

Congress of the United States
U.S. House of Representatives
Committee on Small Business
2561 Rayburn House Office Building
Washington, DC 20515-6515

MEMORANDUM

TO: Members, House Committee on Small Business
FROM: Nydia M. Velázquez, Chairwoman
DATE: May 18, 2022
RE: Full Committee Hybrid Hearing: “SBA Management Review: Office of Capital Access”

The Committee on Small Business will meet for a hybrid hearing titled, “SBA Management Review: Office of Capital Access.” The hearing is scheduled to begin at **10:00 A.M. on Wednesday, May 18, 2022 in person in Room 2360 of the Rayburn House Office Building, and virtually via the Zoom platform.** The Small Business Administration’s (SBA) Office of Capital Access (OCA) is responsible for managing the agency’s loan programs, which provide guarantees for short- and long-term loans on reasonable terms for small businesses who cannot access credit elsewhere. OCA therefore plays a key role in the nation’s entrepreneurship atmosphere. This hearing presents Members an opportunity to assess the current Office and program operations, as well as assess the agency’s efforts to increase access to affordable capital for all and to promote a more equitable economy. The witness will be:

Panel

- Mr. Patrick Kelley, Associate Administrator, Office of Capital Access, U.S. Small Business Administration, Washington, DC

Background

Small businesses regularly cite access to affordable capital as a challenge in starting and growing a business. The Federal Reserve’s Small Business Credit Survey 2022 Report on Employer Firms finds almost 60 percent of small employer firms did not have their capital needs met, and their 2021 Report on Nonemployer Firms found 62 percent of nonemployer firms had unmet financing needs.¹ SBA offers programs to support small businesses, including loan programs to improve access to capital for small businesses who cannot access credit elsewhere on reasonable terms.² These programs are administered by OCA.

¹ Federal Reserve Banks, *Small Business Credit Survey 2022 Report on Employer Firms*, (Feb. 22, 2022), <https://www.fedsmallbusiness.org/medialibrary/FedSmallBusiness/files/2021/2022-sbcs-employer-firms-report>; Federal Reserve Banks, *Small Business Credit Survey 2021 Report on Nonemployer Firms*, (Aug. 2, 2021), <https://www.fedsmallbusiness.org/medialibrary/FedSmallBusiness/files/2021/2021-sbcs-nonemployer-firms-report>.

² 13 CFR § 120.101.

Overview of SBA Office of Capital Access

SBA's Office of Capital Access administers the agency's business loan programs. These include the 7(a) Loan Guarantee Program, the 504/Certified Development Company (504/CDC) Program, the Microloan Program, and the Surety Bond Program. SBA is also administering the Community Advantage Pilot Loan Program as part of the 7(a) Loan Guarantee Program. Furthermore, the CARES Act³ established the SBA Paycheck Protection Program (PPP) as a subprogram within the 7(a) program. Under PPP, banks and other private lenders made fully guaranteed, forgivable SBA loans to small businesses negatively impacted by the COVID-19 pandemic. Finally, since 2021, OCA has also administered the COVID Economic Injury Disaster Loan (EIDL) program, formerly under the purview of SBA's Office of Disaster Assistance (ODA). This transfer allowed ODA to focus fully on administering the Disaster Loan Program's response to natural disasters, which in recent years has seen increased activity due to more frequent and powerful natural disasters, such as Hurricanes Harvey, Irma, and Maria in 2017.⁴

The PPP brought unprecedented attention to SBA's business loan programs and relied on new technologies to reach as many borrowers as possible, including upgrades to its Lender Match Portal, through which SBA connects participating lenders to prospective small business borrowers. Accordingly, SBA metrics show in FY2021, SBA exceeded its Lender Match Agency Priority Goal by 544 percent, drastically increasing the number of lender-borrower connections.⁵ Furthermore, the FY2023 budget establishes a new Agency Priority Goal to increase the number of Community Financial Institutions (CFIs) enrolled in Lender Match,⁶ which will build off the success of these institutions in delivering PPP loans to underserved small businesses.

7(a) Loan Guarantee Program

Authorized under section 7(a) of the Small Business Act, SBA's flagship loan program is the 7(a) Loan Guarantee Program (7(a) program), through which private lenders (mostly banks and credit unions⁷) make commercial loans to small businesses that are guaranteed by SBA in the event the borrower defaults, minimizing credit risk to lenders on a per-loan basis. 7(a) loan proceeds may be used for working capital, fixed assets, financing start-ups, purchasing an existing business, and for limited other purposes. The maximum loan amount is \$5 million. Loan maturity is between 5 and 7 years for working capital, and up to 25 years for equipment and real estate. For all other purposes, the maximum term is 10 years. The current guarantee rate is 85 percent for loans of

³ P.L. 116-136.

