Testimony of

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On behalf of
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"What Comes Next? PPP Forgiveness"

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Introduction

Good afternoon, Chairwoman Velázquez, Ranking Member Luetkemeyer, and Members of the Committee. My name is Leslie Payne, and I am testifying today on behalf of the National Association of Federally-Insured Credit Unions (NAFCU). I am the Assistant Vice President of Commercial Lending at Affinity Federal Credit Union, headquartered in Basking Ridge, New Jersey. I have more than 30 years of commercial lending experience, with a focus on community small business lending. Over the last 18 months, I have been tasked with the implementation and day-to-day management of the Paycheck Protection Program (PPP) initiative at Affinity, and I am proud of the work we have done to help our members through these challenging times. Thank you for holding this hearing today. I appreciate the opportunity to share our experience with the PPP and provide feedback on how the forgiveness process can be further improved and streamlined.

With more than 20 branches across the tri-state area, Affinity is the largest credit union headquartered in the state of New Jersey, proudly ranking in the top two percent of all credit unions in terms of asset size. We are a full-service, not-for-profit, member-owned financial institution with a wide array of personal and business accounts available to meet the needs of more than 185,000 members through each step of their financial journeys.

Background on Credit Unions

Credit unions serve a unique function in the delivery of necessary financial services to Americans. Established by an act of Congress in 1934, the federal credit union system serves as a way to promote thrift and make financial services available to all consumers, many of whom would otherwise have limited access to financial services. Every credit union is a cooperative institution organized “for the purpose of promoting thrift among its members and creating a source of credit for provident or productive purposes” (12 § USC 1752(1)). Congress established credit unions as an alternative to banks and to meet a precise public need, and today credit unions provide financial services to over 125 million people. Since President Franklin D. Roosevelt signed the *Federal Credit Union Act* (FCUA) into law over 85 years ago, two fundamental principles regarding the operation of credit unions remain every bit as important today as in 1934:

1. Credit unions remain totally committed to providing their members with efficient, low-cost, personal financial services; and,
2. Credit unions continue to emphasize traditional cooperative values such as democracy and volunteerism.

The nation's approximately 5,000 federally-insured credit unions serve a different purpose and have a fundamentally different structure than traditional banks. Credit unions exist solely for providing financial services to their members, while banks aim to make a profit for a limited number of shareholders. As owners of cooperative financial institutions, united by a common bond, all credit union members have an equal say in the operation of their credit union – "one member, one vote" – regardless of the dollar amount they have on account. These singular rights extend all the way from making basic operating decisions to electing the board of directors, something unheard of among for-profit, stockholder-owned banks. Unlike their counterparts at banks and thrifts, federal credit union directors generally serve without remuneration, epitomizing the true volunteer spirit permeating the credit union community. Credit unions are also limited by their field of membership on who they can serve.

Credit Unions and the PPP

As member-owned and relationship-driven cooperatives, credit unions have been on the frontlines working with their members during these times of economic uncertainty. Credit unions have gone above and beyond to ensure small businesses in their communities are taken care of, and their response through the PPP was tremendous. Despite the uncertainty surrounding the PPP as it launched and the associated challenges, credit unions did all they could to ensure their existing and new small business members were taken care of. According to a NAFCU survey, 87 percent of NAFCU members reported providing PPP loans to new members and businesses that were turned away by other lenders and came to their credit union to apply for a PPP loan. Moreover, compared to other types of lenders, credit unions disproportionately helped the smallest of small businesses. An analysis of the Small Business Administration's (SBA) PPP data shows that credit unions made loans in amounts much lower than the national average. In 2020, the average credit union PPP loan was under $50,000, while the average PPP loan overall was over $100,000.[1] In 2021, the average credit union PPP loan was $33,869, while the average PPP loan overall was $42,000.[2] Furthermore, according to NAFCU's analysis of SBA's PPP data, a full 75 percent of credit union PPP loans went to businesses with fewer than five employees.

