

The Honorable Dean Phillips
Chairman, Subcommittee on Oversight,
Investigations, and Regulations
U.S. House Committee on Small Business
2452 Rayburn House Office Building
Washington, DC 20515

The Honorable Beth Van Duyne
Ranking Member, Subcommittee on Oversight,
Investigations, and Regulations
U.S. House Committee on Small Business
1337 Longworth House Office Building
Washington DC, 20515

cc: The Honorable Nydia Velázquez
Chairwoman
U.S. House Committee on Small Business
2302 Rayburn House Office Building
Washington, DC 20515

cc: The Honorable Blaine Luetkemeyer
Ranking Member
U.S. House Committee on Small Business
2230 Rayburn House Office Building
Washington, D.C. 20515

**U.S. House of Representatives Committee on Small Business
Subcommittee on Oversight, Investigations, and Regulations**

**Hearing: “An Empirical Review of the Paycheck Protection Program”
March 16, 2022**

**Testimony for the Record
Submitted by Sunny Glottmann, Researcher
Center for Responsible Lending**

Submitted March 21, 2022

March 21, 2022

Dear Chairman Phillips, Ranking Member Van Duyne, and members of the U.S. House of Representatives Small Business Subcommittee on Oversight, Investigations, and Regulations:

The Center for Responsible Lending (“CRL”) respectfully submits the following written testimony for the record in connection with the House Small Business Committee hearing on March 16, 2022 titled, “An Empirical Review of the Paycheck Protection Program.” CRL engages in nonpartisan research and policy to ensure a fair, inclusive financial marketplace. Our mission is to advocate for those who are marginalized and underserved by the existing financial marketplace, and to defend those consumers who are targeted with unfair and abusive financial products. These vulnerable households are often people of color, women, rural residents, and low-wealth families and communities. Our affiliate, Self-Help Federal Credit Union (“Self-Help”), a Community Development Financial Institution and SBA lender, was an active Paycheck Protection Program (“PPP”) lender throughout the entire program, with 65 percent of its PPP loans going to small businesses or nonprofits led by people of color.

We are pleased the Subcommittee is holding a hearing to evaluate the program’s effectiveness in preserving jobs and reaching underserved small businesses; however, we urge the Subcommittee and full Committee to expand its review to address the ongoing barriers underserved small businesses face in receiving full forgiveness. While access to PPP loans improved in the final rounds of the program due to changes implemented by Congress and the Small Business Administration (SBA), true access to the relief promised by PPP will remain out of reach for underserved businesses if they do not receive full forgiveness.

Notably, under the rules of the program, all 2020 PPP loans should have completed the forgiveness process prior to December of 2021.¹ Yet as of early 2022, well over 400,000 microbusinesses that received emergency PPP funding of \$25,000 or less in 2020 remain partially or fully unforgiven and must repay all or a portion of those funds.² Of all 2020 PPP loans that remain fully unforgiven, 74 percent are loans of \$25,000 or less – microbusinesses that are not receiving any of the relief they were promised.³

Denied forgiveness for all or part of their loans, these underserved businesses have been saddled with unexpected debt, exacerbating the economic hardships that persist since the onset of the COVID-19 pandemic. One such example is a mediation microbusiness in Massachusetts, which received a \$5,800 PPP loan, and is being required to repay about \$2,000 of the relief. Disabled and on a fixed income, the

¹ Under program rules, “[i]f borrowers do not apply for forgiveness within 10 months after the last day of the covered period, then PPP loan payments are no longer deferred, and borrowers will begin making loan payments to their PPP lender.” All 2020 PPP loans passed this deadline before the end of 2021. See SBA’s forgiveness guidance at [PPP loan forgiveness \(sba.gov\)](https://www.sba.gov/loans/ppp-forgiveness).

² Businesses with less than 10 employees are commonly defined as microbusinesses. Because PPP loan amounts were based on two-and-a-half month’s employee (or owner-employee) wages and were capped at just over \$20,000 per employee (or owner-employee), PPP loans of \$25,000 or less primarily went to businesses with less than 10 employees.