⁴ See, e.g., *Surveying Storms: A Deeper Dive into SBA's Disaster Response: Hearing before the H. Comm. On Small Business*, 115th Cong. (2018).

⁵ U.S. Small Bus. Admin., *FY2023 Congressional Budget Justification and FY2021 Annual Performance Report* (2022), p. 28-29.

⁶ U.S. Small Bus. Admin., *FY2023 Congressional Budget Justification and FY2021 Annual Performance Report* (2022), p. 29. "CFIs" include Community Development Financial Institutions (CDFIs), Minority Depository Institutions (MDIs), SBA Certified Development Companies (CDCs), and SBA Microloan Intermediaries.

⁷ SBA also permits non-bank SBA-licensed Small Business Lending Companies (SBLCs) to make 7(a) loans. In 1982, SBA issued a moratorium on licensing new SBLCs to reduce the administrative resources needed to prudently regulate and oversee non-depository lenders with a nationwide 7(a) lending platform. Importantly, in a final rule posted December 4, 2020, SBA stated it "does not have the administrative resources needed to oversee [non-federally regulated lenders] with a nationwide 7(a) lending platform in addition to the 14 SBLCs it currently regulates." In this final rule, SBA signaled it did not intend to re-open the SBLC license for existing or prospective non-federally regulated lenders interested in making 7(a) loans nationwide by saying it "encourages [these lenders] to acquire one of the fourteen SBLC licenses that become available from time to time."

\$150,000 or less and 75 percent for loans greater than \$150,000 (up to a maximum guaranty of \$3.75 million – 75 percent of \$5 million).⁸ The 7(a) program has several specialized programs that offer streamlined and expedited loan procedures for particular groups of borrowers, including the SBA Express program (for loans of \$350,000 or less), the Export Express program (for loans of up to \$500,000 for entering or expanding an existing export market), and, as mentioned above, the Community Advantage Pilot Loan Program (for loans of \$350,000 or less), which is designed to target mission-based lenders and small businesses in traditionally underserved communities.

In FY2021, 7(a) lenders made 51,856 loans through the program totaling over \$36.5 billion, for an average loan size of \$704,581.⁹ As of May 6, 2022, 7(a) lenders made 25,521 loans through the program totaling over \$13.4 billion, for an average loan size of \$527,143.¹⁰ On April 27, 2022, Administrator Isabella Guzman’s testimony before the Committee mentioned the importance of small-dollar lending, and the 7(a) program data reveals a gap in the program’s coverage. For instance, the number of 7(a) loans of \$150,000 or less declined by almost 52 percent since FY2016, and the number of 7(a) loans of \$50,000 or less declined by nearly 58 percent. In turn, the average 7(a) loan size increased steadily since FY2016, increasing by more than 87 percent.

Moreover, the number of active 7(a) lenders is decreasing, and lending is highly concentrated among the top 7(a) lenders, meaning there are fewer access points to 7(a) loans than ever. There were 3,537 lenders in the 7(a) program in FY2011, compared to 1,639 in FY2021 (a 54 percent decrease). The top 50 7(a) lenders lent almost 50 percent of total FY2021 volume; the remaining 1,589 lenders lent the other half of program volume.

Furthermore, 7(a) data also shows a sharp increase in the share of 7(a) dollars going to high-dollar borrowers (\$2 million and up). In FY2012, 25 percent of 7(a) volume was lent to borrowers seeking \$2 million and greater; in FY2021, 44 percent of program volume went to such borrowers. These trends are likely a consequence of the increase in the maximum 7(a) loan size from \$2 million to \$5 million enacted as part of the Small Business Jobs Act of 2010 without countervailing features to preserve the program’s focus on small-dollar lending. Opponents argued that without such safeguards, the program would gravitate towards more high-dollar lending,¹¹ and program data shows these concerns were valid and have unfortunately materialized.