At Affinity, we take tremendous pride in how we have been able to help our members with the PPP over the last 18 months. When the PPP was created by the *Coronavirus Aid, Relief, and Economic Security Act* (CARES Act) in March 2020, we immediately pulled together a team to start the planning process so we could issue these loans. While we were already an SBA lender, our planning process still entailed creating a new loan product in our operating system, establishing a workflow for the PPP lending process, training staff members on E-Tran and other SBA systems, and communicating to our members that we were participating, both through blast emails and a designated PPP page on our website. Our members were able to submit their basic information through a link on our website, and our team followed up on those to send out an application and begin the process. All teams worked very long hours and sometimes through the night, particularly to get loans submitted through E-Tran. For the second round of PPP lending, we contracted with nCino – our commercial lending platform vendor – to make the collection of information and analysis more efficient. We adjusted our processes throughout to make the process easier for our members. We also continuously updated our members on updates and changes to the PPP program.

In all, Affinity provided 1,058 PPP loans in the first round of the program, totaling approximately $58 million in lending. We provided an additional 603 loans in the second round for approximately $38 million. Our overall average PPP loan was approximately $56,000, with over 90 percent of loans $150,000 or under. Our smallest PPP loan was approximately $700, while our largest was $1.7 million.

We have heard from numerous small businesses that our commitment to working with them to ensure they received the PPP money they were due enabled their businesses to survive. Affinity

[1] DuPlessis, Jim, "PPP Helps Businesses and Credit Unions," *Credit Union Times* (June 15, 2021), available at https://www.cutimes.com/2021/06/15/ppp-helps-businesses-and-credit-unions/.
[2] Small Business Administration, Paycheck Protection Program (PPP) Report (May 31, 2021), available at https://www.sba.gov/sites/default/files/2021-06/PPP_Report_Public_210531-508.pdf.

helped businesses from a variety of industries, including physicians, dance studios, pet groomers, restaurants, retailers, and so many more. One story that stands out to me was how we were able to help the owner of a gymnastics studio. The owner was struggling early in the pandemic and was not getting a response from the bank where she had her business account. She reached out to Affinity because she had her personal accounts with us. She was desperate and, as she later recalled, quite short with our team member who took the original call. Our team member worked with her to earn her trust and get her through the PPP application process. The woman apologized for being short, explaining that her mother had COVID and was not expected to make it. She shared with us, “COVID is going to take my mom and my business.” When she heard that she was approved for her PPP loan, she broke down sobbing. She moved her business accounts to us, wished she could hug us all, and promised to take our team member who worked with her to lunch when it was all over.

Another example that comes to mind is one of our members who retired from his 30-year career in 2019 and always dreamed of having his own business. He took his retirement savings and invested in a food supply business for schools. His first meaningful revenues started in January 2020. With the shutdowns and closures of schools, he saw his entire life savings disappearing. He was panicked and physically sick over his situation. Affinity was able to help him get a first round and second round loan, which helped him survive until he could continue operations and adjust his business model with varying revenue streams. Without the PPP this business most likely would not have survived and this member’s life savings would have been lost.

Credit Unions and PPP Forgiveness

After the PPP program successfully provided a lifeline to small businesses struggling through unprecedented lockdowns, the attention quickly turned to the forgiveness process and its challenges. It soon became clear that the complexity of the forgiveness rules and application posed challenges for many small businesses who may not have the staff or expertise for such a complex application, especially with pandemic-induced economic challenges. We were pleased to see the SBA take steps to address this with the creation of the 3508EZ form, but challenges remained for some small businesses, including the ability to verify expenses and provide supporting documentation to ensure that they met the lender requirements.

NAFCU's member credit unions heard concerns from their small business members about the time and cost of correctly completing the forgiveness application. Many of those small businesses had to seek outside assistance to help them with the form. That is why NAFCU supported, and was pleased to see Congress enact, a simplified forgiveness process for loans of $150,000 or lower, which led the SBA to issue the 3508S form.