CRL calculations using PPP loan data downloaded from the SBA website on February 9, 2022 (last updated January 3, 2022). To determine the share of fully forgiven loans, CRL calculated the number of loans whose currently approved PPP loan amount exceeded the forgiveness amount listed in the data. Loans with actively undisbursed funds (N<1,900) were excluded from calculations because these funds had not been distributed to borrowers and therefore borrowers would not be seeking forgiveness for funding received. Loans with “Current Approval Amounts” that were equal to 0 (N<10) were also omitted from the analysis. This analysis includes all data files in the SBA data library for PPP loans. Fully Paid loans were not omitted from the dataset as per the purpose of this analysis is to determine borrowers who did not receive full forgiveness regardless of whether or not the loan has been fully paid off.

³ Yee, Amy & Andre Tartar. (February 17, 2022). Small Businesses Still Face \$28 Billion of Unforgiven PPP Loans. *Bloomberg*. <https://www.bloomberg.com/news/articles/2022-02-17/small-businesses-still-face-28-billion-of-unforgiven-ppp-loans>

owner notes that for her, repaying \$2,000 “is no small thing” and will probably result in closing her business entirely.⁴ Another, a small personal training studio in Florida, received \$5,000 in PPP funds, yet now must repay about \$4,000 of that amount. “I had done everything they’d asked me to do,” the owner noted. “I felt very abandoned ... I’ve decided I’m done with small business ownership.”⁵

Of additional concern to the ongoing forgiveness process is the SBA Inspector General’s February 28, 2022 report evaluating SBA’s loan review processes, which claims that “outstanding loan forgiveness applications are a potential indicator of fraud.”⁶ This unsupported assertion criminalizes businesses that have yet to apply for loan forgiveness for a myriad of well-documented – and nonfraudulent – reasons. Moreover, because 74 percent of 2020 PPP loans that remain fully unforgiven are loans of \$25,000 or less, this assumption disproportionately impacts small businesses of color, which are overwhelmingly microbusinesses. Over 90 percent of businesses owned by people of color have no employees other than the owner,⁷ and over 80 percent of businesses owned by people of color have fewer than ten employees.⁸

For microbusinesses, which typically lack access to accounting and legal resources, applying for loan forgiveness is an obstacle-laden and multi-step process. Confusing guidance and changes in SBA’s program rules on the loan forgiveness process have made it challenging for borrowers to complete the necessary steps for forgiveness. In fact, a Government Accountability Office survey of participating PPP lenders found that two-thirds of lenders reported that borrowers found the frequently changing loan forgiveness rules and guidance challenging and difficult to navigate as they sought forgiveness.⁹

In addition, some microbusinesses have refused to submit their forgiveness application because they disagree with their lender’s calculation, and the process requires borrowers to submit a forgiveness application for less than the amount they believe they are eligible to receive.¹⁰ An Illinois dance and fitness studio received a PPP loan for \$16,933 in 2020, but its PPP lender has determined it is only eligible for \$6,900 in forgiveness. “If I hit [submit], then that makes me accountable for the rest of the money,” the owner noted, despite her belief that, having applied and used the funds in good faith, the full amount should be forgiven.¹¹ Unfortunately, under the rules of the program, if the business owner does not hit submit, she will be accountable for repaying the entire loan amount, plus interest, leaving the business in a worse financial position than it would have been had it not received PPP relief at all.

Further, for many immigrant-owned businesses, loan documentation, forgiveness forms, and technical assistance may not be available in their primary language. In an open-ended survey question to NALCAB and National CAPACD members, a respondent shared how one of her clients, a Vietnamese business

⁴ Banks are Reversing Course on PPP Loans to Small Business Owners. (July 12, 2021). *The Intercept* (<https://theintercept.com/2021/07/12/covid-banks-sba-ppp-loans/>).

⁵ *Ibid.*

⁶ SBA Inspector General Evaluation Report No. 22-09, February 28, 2022, [SBA’s Paycheck Protection Program Loan Review Processes](#).

