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Office of Information and Regulatory Affairs
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Washington, DC, 20503

November 25, 2020

In Re: Small Business Administration Reporting and Recordkeeping Requirements Under OMB Review—OMB Control No. 3245-0407

Submitted Electronically

Dear Mr. Rich:

Americans for Financial Reform Education Fund (AFREF) and Main Street Alliance (MSA) respectfully urge the Small Business Administration (SBA) to maintain the information collection under the Paycheck Protection Program (PPP) new Loan Necessity Questionnaire for recipients and encourage the SBA to support robust supplemental disclosure requirements for PPP recipients.¹ Americans for Financial Reform Education Fund is a nonpartisan and nonprofit coalition of more than 200 civil rights, consumer, labor, business, investor, faith-based, and civic and community groups. Main Street Alliance is a nonpartisan and nonprofit national network of state-based small business coalitions, with an engagement of more than 30,000 small business owners.

AFREF and MSA believe transparency is key for assessing the PPP and ensuring that future relief efforts reach the small businesses and workers most in need of support. The proposed supplemental PPP information form (OMB Control No. 3245-0407) to review the certifications of need for borrowers is necessary and appropriate to oversee the program, assess its effectiveness, and prevent fraud, waste, and abuse.² However, the form should be expanded to collect information related to core statutory aims and directives of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) as they concern the PPP, including prioritizing underserved and rural markets and supporting small businesses to maintain employment levels and benefits coverage for workers

¹ 86 Fed. Reg. 67809. October 25, 2020.

² Small Business Administration. [Paycheck Protection Program Loan Necessity Questionnaire \(For-Profit Borrowers\)](#). OMB Control No. 3245-0407. October 31, 2020.

during the pandemic. The PPP was designed to provide economic relief to small businesses struggling during the Coronavirus pandemic to maintain payrolls, health care and leave benefits, and pay ongoing rent, utility, and other financing expenses.³ Small business applicants are required to certify that they needed the loans, that they will use the funding to maintain their workers' payroll or pay mortgage, lease, or utility expenses.⁴

The SBA should collect information on whether the businesses are owned by women or people of color, whether the loan was received through a lender with which the business had a prior financial relationship, and whether the lender was a chartered financial institution or a financial technology (fintech) company. Further, the SBA should enhance the proposed data collection and disclosure to include the number of workers at the time the Coronavirus national emergency was declared, the number of workers at the date of the PPP loan application, and the number of current workers. The SBA should collect information on health insurance coverage as well as paid family and sick leave for workers at PPP loan recipients to fulfil the statutory requirements of the CARES Act.

To date, the SBA has supported over \$530 billion in PPP loans, according to the Pandemic Response Accountability Committee.⁵ What we know about the PPP lending program thus far — and in particular the evidence that it has failed to adequately serve businesses owned by people of color — underscores the importance of the SBA setting robust reporting and disclosure standards for the program.

The first step in effective oversight is at the point of application for PPP loans, but the proposed supplemental information, with the recommended additional disclosures, would improve the agencies' ability to ensure that the funding is delivered to serve the statutorily required mission of keeping small businesses afloat and keeping workers employed during the pandemic. Compared to the large volume of loan dollars at stake, the proposed PPP supplemental disclosure is modest (the SBA estimates only 90 minutes) and the recommended additions should not take more than an additional 30 minutes. These are not overly burdensome procedures in order to prevent fraud and to align the loan dollars with the statutory requirements.

The Paycheck Protection Program has already encountered numerous challenges, from outright fraud to inequitable access to the program for businesses owned by people of color. The Justice Department has brought cases against 82 individuals for misusing the program, involving \$250 million in fraudulent funds, of which \$113 million were disbursed.⁶ The SBA has also failed to

³ Coronavirus Aid, Relief, and Economic Security Act (CARES Act). §1102(a)(2)(F).