Despite these steps to simplify the PPP forgiveness process, credit unions continued to grapple with simultaneously processing loan forgiveness applications and focusing on meeting the routine needs of their small business members. Some credit unions shifted staff to accommodate both functions, while others hired temporary staff to assist them through the remainder of the PPP program. Many credit unions have invested money to build out a solution for members to complete online applications and upload supporting documentation or have worked with a third-party vendor to streamline the overall process since borrowers had the ability to submit forgiveness applications.

At Affinity, we again contracted with nCino for a program to assist in processing forgiveness applications. We developed a process as well as reporting and documentation procedures to support modifications in the event loans were not forgiven. We updated our website to link to the forgiveness portal so our members could apply and upload supporting information directly. The lenders who handled the decision-making on the PPP loans were now also responsible for taking on the forgiveness applications as they came in.

During the forgiveness process, a primary source of frustration for credit unions has been the SBA's ongoing requests for additional documentation for loan forgiveness applications under review, regardless of loan size. Credit unions report forgiveness review requests for PPP loans as small as $1,400, and reports of review requests for loans under $10,000 are not uncommon. Additionally, credit unions report that once they upload the requested documents, the agency takes an excessive amount of time to complete its review or come back with additional questions. Moreover, the documentation requests from the SBA are often repetitive of previous requests, and the credit union has already uploaded the requested documentation, or the request is inconsistent with and unnecessary for the use of PPP funds. Credit unions are working to get supporting documentation to the agency as required by the existing guidance, but the total review time has taken several months for some loans, including small dollar loans.

At Affinity, we initially experienced a high number of review requests from the SBA, with 10 percent of our submissions being reviewed. Dealing with loans under review is highly labor intensive involving a lot of back and forth with the members to provide the supporting documentation requested by the SBA. Often for a loan under review, the SBA makes multiple requests for documentation beyond what was originally requested in the notice of loan review, and sometimes the documentation requested does not make sense for the situation. For example, we had the SBA request documentation for utility bills for borrowers who utilized PPP funds solely for payroll. As you can imagine, this process is frustrating for us as the lender and for our members, who are already under enormous stress running their businesses during these uncertain times.

With the forgiveness process taking considerably longer and entailing more work than anticipated, we brought in temporary employees to assist at Affinity. The temporary employees worked solely on forgiveness so that the lending team could focus on the second round of PPP. Our first temporary employee came on in late January, and two more team members were added several months later. These individuals all had to be trained on our systems and educated on the PPP program, including the nuances of each round.

As of August 24, almost 80 percent of our PPP loans have been forgiven, with approximately 6 percent under review. For Affinity's forgiveness applications overall, it has taken an average of 9 days from application submission to SBA approval. For forgiveness applications that have been placed under review, it has taken an average of approximately 47 days. We have less than 20 loans from the first round and less than 350 loans from the second round that still need to be submitted for forgiveness.

Recent Changes to the PPP Forgiveness Process

The SBA issued an interim final rule (IFR), that became effective July 28, making several changes to the PPP forgiveness process, including allowing lenders to use a COVID Revenue Reduction Score at the time of forgiveness to document the revenue reduction of a second draw PPP loan and establishing a PPP Direct Borrower Forgiveness Portal. Generally, credit unions viewed the Revenue Reduction Score as a welcome change that will help expedite the forgiveness process.

On August 4, the SBA launched the PPP Direct Borrower Forgiveness Portal, providing a streamlined and enhanced PPP forgiveness process for loans under $150,000. Despite the time and money invested in implementing solutions to process forgiveness applications in-house and the additional manual tracking component added, a number of credit unions are opting-in to the Direct Borrower Forgiveness Process to alleviate strains on human capital and streamline the guarantee purchase process. Although the process streamlines the borrower's experience, it does not necessarily streamline the process for all lenders as many will have to monitor the SBA's system and update their commercial lending platforms accordingly. However, the Direct Borrower Forgiveness Process offers smaller credit unions that have not had the ability to leverage a third-party vendor or lack the means to develop a streamlined process in-house a simple solution to process forgiveness applications, especially given that an overwhelming majority of credit union PPP loans were under $150,000.

