3138 10th Street North
Arlington, VA 22201-2149
703.522.4770 | 800.336.4644
f: 703.524.1082
nafcu@nafcu.org | nafcu.org
National Association of Federally-Insured Credit Unions

May 16, 2023

The Honorable Roger Williams
Chairman
Committee on Small Business
United States House of Representatives
Washington, DC 20515

The Honorable Nydia Velázquez
Ranking Member
Committee on Small Business
United States House of Representatives
Washington, DC 20515

Re: Tomorrow's Hearing: "Taking on More Risk: Examining the SBA's Changes to the 7(a) Lending Program Part II"

Dear Chairman Williams and Ranking Member Velázquez:

I write to you today on behalf of the National Association of Federally-Insured Credit Unions (NAFCU) to share our thoughts on issues of importance to credit unions ahead of tomorrow's hearing, "Taking on More Risk: Examining the SBA's Changes to the 7(a) Lending Program Part II." NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve over 135 million consumers with personal and small business financial service products. As we have previously communicated to the Committee, NAFCU maintains serious concerns about the Small Business Administration's (SBA) final rules to expand its lending networks and we continue to urge Congress to work to bring about changes.

On April 10th and April 12th, 2023, the SBA published two final rules: (1) Amending regulations governing SBA's 7(a) Loan Program and 504 Loan Program, including regulations on use of proceeds for partial changes of ownership, lending criteria, loan conditions, reconsiderations, and affiliation standards; and (2) Amending its business loan program regulations to lift the moratorium on licensing new Small Business Lending Companies (SBLCs) and add a new type of lending entity called a Community Advantage SBLC, in effect allowing fintech lenders that are only supervised by the SBA's Office of Credit Risk Management to participate in the 7(a) Loan Program. While these are two separate rules, they will have the combined effect of loosening 7(a) lending standards at the same time as opening that program to entities already proven to be more susceptible to fraud than traditional depository institutions overseen by federal prudential regulators. It may be appropriate to reduce 7(a) lending standards for institutions already bound to follow underwriting requirements set by their prudential regulator, but any newly licensed SBLCs will have no such requirements. Fintechs will be participating in an unfamiliar-to-them lending program with few established standards to follow, and subject only to oversight from the SBA that does not include supervision for compliance with Bank Secrecy Act and anti-money laundering requirements, concentration caps, safety and soundness parameters, stress test parameters, and other regulatory criteria to promote prudent lending. The SBA has not demonstrated that it is capable of handling this new oversight.

While these new rules have a laudable goal of trying to increase financial inclusion, we think they miss the mark. As champions of financial inclusion, credit unions have been at the forefront of efforts to increase access to personal and small business financial services for underserved communities. Credit unions have grown their overall business lending portfolio by more than 20 percent this past year, which is nearly identical to the growth rate over the past five years. At the same time, NAFCU has worked tirelessly to ensure that non-depository financial institutions such as fintechs operate on a level playing field with credit unions to protect consumers and small businesses. Unfortunately, we are concerned that these new rules will end up running counter to these efforts by opening the programs to unregulated competition.

Allowing fintechs to participate in 7(a) lending on those grounds will place credit unions and other traditional lenders at a severe competitive disadvantage. For example, recent reporting has seen a fintech lender claim that "businesses can apply in minutes to get a credit line of between $1,000 to $150,000. They are able to do this by automatically obtaining business data and verifying a business' bank account, which can avoid the need for a manual review." The digital lending platform provider admits that "financial technology lenders typically have higher loan approval rates than banks because they have less stringent requirements for small business loans." Non-depository SBLC lenders implementing less stringent underwriting requirements, and with significantly less regulatory compliance cost, will expend fewer resources to offer SBA loans and will therefore be able to offer these loans at more favorable terms. Small businesses will likely gravitate toward these riskier lenders, reducing demand for SBA loans from depository institutions and gradually reducing the number of depository institutions participating in SBA lending. With a greater reliance on fintech lenders, SBA lending programs will be at increased risk of fraud, credit losses, and reputational risk. This could have serious consequences for the long-term health of SBA's flagship 7(a) program.

This risk was clearly demonstrated in the early stages of the pandemic when fintechs participating in the Paycheck Protection Program (PPP) experienced much higher levels of fraud compared to regulated financial institutions. In fact, the Select Subcommittee on the Coronavirus Crisis released a staff report detailing the poor performance of many fintechs in administering the PPP. The report found, among other things, that the rate of fraud among fintech PPP loans was disproportionately high, that fintechs were aware of the fraud but did not have the capabilities to detect and respond to this fraud, that billions of taxpayer dollars were lost to fraud, and that fintechs prioritized high-dollar loans to the exclusion of smaller sized loans.

The bottom line is that credit unions continue to be safe, secure, and reliable lenders that provide access to personal and small business financial services for underserved communities, and these SBA rules will only create more unregulated competition. We oppose allowing fintechs to participate in SBA lending programs without sufficient regulatory oversight. The new Affiliation and SBLC Rules combine to give unregulated fintech lenders an unfair competitive advantage and put consumers, small businesses, and SBA programs themselves at risk of fraud, credit losses, and reputational risk. We are pleased to see the Committee continue to examine this issue, and we urge Congress to use its oversight authority to step in and bring about changes, including consideration of invoking its Congressional Review Act authority if necessary.

We thank you for the opportunity to share our thoughts and look forward to continuing to work with you on improving the SBA's lending programs. Should you have any questions or require any additional information, please contact me or Lewis Plush, NAFCU's Senior Associate Director of Legislative Affairs, at (703) 258-4981 or lplush@nafcu.org.

Sincerely,

Brad Thaler

Brad Thaler
Vice President of Legislative Affairs

cc: Members of the U.S. House Committee on Small Business