program Excess Loan Amount Errors*, SBA Procedural Notice 5000-20078 (January 15, 2021). [Paycheck Protection Program Excess Loan Amount Errors \(sba.gov\)](https://www.sba.gov/document/paycheck-protection-program-excess-loan-amount-errors).

<sup>2</sup> See PPP regulations at [PPP lender information \(sba.gov\)](https://www.sba.gov/document/paycheck-protection-program-lender-information).

<sup>3</sup> PPP loan sizes were equal to 2½ months of documented historical payroll costs, capped at \$20,834 per employee. As a result, self-employed individuals and non-employer businesses could not receive a PPP loan in excess of \$20,834, and often received only a few hundred or few thousand dollars. Likewise, microbusinesses with only a few employees making minimum or near-minimum wage typically received PPP loans of \$25,000 or less. (For certain hard-hit industries such as restaurants and hotels, 2<sup>nd</sup>

Over 95 percent of all Black-owned businesses and over 90 percent of all businesses owned by people of color are non-employer businesses (*i.e.*, self-employed individuals), and over 80 percent of all employer businesses owned by people of color have fewer than ten employees.<sup>4</sup> Yet although overall forgiveness and unemployment rates demonstrate the program's success, PPP loans of \$25,000 or less are the least likely to have received full forgiveness.<sup>5</sup> More than 350,000 loans in this size range made in 2020 remain partially or fully unforgiven and must repay all or a portion of those funds.<sup>6</sup> Notably, of all 2020 PPP loans that have not received any forgiveness, 74 percent are loans of \$25,000 or less.<sup>7</sup> And a review of all 2020 and 2021 PPP loans that have received only partial forgiveness shows that 46 percent are loans of \$25,000 or less.<sup>8</sup> As PPP demographic information is pieced together, the impact of lower rates of forgiveness for these smaller PPP loans becomes clear – for example, in parts of Florida, the percentage of unforgiven loans in majority Black ZIP codes is more than three times higher than in majority white ZIP codes, and the percentage of unforgiven loans in majority Hispanic ZIP codes is more than double that of majority white ZIP codes.<sup>9</sup> These demonstrably inequitable forgiveness rates raise significant concerns for the most underserved and economically vulnerable microbusinesses and businesses owned by people of color.

Although intended to be a vital lifeline, for businesses that do not receive full forgiveness, unexpected PPP debt is making it harder to meet their expenses and keep their doors open. A survey conducted by Reimagine Main Street, in partnership with National ACE, the U.S. Black Chamber of Commerce, and U.S. Hispanic Chamber of Commerce, found that most small businesses owned by people of color could not afford an unexpected expense of \$5,000.<sup>10</sup> For instance, a woman-owned mediation and arbitration microbusiness in Massachusetts was approved by her lender and SBA for a \$5,800 PPP loan, yet due to a good faith error, is not eligible for full forgiveness. Disabled and on a fixed income, she believes this will result in permanent closure of her business.<sup>11</sup> A Black sole proprietor who was approved by his lender and SBA for a \$1,200 PPP loan was notified that due to his good faith error, he must repay \$600 – for him, this is the difference between paying – or not paying – one month's rent.<sup>12</sup> Considering persisting economic uncertainty, it is imperative that small businesses are not further burdened with unexpected debt merely because they lacked the resources to navigate complex and evolving PPP rules.

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Draw PPP loans were capped at 3½ months of documented payroll costs.) See PPP regulations at [PPP lender information \(sba.gov\)](https://www.sba.gov/PPP-lender-information).

<sup>4</sup> *Employer and Nonemployer Firms: Firms and Receipts for Minority-Owned Businesses for 2018* (December 2021). United States Census Bureau. <https://www.census.gov/library/visualizations/2021/comm/employer-and-nonemployer-firms.html>; see also Small Business Credit Survey, *2021 Report on Firms Owned by People of Color*. (2021) Federal Reserve. [sbc-report-on-firms-owned-by-people-of-color \(fedsmallbusiness.org\)](https://www.federalreserve.gov/sbcs-report-on-firms-owned-by-people-of-color); and *Survey of Business Owners* (2016). <https://www.census.gov/library/publications/2012/econ/2012-sbo.html#1/25>.