504/CDC Loan Program

Authorized under Title V of the Small Business Investment Act of 1958, the SBA 504/CDC program backs long-term fixed-rate loans up to \$5.5 million to support investment in major fixed assets, such as land, buildings, heavy equipment, and machinery. The program is delivered by state and local CDCs, which are private, nonprofit corporations established to promote economic

⁸ The Economic Aid Act (P.L. 116-260) temporarily increased the guarantee rate for 7(a) loans \$150,000 or less to 90 percent, and increased the guarantee rate for SBA Express loans \$150,000 or less to 75 percent.

⁹ U.S. Small Bus. Admin., *Weekly Approvals Report with data as of 09/30 for each FY*, (Sep. 30, 2021), https://www.sba.gov/sites/default/files/2021-10/WebsiteReport_asof_20210930.pdf.

¹⁰ U.S. Small Bus. Admin., *Weekly Approvals Report with data as of 05/06 for each FY*, (May 6, 2022), https://www.sba.gov/sites/default/files/2022-05/WebsiteReport_asof_20220506-508.pdf.

¹¹ 1350 CONG. REC. H6933 (daily ed. Sep. 23, 2010) (statement of Rep. Velázquez) (“Unfortunately, the legislation we are considering today do[es] not provide the protections that we need to make sure that small businesses have access to affordable capital.”), <https://www.congress.gov/111/crec/2010/09/23/CREC-2010-09-23-pt1-PgH6905.pdf>.

development within their communities, many of which are Community Development Financial Institutions (CDFIs). 504 loans have a three-party structure: 1) a third-party lender (typically a bank or credit union) providing 50 percent or more of the financing; 2) a CDC providing up to 40 percent via a 504/CDC debenture; and 3) a small business borrower contributing at least 10 percent.

One of the primary purposes of the 504 program is job creation and economic development. To ensure lenders are financing projects for borrowers who plan to create jobs, SBA includes a job creation/retention requirement. Under this requirement, borrowers (other than small manufacturers) must create/retain at least one job for every \$75,000 of SBA funds received, and small manufacturers must create/retain at least one job per \$120,000 of SBA funds received.¹² If the borrower does not meet this requirement, they can remain eligible for the program by meeting certain community development, public policy, or energy reduction goals.¹³

In 2021, the House of Representatives passed two bipartisan bills modernizing the 504 program, streamlining the loan closing process for small-dollar 504 loans, boosting program oversight, and improving program terms for small manufacturers.¹⁴ Notably, the 504 Modernization and Small Manufacturer Enhancement Act of 2021 increased the maximum loan size for small manufacturers from \$5.5 million to \$6.5 million, made additions to the public policy goals, and adjusted the program's occupancy rules to make it easier for small businesses to finance the purchase of an existing multi-story building with a 504 loan.¹⁵

Furthermore, in FY2021, the 504 program experienced record-high demand and reached the authorized lending limit of \$7.5 billion, causing the program to pause lending in early September. To help prevent another 504 lending shutdown, the 504 Program Level Flexibility Act of 2021,¹⁶ was introduced which authorizes SBA to increase the regular 504 program lending limit by 15 percent once per fiscal year with at least a 30-day notice to Congress. Section 20(g) of the Small Business Act provides the same program level increase authority for the 7(a) program. Such a provision in the 504 program would help prevent the threat of a lending pause if the program experiences unexpectedly high demand.

The increased demand for 504 loans experienced in FY2021 is continuing into FY2022. As of May 6, 2022, SBA approved 5,530 "regular" 504 loans (not "refinance" 504 loans) totaling over \$5.37 billion.¹⁷ This translates into approximately \$173 million in "regular" 504 volume per week, or over \$9 billion in volume for the fiscal year. At this pace and under a \$7.5 billion authorization level, the program would be forced to shut down around July. To address this potential funding shortfall, the Financial Services and General Government division of the Consolidated Appropriations Act, 2022, adjusted the funding levels for FY2022 for the 504 regular and refinance

¹² U.S. Small Bus. Admin., Office of Fin. Assistance, SBA SOP 50 10 6, p. 453.

¹³ 13 C.F.R. §120.862; *see also* U.S. Small Bus. Admin., Office of Fin. Assistance, SBA SOP 50 10 6, p. 453-55.

¹⁴ 504 Modernization and Small Manufacturer Enhancement Act of 2021, H.R. 1490, 117th Cong. (2021); 504 Credit Risk Management Improvement Act of 2021, H.R. 1482, 117th Cong. (2021).

¹⁵ The adjustment to 504 occupancy rules for multi-story buildings was added to the bill as an amendment by Chairwoman Nydia M. Velázquez (D-NY) during markup of the bill in the 116th Congress.