⁴ CARES Act §1102(a)(2)(G)

⁵ Pandemic Response Accountability Committee (PRAC). "[Total money obligated and spent by federal agencies.](#)" Accessed November 2020.

⁶ Summers, Ryan and Nick Schwellenbach. [Lamborghinis, Strip Clubs, Bogus Companies, and Lies: The First 56 Paycheck Protection Program Fraud Cases.](#) Project on Government Oversight. October 8, 2020.

provide sufficient guidance to improve access to the PPP program for underserved small businesses as required by the statute.⁷ A majority of banks participating in the program offered these loans only to existing borrowers, which perpetuates the longstanding inequity in access to credit for businesses owned by people of color.⁸

The inequitable access to PPP loans is well documented. The ten congressional districts with the highest percentage of Black residents received 40 percent fewer PPP loans than the ten districts with the lowest percentage of Black residents, amounting to a difference of over 64,000 loans, or \$12.9 billion in support for local small businesses.⁹ Furthermore, only 8 percent of Black business owners received their requested funding amount. These loans were rejected even though these Black-owned businesses overwhelmingly applied for smaller loans under \$50,000.¹⁰

A primary purpose of the Paycheck Protection Program was to assist small business in retaining its workforce yet there are serious questions about the design, rollout, and administration of the program as it relates to this goal.¹¹ Even some larger employers, like the DoubleTree hotel in Los Angeles, New Era Cap Co. in Buffalo, and Peoria Charter Coach, received substantial support from the PPP program but did not retain workers, failing to bring back furloughed or laid off workers or laying off large numbers of workers subsequent to receiving loans.¹² Given this reality, it is critical for the SBA to require recipients to report their use of funds, and also to make the information available to the general public. Along with data on worker retention, the public and Congress also need to know whether the companies that receive federal relief are providing adequate benefits to workers through the pandemic, including health care and paid sick and family leave.

Lowering guardrails in order to expedite fund disbursement is an inefficient process that can lead to fraud, as documented by the SBA's Inspector General. The October 2020 Inspector General report found that lax oversight requirements by the SBA for the Economic Injury Disaster Loan program led to the misuse of millions in CARES Act funds.¹³

⁷ CARES Act §1102(a)(2)(P)(iv).

⁸ 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.

⁹ Accountable.US. "[Congressional Districts With Highest Percentage Of Black Residents Shortchanged By Paycheck Protection Program](#)" July 2020 at 4.

¹⁰ "While 69 percent of Black business-owners applied for \$50,000 or less when applying for federal relief loans, only 8 percent of Black business-owners received the amount they requested," from: Jacobs, Lauren. "[Opinion: How the COVID-19 Stimulus Has Threatened Your Neighborhood and Mine.](#)" *NextCity.org*. June 18, 2020.

¹¹ Passy, Jacob. "[Over 500,000 businesses got PPP loans but are listed as retaining zero jobs, Treasury Department data show.](#)" MarketWatch. July 11, 2020.

¹² Martin, Hugo. "[Their company got a PP loan. So why are they still unemployed?](#)" *Los Angeles Times*. September 5, 2020; Rosenberg, Eli. "[Workers getting laid off again as the PPP funds run out.](#)" *Philadelphia Inquirer*. July 4, 2020.

¹³ Warmbrodt, Zachary. "[Watchdog sees massive potential loan fraud at SBA, sparking fight with agency.](#)" *Politico*. October 28, 2020.

The SBA must expand the supplemental data collection and disclosure by PPP recipients to improve oversight of the program, assess its performance in meeting its statutory requirements, and to prevent or remedy waste, fraud, and abuse. This data collection is necessary to maximize the extent to which PPP loans are providing emergency credit equitably to all small businesses, especially businesses owned by women and people of color that are facing the most dire credit access problems, as well as protecting jobs and maintaining critical benefits during the pandemic.

Sincerely,

Americans for Financial Reform Education Fund

Main Street Alliance

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