Additional changes to the forgiveness process at this time could create some confusion. Borrowers have come to rely on their credit unions to assist them through every phase of the PPP process, including forgiveness. Even though a number have opted-in to the portal, credit unions generally feel the new option would have been more beneficial at the outset of the forgiveness process. Moreover, the forgiveness process differs from the process of obtaining a PPP loan where the borrower solely dealt with their credit union and the SBA previously directed borrowers to engage with their lenders. However, we appreciate that the SBA is directing borrowers to contact the agency with any questions related to the Direct Borrower Forgiveness Process.

Some credit unions are choosing to not opt-in to the program because they feel the systems they have built out are more consumer-friendly – for example, they automatically populate all the borrower's loan information. Moreover, integrating the new Direct process is operationally burdensome. There are also concerns that the SBA will not answer borrower questions in a timely or complete fashion given the staffing constraints the agency has experienced. It was very difficult to get answers in a timely manner last year, and some credit unions fear that borrowers will use the Direct process and then come back to their lender with questions, but the lender has no control over the system and will not be able to assist the borrower, frustrating the process and harming the credit union's reputation.

At Affinity, we have chosen to opt-in to the Direct Borrower Forgiveness Process, despite the time and resources we spent to develop our own forgiveness process, because we want our members to have every option available to them to get forgiveness. We updated our website to link directly to the SBA's PPP Direct Borrower Forgiveness Portal and have included other helpful links. We also notified our PPP borrowers about this new option through a blast email. We are committed to handling calls from members looking for help and status updates after using the Direct process, even though we have limited control over the process.

We view this as a service to our members and are committed to helping them through it; however, we have some frustrations with the process thus far. First, the SBA has been communicating directly with the borrowers about the Direct Borrower Forgiveness Process, which has caused some confusion. If we knew when the SBA was going to send direct communications to borrowers, we could have timed our communications so that our borrowers understood they could still submit their loan forgiveness application directly through us or through the Portal. Second, the SBA has not adjusted their system to send information through the API that we utilize. Instead, we need to manually monitor the SBA's site to know when a member has applied directly to the SBA. In order to track this in our system for reporting, we manually update our forgiveness software program (nCino) with data from the member's direct submission application. Because we already have a process in place with nCino as far as payments are concerned, we do get updates on the forgiveness status once the payment is processed from the SBA.

How to Improve the PPP Forgiveness Process

As the Committee looks for ways to improve and streamline the PPP forgiveness process, we have a couple of recommendations.

First, we would support legislation that would allow for the PPP Direct Borrower Forgiveness Portal and COVID Revenue Reduction Score to be used for PPP loans up to a higher amount than the current upper limit of $150,000, such as $350,000. As stated above, the Direct process is especially helpful for small lenders that have not been able to leverage a third-party vendor or lack the means to develop a streamlined process in-house. Allowing more loans to be processed through the Portal will expedite forgiveness of more loans that are still relatively small. Similarly, raising the loan limit to $350,000 for the COVID Revenue Reduction Score will further help expedite the forgiveness process.

Second, the SBA continues to place a substantial number of loan forgiveness applications under review, resulting in processing backlogs of loan forgiveness applications. While the SBA stated they were revamping their process to focus on larger and higher risk loans, credit unions have not seen a meaningful reduction in the volume of loan forgiveness applications placed under review. We ask the Committee to urge the SBA to follow through on its commitment to focus its reviews on larger and higher risk loans. A focus on larger loans is consistent with the SBA's approach to other aspects of the PPP, including the exemption from loan reductions for loans under $50,000 and the simplified forgiveness process for loans under $150,000. Moreover, the SBA has previously stated that the agency's approach to reviewing the necessity of loan requests is based on larger loans as it is more cost-effective.[3] Adopting this approach to forgiveness reviews will conserve the SBA's resources and allow the agency to more efficiently allocate their finite resources to those PPP loans that warrant additional review.