¹⁶ 504 Program Level Flexibility Act of 2021, H.R. 4844, 117th Cong. (2021).

¹⁷ U.S. Small Bus. Admin., *Weekly Approvals Report with data as of 05/06 for each FY*, (May 6, 2022), https://www.sba.gov/sites/default/files/2022-05/WebsiteReport_asof_20220506-508.pdf.

programs from \$7.5 billion levels for both 504 accounts, to \$11 billion for 504 regular and \$4 billion for 504 refinance,¹⁸ which is expected to prevent another 504 lending pause this fiscal year. Witnesses before the House Small Business Committee have testified in support of combining the authorization levels of the “regular” 504 and refinance programs,¹⁹ as well as in support of “shock-absorbing” mechanisms that would allow the program to continue lending despite unexpected increases in demand for 504 loans.²⁰

Microloan Program

Congress created the SBA Microloan Program as a pilot program in section 7(m) of the Small Business Act in 1991 and was made permanent in 1997. The program makes funds available to nonprofit, community-based lenders (many of whom are CDFIs) who in turn make very small loans to eligible borrowers—mainly higher-risk, underserved entrepreneurs, whose businesses generally serve their local communities. These borrowers may be unable to get a traditional loan due to poor credit, no credit history, or a lack of business experience. This program reaches various demographic groups that would otherwise not be served by the private sector or even the 7(a) program. For example, Microloans have been a critical source of capital for underserved business owners, who in FY2021 received 79 percent of Microloans issued.²¹ The program has successfully funded thousands of small businesses and created many more jobs in its almost 30-year existence. Though the maximum loan amount is \$50,000, the average Microloan is about \$14,000.²²

This Congress, the House of Representatives passed two bipartisan modernizing Microloan program rules and terms, making the program more affordable for intermediaries and borrowers, and improving program data collection and reporting.²³ The Microloan Improvement Act of 2021, eliminated the “1/55 Rule,” which intermediaries have for years reported was unnecessarily restricting program lending in high-volume areas.²⁴ This change will help high-volume Microlenders access greater SBA capital for re-lending to entrepreneurs.

Community Advantage Pilot Loan Program

In 2011, SBA established the Community Advantage Pilot Loan Program (CA) as a three-year pilot program within the 7(a) program designed to meet the credit, management, and technical assistance needs of small businesses in underserved markets.²⁵ The CA Pilot has been extended numerous times, most recently through September 30, 2024, when it is set to expire unless

¹⁸ P.L. 117-103. In FY21, the 504-refinance program approved 693 loans totaling over \$709 million, about \$6.7 billion short of its authorization level.

¹⁹ *Catalyzing Economic Growth through SBA Community-Based Lending: Hearing before the H. Comm. On Small Business*, 117th Cong. (2022) (statement of Mr. Manny Flores, President and CEO, SomerCor).

²⁰ *An Empirical Review of the Paycheck Protection Program: Hearing before the H. Comm. on Small Business*, 117th Cong. (2022) (statement of Mr. Robert Barnes, President and Chief Executive Officer, PriorityOne Bank).

²¹ U.S. Small Bus. Admin., *FY2023 Congressional Budget Justification and FY2021 Annual Performance Report* (2022).

²² See, CRS Report R41057, <https://www.crs.gov/reports/pdf/R41057>.

²³ Microloan Improvement Act of 2021, H.R. 1502, 117th Cong. (2021); Microloan Transparency and Accountability Act of 2021, H.R. 1487, 117th Cong. (2021).

²⁴ See, e.g., *Small But Mighty: A Review of the SBA Microloan Program: Hearing before the H. Comm. on Small Business*, 116th Cong. (2019) (statement of Ceyl Prinster, President and CEO, Colorado Enterprise Fund).

²⁵ U.S. Small Bus. Admin., *Community Advantage Participant Guide*, Version 6.0 (2020), <https://www.sba.gov/sites/default/files/2020-06/CA%20Guide%20Version%206%20FINAL%20508%2006-01-20.pdf>.

extended again by SBA.²⁶ CA provides mission-oriented lenders, primarily nonprofit financial intermediaries focused on economic development, access to 7(a) loan guarantees for loans of up to \$350,000.²⁷ These lenders report the credit support offered by the 7(a) guarantee amplifies the capital they could otherwise lend. This is important because the traditional 7(a) program is restricted to lenders supervised and examined by a federal financial institution regulator, a state banking regulator satisfactory to SBA, or SBA itself,²⁸ which keeps many CDFI loan funds and other mission-based nonprofit lenders from becoming 7(a) lenders. Accordingly, the CA program offers access to 7(a) guaranteed lending to these institutions, which in turn increases access points to the 7(a) program for small firms who would struggle to access a 7(a) loan from a bank.