⁷ Employer and Nonemployer Firms: Firms and Receipts for Minority-Owned Businesses for 2018. (December 2021). *United States Census Bureau* <https://www.census.gov/library/visualizations/2021/comm/employer-and-nonemployer-firms.html>; see also Small Business Credit Survey, 2021 Report on Firms Owned by People of Color. (2021). *Federal Reserve*. [sbc-report-on-firms-owned-by-people-of-color](https://www.federalreserve.gov/sbcs-report-on-firms-owned-by-people-of-color) ([fedsmallbusiness.org](https://www.federalreserve.gov/sbcs-report-on-firms-owned-by-people-of-color)); and Survey of Business Owners. (2016). <https://www.census.gov/library/publications/2012/econ/2012-sbo.html#1/25> note: over 95% of all Black-owned businesses and over 91% of all Latino-owned businesses are non-employer firms

⁸ U.S. Census Annual Business Survey (ABS) 2018, Table AB1800CSA04

⁹ [GAO-21-577, Paycheck Protection Program: SBA Added Program Safeguards, but Additional Actions Are Needed](#), July 2021, pp. 9-10.

¹⁰ Covert, Bryce. (February 2, 2022) *Bank of America is Refusing to Fully Forgive Some PPP Loans in Full, Giving Small Businesses Little Recourse*. *The Intercept*. <https://theintercept.com/2022/02/02/bank-of-america-ppp-loans-small-businesses/>

¹¹ *Ibid.*

owner, sought assistance applying for PPP loan forgiveness.¹² This client was unsure how to find their PPP loan number, required information for a loan forgiveness application, and their lender did not offer any in-language support.

Criminalizing small businesses because of size will do little to address the fraud-related activities involved in PPP loans, yet it will place immense economic hardship on microbusinesses that still face barriers seeking PPP forgiveness. Ensuring that deserving small businesses receive the forgiveness they were promised by Congress does not compromise SBA's ongoing efforts to diligently prosecute fraud and recover funds obtained through fraudulent means. Bad actors who knowingly committed fraud to take advantage of a public health and economic emergency can and should be held accountable, and SBA has the authority to do so even after the loan has been forgiven.

The SBA Inspector General correctly notes that "SBA can review and recover funds used for unauthorized purposes at any time," including after the PPP loan has been forgiven, but argues that as a result, SBA would have "to pursue the borrower to repay funds, which could prove more challenging and result in taxpayer funds being spent on ineligible loans," resulting in a "pay and chase" environment.¹³ This flawed line of reasoning fails to recognize that, because fraud prevention measures were lacking in the approval phase of the program, all cases of PPP borrower fraud result in a "pay and chase" environment. Unlike lender fraud, in cases of borrower fraud, SBA is required to make PPP lenders whole – PPP loans are 100% guaranteed by the government.¹⁴ As a result, no savings to taxpayer funds will be achieved by delaying forgiveness for the vast majority of small businesses that applied and used PPP funds in good faith.

In closing, the attached letter signed by over 50 organizations that work with microbusinesses and businesses of color urges Congress and SBA to make necessary changes to PPP forgiveness to prevent the unconscionable denial of forgiveness to underserved businesses. Several fixes to the forgiveness portion of the program are needed so that the businesses that were denied fair access at the program's outset are not disproportionately saddled with unanticipated debt on the back end, including:

1. Eliminate "gotcha" denials of loan forgiveness due to sudden changes in rules that were imposed without advance notice by allowing a 30-day grace period for rules changes that made eligibility or loan amount calculation more restrictive, both for microbusinesses that have not yet applied for forgiveness and those that have been denied full forgiveness due to changes without advance notice.
2. Rescind and reverse SBA's January 15, 2021 rule denying forgiveness in cases of good faith errors, both for microbusinesses that have not yet applied for forgiveness and those that have been denied full forgiveness under SBA's unfair January 15, 2021 standard.

¹²NALCAB is a national non-profit membership association of mission-driven opportunity and economic development organizations that serve diverse Latino communities in 40 states, Washington D.C., and Puerto Rico. NALCAB works to strengthen the economy by advancing economic mobility in Latino communities.