<sup>5</sup> Yee, Amy & Andre Tartar. (February 17, 2022). *Small Businesses Still Face \$28 Billion of Unforgiven PPP Loans*, Bloomberg. <https://www.bloomberg.com/news/articles/2022-02-17/small-businesses-still-face-28-billion-of-unforgiven-ppp-loans>.

<sup>6</sup> CRL calculations using PPP loan data downloaded from the SBA website on May 12, 2022 (last updated April 4, 2022). To determine the share of fully forgiven loans, CRL calculated the number of loans whose currently approved PPP loan amount exceeded the forgiveness amount listed in the data.

<sup>7</sup> Yee, Amy & Andre Tartar. (February 17, 2022). *Small Businesses Still Face \$28 Billion of Unforgiven PPP Loans*, Bloomberg. <https://www.bloomberg.com/news/articles/2022-02-17/small-businesses-still-face-28-billion-of-unforgiven-ppp-loans>.

<sup>8</sup> CRL calculations using PPP loan data downloaded from the SBA website on May 12, 2022 (last updated April 4, 2022).

<sup>9</sup> Weider, Ben. (March 24, 2022). *PPP Forgiveness Lags in Majority Black, Hispanic Areas*. Miami Herald. ([PPP forgiveness lags in majority Black, Hispanic areas | Miami Herald](https://www.miamiherald.com/news/business/2022/03/24/ppp-forgiveness-lags-in-majority-black-hispanic-areas/))

<sup>10</sup> [Trust and Access to Capital \(reimaginemainstreet.org\)](https://reimaginemainstreet.org/)

<sup>11</sup> *Banks are Reversing Course on PPP Loans to Small Business Owners*. (July 12, 2021). The Intercept. <https://theintercept.com/2021/07/12/covid-banks-sba-ppp-loans/>

<sup>12</sup> Burt, Kiyadh (2021). *Problems Remain for Minority Businesses after PPP Ends*. Hope Policy Institute <http://hopepolicy.org/blog/problems-remain-for-minority-businesses-after-ppp-ends/>.

We, the undersigned consumer rights and civil rights groups, lenders, and small business advocacy organizations, on behalf of microbusinesses, self-employed individuals and businesses owned by people of color, join the Honorable Representative Chrissy Houlahan and other members of Congress in respectfully urging you to rescind the Good Faith Error Rule and refrain from unfairly denying forgiveness to America's most vulnerable small businesses. Self-employed individuals and microbusinesses that spent PPP funds for eligible purposes in good faith reliance on the promise made by Congress should not be unfairly burdened by unexpected debt. Given that the complexities and ambiguities of the program rules and the chaotic roll-out made mistakes inevitable, good faith errors should be decided in favor of the small businesses PPP was designed by Congress to help.

Thank you for your prompt attention to this matter and your consideration of our concerns.

Sincerely,

American Business Immigration Coalition (ABIC)  
AmPac Business Capital  
Appleseed Foundation  
California Association for Micro Enterprise Opportunity (CAMEO)  
Center for Responsible Lending (CRL)  
California Reinvestment Coalition  
Greater Haitian American Chamber of Commerce of Orlando  
Local First Arizona  
Local Initiatives Support Corporation  
Main Street Alliance  
National Association for Latino Community Asset Builders  
National Coalition For Asian Pacific American Community Development  
Opportunity Finance Network (OFN)  
Pacific Community Ventures  
Prospera  
Prosperity Now  
Self Help Federal Credit Union  
Small Business Majority  
The LisaB Company  
The Resurrection Project  
United States Hispanic Chamber of Commerce  
Working Solutions CDFI