In its Congressional Budget Justification for FY2020, SBA recognized that the CA program “reached significantly more women and minorities than the traditional 7(a) loan program.”²⁹ The organizations that may participate in the CA program are limited to SBA-authorized CDCs, SBA-authorized Microloan intermediaries, SBA-authorized Intermediary Lending Pilot Program intermediaries, and non-federally regulated CDFIs.³⁰ Furthermore, organizations approved to participate as CA Lenders are required to make at least 60 percent of their CA loans in underserved markets, which includes Low- and Moderate-Income (LMI) communities, new businesses, veteran-owned businesses, and those located in rural areas.³¹ CA lenders may also optionally provide borrowers and potential borrowers with technical assistance but are not required to do so.

Last Congress, the House of Representatives passed by a voice vote H.R. 7903,³² a bill that codified the CA program under the Small Business Act and authorized it for five years. The bill would have increased the portion of a lender’s portfolio that must be made in underserved markets from 60 to 75 percent and expanded the pool of businesses designated as being in an “underserved” market to explicitly include those owned by women and minorities, as well as those located in disaster areas.

Paycheck Protection Program

The PPP was established in the CARES Act³³ as a subprogram of SBA’s 7(a) loan guarantee program. Under PPP, banks and other private lenders made fully guaranteed SBA loans to small

²⁶ U.S. Small Bus. Admin., *Biden-Harris Administration Expands SBA Pilot Program Targeting Access to Capital for Underserved Entrepreneurs*, Press Release No. 22-27, (Mar. 30, 2022), <https://www.sba.gov/article/2022/mar/30/biden-harris-administration-expands-sba-pilot-program-targeting-access-capital-underserved>.

²⁷ U.S. Small Bus. Admin., *Community Advantage Participant Guide*, Version 6.0 (2020), <https://www.sba.gov/sites/default/files/2020-06/CA%20Guide%20Version%206%20FINAL%20508%2006-01-20.pdf>.

²⁸ 13 CFR § 120.410(d).

²⁹ U.S. Small Bus. Admin., *FY2020 Congressional Budget Justification and FY2018 Annual Performance Report* (2019).

³⁰ U.S. Small Bus. Admin., *Community Advantage Participant Guide*, Version 6.0 (2020), <https://www.sba.gov/sites/default/files/2020-06/CA%20Guide%20Version%206%20FINAL%20508%2006-01-20.pdf>.

³¹ U.S. Small Bus. Admin., *Community Advantage Participant Guide*, Version 6.0 (2020), <https://www.sba.gov/sites/default/files/2020-06/CA%20Guide%20Version%206%20FINAL%20508%2006-01-20.pdf>.

³² H.R. 7903, 116th Cong. (2020).

³³ P.L. 116-136.

businesses negatively impacted by the COVID-19 pandemic. The loans are intended to assist small businesses with meeting payroll costs and other expenses, and full loan forgiveness is offered if loan proceeds are spent on such purposes. In total, over \$800 billion has been appropriated for PPP in several pieces of legislation.

The PPP and Health Care Enhancement Act³⁴ included set-asides of newly appropriated PPP funds so that community lending institutions, including CDFIs, CDCs, and SBA Microloan Intermediaries could participate in the program alongside large banks. These set-asides, as well as policy changes made by SBA, were intended to maximize PPP lending in traditionally underserved business communities.³⁵ The House Small Business Committee held a hearing on March 16, 2022³⁶ with various researchers who testified regarding their research showing that nonbanks, CDFIs, and MDIs made a higher proportion of loans to traditionally underserved businesses than other types of lenders. Research also shows there is a higher degree of potential fraud associated with nonbank-originated (specifically Fintech-originated) PPP loans.³⁷

The PPP Flexibility Act³⁸ (Flexibility Act) established a minimum maturity of five years on PPP loans and extended the covered period during which borrowers may use such funds for certain expenses while remaining eligible for forgiveness from eight to 24 weeks. The Flexibility Act also raised the non-payroll portion of a forgivable covered loan amount from the current 25 percent up to 40 percent. S. 4116³⁹ extended the PPP application deadline to August 8, 2020, allowing more time for small businesses considering applying for a PPP to weigh their options.