National CAPACD is a coalition of nearly 100 community-based organizations spanning 21 states and the Pacific Islands. Its members work in low-income Asian American and Pacific Islander (AAPI) communities and neighborhoods to build social and economic justice for all. National CAPACD and NALCAB, in partnership with the UCLA Center for Neighborhood, distributed a survey questionnaire in November 2021 to better understand credit access among entrepreneurs of color. The survey was conducted via SurveyMonkey and was distributed to small non-profit organizations that provide services to small businesses only. The reported analysis is based on the survey responses collected with a sample size of n=43.

¹³ *SBA Inspector General Evaluation Report No. 22-09*. (February 28, 2022). Retrieved from [SBA's Paycheck Protection Program Loan Review Processes](#).

¹⁴ See SBA's forgiveness guidance at [PPP loan forgiveness \(sba.gov\)](#).

3. Alleviate unnecessary paperwork burdens by implementing automatic forgiveness for microbusinesses with loans of \$25,000 or less.

As a grant program structured as a forgivable loan, the fair execution of the forgiveness phase of PPP is as important as was fair access to the program. By eliminating “gotcha” rules and undue bureaucratic burdens, Congress and SBA can deliver on the program’s promise, ensuring that all small businesses and nonprofits – and especially microbusinesses and other underserved and economically disadvantaged business owners – emerge from the pandemic on a solid foundation with an opportunity to rebuild.

Thank you again for the opportunity to present these views, and we welcome the opportunity to continue this conversation with Congress and SBA to change the current forgiveness rules so that microbusinesses can receive forgiveness for their PPP loans.



The Honorable Janet Yellen
Secretary of the Treasury
U.S. Treasury Department
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

The Honorable Ben Cardin Chairman
U.S. Senate Committee on Small Business &
Entrepreneurship
428A Russell Senate Office Building
Washington, DC 20510

The Honorable Nydia Velázquez Chairwoman
U.S. House Committee on Small Business
2361 Rayburn House Office Building
Washington, DC 20515

The Honorable Isabel Guzman
Administrator
U.S. Small Business Administration
409 3rd St., SW
Washington, DC 20416

The Honorable Rand Paul
Ranking Member
U.S. Senate Committee on Small Business &
Entrepreneurship
428A Russell Senate Office Building
Washington DC, 20510

The Honorable Blaine Luetkemeyer
Ranking Member
U.S. House Committee on Small Business
2361 Rayburn House Office Building
Washington, D.C. 20515

February 17, 2022

Dear Secretary Yellen, Chairman Cardin, Ranking Member Paul, Chairwoman Velázquez, Ranking Member Luetkemeyer, & Administrator Guzman,

Small businesses provide almost half of all jobs in the U.S. and create nearly two-thirds of all new jobs.¹ Prior to the pandemic, however, almost half of all small businesses in the U.S. reported two weeks or less of cash liquidity – leaving them without reserves to maintain payroll and operations through the prolonged and widespread shutdowns implemented in the wake of the COVID-19 public health emergency.² Recognizing this unprecedented economic crisis, Congress came together to create the Paycheck Protection Program (“PPP”), delivering urgently needed funds to small businesses to limit closures and mass unemployment. Designed as a forgivable loan, Congress explicitly promised that PPP funds spent properly would not have to be repaid, and America’s small businesses relied on that promise to keep their doors open and their employees paid. Unfortunately, for too many of America’s most economically vulnerable small businesses – underserved microbusinesses and businesses owned by people of color – Congress’s promise is not being kept.

We, the undersigned organizations supporting microbusinesses and businesses owned by people of color, respectfully urge you to refrain from unfairly denying small business owners the relief they were promised by implementing the following three changes:

1. **Eliminate “gotcha” denials of loan forgiveness due to sudden changes in rules that were imposed without advance notice, both for loans that have not yet applied for forgiveness and loans that have been denied full forgiveness due to changes without advance notice.**

- 2. Rescind and reverse SBA's January 15, 2021 rule denying forgiveness to microbusinesses that made good faith errors, provided funds were used for eligible purposes, both for loans that have not yet applied for forgiveness and loans that have been denied full forgiveness under SBA's unfair January 15, 2021 standard.**
- 3. Alleviate unnecessary paperwork burdens for microbusinesses by implementing automatic forgiveness for loans of \$25,000 or less that have not yet applied for forgiveness.**

