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**National Association of Federally-Insured Credit Unions**

April 16, 2020

The Honorable Jovita Carranza  
Administrator  
Small Business Administration  
409 3rd Street SW  
Washington, DC 20416

**RE: Paycheck Protection Program Guidance**

Dear Administrator Carranza:

On behalf of the National Association of Federally-Insured Credit Unions (NAFCU), I am writing in regard to the implementation of the Paycheck Protection Program (PPP) created by the *Coronavirus Aid, Relief, and Economic Security Act* (CARES Act). NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve 120 million consumers with personal and small business financial service products. Access to small business lending is vital in ensuring our local small businesses continue to survive and provide jobs during the uncertainty of the COVID-19 pandemic. NAFCU thanks the Small Business Administration (SBA) for quickly establishing the PPP and continuing to provide guidance and FAQs to lenders, and we encourage the SBA continue to do so as uncertainties continue to arise and Congress works to appropriate more funds for the program. The SBA acted quickly in setting up a massive and unprecedented lending program that provided a lifeline for many small businesses across the nation.

Credit unions provide essential financial services to underserved communities across the country, including in rural areas, where some banks have abandoned consumers. Credit unions have acted as quickly as possible and made every effort to offer PPP loans to their members. While some credit unions were able to offer PPP loans successfully, NAFCU stresses the importance of ensuring that the opportunity to assist small business members during this uncertain time is available to all credit unions. Given that the funds appropriated for the PPP have been exhausted, the SBA must ensure access requests to the SBA's lending portals are still being processed and approved while Congress negotiates the appropriation of additional funds. NAFCU appreciates the SBA's guidance in response to the industry's questions and encourages the SBA to provide further guidance on the PPP loan forgiveness provisions in section 1106 of the CARES Act.

*Access to the SBA's Lending Portals*

As you are aware, many lenders, including credit unions had difficulties accessing the SBA's lending portals. NAFCU appreciate the efforts the SBA made to approve access requests and for quickly responding to our member's concerns. It is important for credit unions that were not previously SBA-approved lenders to gain access quickly so they can process the backlog of applications received to help their communities survive this crisis. Applications for credit unions

that were not currently SBA-approved lenders was made available midday the same day the PPP program began accepting applications from borrowers, so for the first several hours, the program was up and running only approved lenders had access. Those lenders that were not already approved SBA lenders needed to wait for access pursuant to privacy requirements and familiarize themselves with the lending portals. For some credit unions, they never received access and the PPP funds were exhausted.

As Congress considers additional funding for the PPP, NAFCU requests that the SBA continue to process and approve access to the lending portals so credit unions may have the ability to process and approve their backlog of PPP applications. Simply providing credit unions with access does not obstruct the program, as no new loans or new lenders may be approved until more funds are provided. However, obtaining access for additional authorized users has been a significant roadblock for many credit unions seeking to participate in the PPP and has prevented access to this essential source of liquidity for countless small business owners.

Besides access issues, NAFCU members have noted some lending portal delays in processing approvals, due to the sheer volume of PPP loans, than experienced previously and under normal lending circumstances. Certainly, lenders can expect delays to some degree given this unprecedented lending program, but NAFCU encourages the SBA to do anything possible to speed up the processing in the lending portals.

Also, lenders have encountered situations where they input an application into one of the lending portals and receive a notification from the SBA that an approved or existing application exists, requiring lenders to go back to the borrower to rectify the situation. NAFCU recommends the SBA provide information in this notification to the financial institutions indicating where the borrower has already submitted an application. This would assist lenders in processing and approving PPP loans more expeditiously. Borrowers may not recall which financial institutions they applied at or submitted multiple applications in an effort to get an application through the process more quickly because they are facing hardship and need speedy access to funds. Moreover, information on the financial institution would assist lenders in identifying and mitigating fraudulent applications.

### *Guidance on Loan Forgiveness*

NAFCU appreciates the most recent interim final rule, it was extremely helpful for those lenders serving self-employed members such as sole proprietors and independent contractors. Moreover, the FAQs shed more light as to eligibility and use of the funds. As lenders move into the forgiveness phase of PPP loans, additional guidance would be helpful. NAFCU members have expressed several concerns over the lack of guidance on the forgiveness provisions. Considering the time-sensitive nature of the PPP, the CARES Act provided the agency with thirty days to issue guidance and regulations implementing section 1106. Currently, the interim final rules and FAQs offer some context in terms of required borrower documentation to apply for forgiveness, but further clarity for all types of borrowers would ease lender concerns. Moreover, additional clarity would assist lenders in preparing their borrowers on tracking and documenting over the course of the covered period so loan forgiveness applications can be processed expeditiously when the time comes.

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Credit unions are unsure when they may begin accepting applications for forgiveness. Presumably, borrowers will want to apply as soon as possible for forgiveness and have begun inquiring with their respective lenders on the process. The CARES Act is silent on whether the application period is upon expiration of the covered period or later. In addition, credit unions are unsure whether all the loan funds need to be exhausted in order for forgiveness to be granted. Although approval for PPP loans is equal to an amount based on documented historic costs, some of these expenses may fluctuate. For example, if a borrower uses PPP loan funds for utilities, which in turn are less over the covered period, the documentation the borrower will provide will presumably show payments of expenses that are less than what was originally earmarked. This scenario is rare, but clarification on expectations of the lender in this situation would be helpful.

In addition, lenders have expressed concerns over relying on borrower documentation for forgiveness. There are concerns over potentially fraudulent applications, despite the interim final rule covering this in some detail, and the SBA should also cover this in the context of loan forgiveness. Section 1106 provides that the lender may rely on the documentation and attestation from the borrower. Further, there is a hold harmless provision that states that the lender will not be subject to any enforcement action or penalties. It is important that the SBA reiterates this hold harmless provision in any future guidance or rulemaking pertaining to PPP loan forgiveness so lenders can feel confident in making loan forgiveness decisions.

Thank you for your attention to this matter. We look forward to continuing to work with you on this important issue and thank you for your partnership. If I may be of assistance to you in any way, please do not hesitate to contact me directly or Kaley Schafer, Regulatory Affairs Counsel at (703) 842-2249 or [kschafer@nafcu.org](mailto:kschafer@nafcu.org).

Sincerely,

A handwritten signature in black ink, appearing to read 'B. Dan Berger', with a stylized flourish at the end.

B. Dan Berger  
President and CEO