The Economic Aid Act⁴⁰ made numerous improvements to PPP, including allowing borrowers who've spent all of their PPP loan to apply for a "Second Draw" PPP loan, and expanded the use of loan proceeds eligible for forgiveness. The American Rescue Plan Act⁴¹ added \$7.25 billion for expanded eligibility of small nonprofits and internet publishing organizations for PPP. Finally, the PPP Extension Act of 2021 extended the PPP loan application deadline to May 31, 2021.⁴²

On June 1, 2021, SBA stopped accepting applications for First and Second Draw loans. According to SBA's public data, as of May 31, 2021, the PPP guaranteed over 11.8 million loans through 5,467 lenders for a total net PPP dollars lent at over \$799.8 billion, with an average loan size of

³⁴ P.L. 116-139.

³⁵ See, e.g., U.S. Small Bus. Admin., *CARES Act Section 1102 Lender Agreement – Non-Bank and Non-Insured Depository Institution Lenders*, SBA Form 3507 (04/21), <https://home.treasury.gov/system/files/136/SBA-Form-3507-PPP--Agreement-for-New-Lenders-Non-Bank-Non-Insured-Depository-Institution-Lenders.pdf>; see also, U.S. Small Bus. Admin., *Interim Final Rule on Corporate Groups and Non-Bank and Non-Insured Depository Institution Lenders (originally posted 4/30/2020)*, (Apr. 30, 2020), <https://home.treasury.gov/system/files/136/IFR--Corporate-Groups-and-Non-Bank-and-Non-Insured-Depository-Institution-Lenders.pdf>.

³⁶ *An Empirical Review of the Paycheck Protection Program: Hearing before the H. Comm. on Small Business*, 117th Cong. (2022).

³⁷ See, Griffin, John M. and Kruger, Samuel and Mahajan, Prateek, *Did FinTech Lenders Facilitate PPP Fraud?*, (Dec. 6, 2021), <https://ssrn.com/abstract=3906395>.

³⁸ P.L. 116-142.

³⁹ P.L. 116-147.

⁴⁰ P.L. 116-260.

⁴¹ P.L. 117-2.

⁴² P.L. 117-6.

approximately \$67,647.⁴³ In 2021, over 6.6 million PPP loans were approved through 5,242 lenders totaling over \$277.7 billion total net PPP dollars lent, with an average loan size of approximately \$41,560.⁴⁴

Currently, PPP is in the forgiveness phase of the program. The Committee is actively monitoring the status of loan forgiveness. As of May 8, 2022, SBA made over 10 million full for partial forgiveness payments, representing 88 percent of all PPP loans.⁴⁵ These payments total over \$725 billion in PPP lending, representing 91 percent of total PPP volume. However, PPP forgiveness data reveals a burgeoning small-dollar forgiveness gap. As of May 8, 2022, 1,304,126 PPP borrowers have not submitted forgiveness applications.⁴⁶ Of these non-submissions, 1,183,294 are loans \$50,000 or less, representing over 90 percent of all non-submissions.

Furthermore, on January 15, 2021, SBA announced that amounts of PPP loans received due to “excess loan amount errors” are not eligible for loan forgiveness for those amounts and must be repaid.⁴⁷ SBA defines an “excess loan amount error” as a borrower or lender error made in good faith that caused a borrower to receive a PPP loan amount exceeding the borrower’s correct maximum loan amount under the CARES Act and the Economic Aid Act.⁴⁸ Following that announcement, PPP lenders began notifying some of their borrowers they would be responsible for repaying the excess amount of the loan.⁴⁹ This includes cases where loan proceeds were used for eligible and forgivable uses, regardless of whether the borrower or the lender caused the error. Some of the largest PPP lenders have directed borrowers with excess loan amount errors to appeal their cases to SBA.⁵⁰ However, this process requires borrowers to first submit a forgiveness application to lenders for a lower amount than for which they should be eligible due to the evolving program rules. SBA estimates there are 304,384 PPP loans with excess loan amount errors of \$3.775 billion, for an average excess loan amount error of \$12,403. Multiple witnesses before the Committee have testified these loan amounts should be eligible for forgiveness because, in many cases, loan amount miscalculations were caused by confusion over the evolving program rules, especially early in the program.⁵¹ The witnesses urged SBA to rescind this policy and allow amounts received due to these good faith miscalculations to be eligible for loan forgiveness.