Next Steps to Help Credit Unions Help Small Businesses

The economic impact of COVID-19 and the credit needs of small businesses will be with us beyond the short-term bridge provided by the PPP. While increasing the scope of other SBA programs will help with the recovery, we need to ensure that small businesses have access to as many potential sources of capital as possible. With that in mind, we believe that Congress should consider legislation to exclude credit union member business loans made in response to COVID-19 relief from the credit union member business lending (MBL) cap, such as H.R. 1471, the *Access*

[3] Small Business Administration, Paycheck Protection Program Loans Frequently Asked Questions (FAQs), Question 46 published May 13, 2020, available at https://home.treasury.gov/system/files/136/Paycheck-Protection-Program-Frequently-Asked-Questions.pdf.

to Credit for Small Businesses Impacted by the COVID–19 Crisis Act of 2021, introduced earlier this year in the House by Representatives Brad Sherman (D-CA) and Brian Fitzpatrick (R-PA).

When Congress passed the *Credit Union Membership Access Act* (CUMAA) (P.L.105-219) in 1998, it put in place restrictions on the ability of credit unions to offer member business loans. Credit unions had existed for nearly 90 years without these restrictions. Congress codified the definition of a member business loan and limited each credit union's member business lending to the lesser of either 1.75 times the actual net worth or 1.75 times the minimum net worth of a well-capitalized credit union (12.25 percent). CUMAA also established, by definition, that business loans above $50,000 count toward the cap. This number was not indexed and has not been adjusted for inflation in the more than 20 years since enactment, eroding the de minimis level. Where many vehicle loans or small lines of credit may have been initially exempt from the cap in 1998, many of those that meet the needs of small business today are now included in the cap due to this erosion. To put this in perspective relative to inflation, what cost $50,000 in 1998 costs $84,000 today, an inflation change that is completely ignored by current law and greatly hamstrings a credit union's ability to meet its members' needs.

It should be noted that the government guaranteed portions of SBA loans do not count toward the member business lending cap, but the non-guaranteed portions do. This could ultimately lead to a situation where a credit union may be an excellent, or even preferred, SBA lender but have to scale back participation in SBA programs as they approach the arbitrary MBL cap. This would likely hit SBA Express loans first, as those have lower guarantees and thus may have a bigger impact on money available below the cap. So many credit unions were able to help with the PPP partially because of the complete SBA guarantee. Another way to provide credit unions with relief from the arbitrary cap would be to provide a full guarantee on other SBA lending programs for a period of time post-pandemic. We would urge Congress to support legislation to provide relief from the arbitrary cap on credit union member business lending, so that credit unions can continue to help small businesses recover from the pandemic.

Congress can also help ensure that credit unions have the necessary tools to help small businesses in the wake of the pandemic by providing relief from the outdated 15-year general maturity limit in the FCU Act for most credit union loans. This cap prevents credit unions from extending safe and sound loan products that their members want and need. For example, credit unions frequently hear from small businesses that a 20-year loan would be preferable in terms of a lower monthly payment, but because of the 15-year maturity limit, small businesses often turn to banks in order to get those loans. However, with credit likely to be constrained for the foreseeable future, these loans will be harder to get. We ask that you give credit unions this flexibility so they can work with their members and provide them with the funds they need as we face the recovery ahead.

Conclusion

In conclusion, we are proud of how we have been able to help our small business members stay afloat and retain employees through the PPP. At Affinity, like at all credit unions, our priority is our members. Our team has been committed to guiding our members through this experience successfully. We have helped our members with applications, technology, and other obstacles all while lending an empathetic ear as our members dealt with illness, fear, and desperation. We understood the need to help in any way we could because our business members needed to spend their time trying to keep their businesses afloat through the pandemic. While the PPP has not been without its challenges, we would do it all again if it means helping our members through these uncertain times.

I thank you for the opportunity to appear before you today, and I welcome any questions that you may have.