

August 31, 2020

The Honorable Mike Crapo
Chairman
Committee on Banking, Housing,
and Urban Affairs
Washington, D.C. 20510

The Honorable Sherrod Brown
Ranking Member
Committee on Banking, Housing,
and Urban Affairs
Washington, D.C. 20510

RE: EXCLUSION OF PPP LOANS FROM THE CALCULATION OF BANK ASSETS

Dear Chairman Crapo and Ranking Member Brown:

On behalf of community banks across the country, with more than 52,000 locations, **I write today to urge you to pass legislation to direct the federal banking regulators to exclude Paycheck Protection Program (PPP) loans from bank and bank holding company asset threshold calculations.** Absent such legislation to net PPP assets, many community banks will incur costly and burdensome new regulatory requirements as an unintended consequence of their PPP lending. Many banks will effectively be punished for providing a lifeline to the small businesses, churches, and non-profit organizations that sustain their communities and local jobs. Bank regulation must be flexible enough to account for these exceptional circumstances. Without this flexibility, banks may be reluctant to participate in any future pandemic response lending program.

Community banks have embraced the PPP as the best means to provide emergency liquidity to local employers in desperate need. According to SBA statistics, lenders with less than \$10 billion in assets made \$231 billion in PPP loans, saving the jobs of over 24 million American workers.¹ Despite the rapid rollout and complexity of the program, community banks made over 2.8 million PPP loans – 57.5% of all loans originated under that program. Moreover, community banks originated 72.6% of PPP loans made to minority small business owners and 71.5% of PPP loans made to women small business owners.²

The surge of PPP loans has swelled the balance sheets of community banks, in some cases by 25% or more. As a result, some banks are concerned that their unexpected asset size growth will inadvertently push them over regulatory thresholds and subject them to additional supervision, regulations and costs at a time when they need to dedicate their resources to coping with a historic economic downturn. This would be a punishing and surely unintended consequence. As you know, PPP loans are by their nature temporary and Congress intended these loans to be converted into grants. If proceeds are used for covered expenses, the loans will be forgiven up to 100 percent. Community banks originated PPP loans with the expectation that they would be off

¹ U.S. Small Business Administration, “Paycheck Protection Program (PPP) Report: Approvals through 6/30/2020,” available at: <https://www.sba.gov/sites/default/files/2020-07/PPP%20Results%20-%20Sunday%20FINAL.pdf>.

² See Noah Yosif, “When the Going Gets Tough, the Tough Get Lending,” ICBA Mainstreet Matters Blog (Jul 22, 2020), available at: <https://rb.gv/dzupu7>.

their balance sheets by the beginning of the third quarter. As a result of numerous rule changes, the loans have remained on bank balance sheets much longer than anticipated. Including these temporary, short-term loans in the calculation of bank assets is not a fair or true reflection of a bank's size or the level of supervision it requires. For these reasons, we urge you to exclude PPP loans from asset threshold calculations to prevent additional regulatory burdens and costs from taking effect.

For example, Federal Deposit Insurance Corporation Improvement Act (FDICIA) regulations impose increased accounting standards and reporting requirements for banks that reach \$500 million and \$1 billion in assets.³ At \$3 billion in assets, banks become subject to more frequent examinations.⁴ Community Reinvestment Act regulations set multiple asset thresholds that make banks subject to more intensive CRA exams.⁵ A bank that crosses the \$10 billion asset threshold loses its exemption from the costly requirements of the Volcker Rule.⁶

These are just a few examples of the impact of crossing regulatory thresholds because of PPP assets. Under normal circumstances, banks have advanced notice that they are close to crossing an asset threshold and invest in a strategic plan to comply with additional regulations. Each threshold is a significant milestone that requires diligent preparation and the potential addition of new compliance staff. A bank that crosses an asset threshold normally has no intention of dropping below it in the future. Conversely, rapid asset increases due to PPP lending have caused a temporary balance sheet inflation. This is an exceptional circumstance and bank regulation must be flexible enough to account for it rationally and ensure that PPP lenders are not punished with regulatory costs simply for their participation in an emergency program.

Thank you for your attention to this pressing concern. Providing regulatory relief in this exceptional circumstance will ensure that community banks can continue to play a critical role in our nation's economic response to this unprecedented pandemic.

Sincerely,

/s/

Rebeca Romero Rainey
President and CEO

CC: Members of the Senate Committee on Banking

³ 12 C.F.R. 363.1.

⁴ 12 C.F.R. 337.12.

⁵ *See, e.g.* 12 C.F.R. 25.12(u).

⁶ 12 C.F.R. 248.2(r).