⁴³ U.S. Small Bus. Admin., *Paycheck Protection Program (PPP) Report: Approvals through 05/31/2021*, (May 31, 2021), https://www.sba.gov/sites/default/files/2021-06/PPP_Report_Public_210531-508.pdf.

⁴⁴ U.S. Small Bus. Admin., *Paycheck Protection Program (PPP) Report: Approvals through 05/31/2021*, (May 31, 2021), https://www.sba.gov/sites/default/files/2021-06/PPP_Report_Public_210531-508.pdf.

⁴⁵ U.S. Small Bus. Admin., *Forgiveness Platform Lender Submission Metrics – May 8*, (May 8, 2022), https://www.sba.gov/sites/default/files/2022-05/2022.05.09_Weekly%20Forgiveness%20Report_Public-508.pdf.

⁴⁶ U.S. Small Bus. Admin., *Forgiveness Platform Lender Submission Metrics – May 8*, (May 8, 2022), https://www.sba.gov/sites/default/files/2022-05/2022.05.09_Weekly%20Forgiveness%20Report_Public-508.pdf.

⁴⁷ U.S. Small Bus. Admin., Procedural Notice 5000-20078, <https://home.treasury.gov/system/files/136/PPP--Procedural-Notice--PPP-Excess-Loan-Amount-Errors.pdf>.

⁴⁸ U.S. Small Bus. Admin., Procedural Notice 5000-20078, <https://home.treasury.gov/system/files/136/PPP--Procedural-Notice--PPP-Excess-Loan-Amount-Errors.pdf>. “Excess loan amount errors” do not include knowing misstatements, which may result in additional action, such as charges for fraud.

⁴⁹ See, e.g., The Intercept, *Banks are Reversing Course on PPP Loans to Small Business Owners*, (Jul. 12, 2021), <https://theintercept.com/2021/07/12/covid-banks-sba-ppp-loans/>.

⁵⁰ See, e.g., The Intercept, *Bank of America is Refusing to Forgive Some PPP Loans in Full, Giving Small Businesses Little Recourse*, (Feb. 2, 2022), <https://theintercept.com/2022/02/02/bank-of-america-ppp-loans-small-businesses/>.

⁵¹ *An Empirical Review of the Paycheck Protection Program: Hearing before the H. Comm. on Small Business*, 117th Cong. (2022) (statement of Mr. Robert Barnes, President and Chief Executive Officer, PriorityOne Bank); see also, *What Comes Next? PPP Forgiveness: Hearing Before the H. Comm. on Small Business*, 117th Cong. (2021)

COVID-19 Economic Injury Disaster Loan Program

The COVID-19 Economic Injury Disaster Loan (EIDL) Program stopped accepting applications for new loans on December 31, 2021. On May 5, SBA announced it would no longer accept applications for COVID EIDL loan modifications, reconsiderations, or appeals due to the program's funds being exhausted. This came a day before the date on which SBA designated as the deadline to submit such applications. In subsequent communications with Congress,⁵² SBA stated it expects to review all completed COVID EIDL inquiries that were submitted by May 6 and to fund those that meet all program requirements. Furthermore, SBA stated borrowers identified as “obligating,” “obligated,” “funding,” or “funded,” applications for loan increases were processed before the exhaustion of COVID EIDL funding. This hearing presents Members an opportunity to inquire regarding these developments and the impact on borrowers.

Conclusion

SBA's Office of Capital Access administers the agency's flagship loan program, as well as multiple other programs delivered by community-based lenders intended to improve access to capital for underserved entrepreneurs. With the onset of the COVID-19 pandemic, the Office was also tasked with administering the PPP, which delivered almost \$800 billion in emergency relief capital to small businesses. Altogether, the Office administers a loan portfolio of over \$1 trillion. This hearing presents Members an opportunity to assess the Office's administration and operation of these valuable loan programs.

(statements of Tracy C. Ward, Director of the SBA 504 Loan Program, Self-Help Ventures Fund; and Marla Bilonick, President and CEO, National Association of Latino Community Asset Builders).

⁵² U.S. Small Bus. Admin., *COVID-EIDL Exhaustion of Funds: Responses to Congressional Inquiries – May 2022*, (2022), (on file with the House Committee on Small Business).