Although Congress and SBA acted quickly to create and implement PPP, the roll-out of the program was chaotic. Initial funding was limited and quickly depleted by the overwhelming need, resulting in repeated starts and stops for the program. General program rules and forms were issued mere hours before the program opened to small businesses, and over the following weeks and months, SBA issued hundreds of pages of additional rules and updates. In April of 2020 alone, SBA and Treasury issued over twenty separate PPP rules documents and guidance updates.³

Caught up in this maelstrom were America's smallest businesses. Unlike all other SBA loan programs, under PPP, applicants were responsible for determining their own eligibility under the complex program rules.⁴ While eligibility for SBA loan programs is typically determined by the lender and SBA, for PPP this burden was shifted to the small business borrower. Despite this change, each new PPP rule issued was immediately effective, with no grace period to allow small businesses to review and understand changes to eligibility or program requirements.⁵ Further, because PPP was enacted under the umbrella of the SBA §7(a) program, §7(a) general eligibility rules also applied. Not all of these separate rules, however, were clearly referenced by SBA in its PPP application, nor were they published with other PPP rules documents.

Navigating complex and ever-changing eligibility rules was challenging for all small businesses, but for microbusinesses, which are unlikely to have accountants or attorneys on staff and often lack the resources to access these professionals, it was overwhelming. For "non-employer firms" (self-employed individuals, independent contractors, and sole proprietors with no employees other than the business owner), it was practically impossible. As a result, despite applying in good faith under the rules as they understood them, being approved by SBA-approved lenders and by the SBA, and using the funds as Congress intended, many of these microbusinesses are being denied full forgiveness.⁶ A review of SBA's forgiveness data for 2020 PPP loans underscores the enormity of this issue: loans of \$25,000 or less make up 60% of all unforgiven or partially forgiven loans.⁷ Over 400,000 microbusinesses that received emergency funding of \$25,000 or less in 2020 have been denied full forgiveness and must repay all or a portion of their PPP loans.⁸ For too many of America's smallest, most vulnerable businesses, Congress's promised PPP lifeline has left them sinking under the weight of unexpected debt.

These statistics are especially troubling in light of the fact that more than 90% of all businesses owned by people of color are non-employer firms.⁹ Despite Congress's explicit requirement to prioritize small businesses in underserved and rural markets, including businesses owned by socially and economically disadvantaged individuals,¹⁰ barriers to access PPP for microbusinesses and businesses owned by people of color have been well-documented.¹¹ In large part due to the challenges in accessing PPP relief, the number of Black-owned businesses declined at nearly three times the rate of other demographic groups during the first few months of the pandemic.¹² Despite significant changes made to improve PPP access for microbusinesses and businesses owned by people of color in the final weeks of the program, the chaotic roll-out of PPP, combined with current forgiveness rules, penalizes microbusinesses and businesses owned by people of color by unfairly withholding the full forgiveness promised by Congress.

We, the undersigned organizations supporting microbusinesses and businesses owned by people of color, respectfully urge you to adjust the forgiveness requirements and refrain from unfairly denying small business owners the relief they were promised. Without changes, the forgiveness stage of PPP will exacerbate pre-existing inequities, inadvertently causing further harm to those who are least able to sustain it. Failure to act will turn Congress's PPP promise into a bait and switch.

- 1. Eliminate “gotcha” denials of loan forgiveness due to sudden changes in rules that were imposed without advance notice.** Recognizing the urgency of implementation, SBA made each set of PPP rules immediately effective upon issuance, rather than following standard 30- to 60-day review periods.¹³ Given that small business applicants were responsible for determining their own eligibility and loan amount, however, immediate effectiveness had the unintended consequence of causing significant harm by denying small businesses a reasonable period of time to review and understand program clarifications and changes. SBA should allow a 30-day grace period for changes that made eligibility or loan amount calculation more restrictive, both for business owners that have not yet applied for forgiveness and those who have been denied full forgiveness due to changes without advance notice.
- 2. Rescind and reverse SBA’s January 15, 2021 rule denying forgiveness to microbusinesses that made good faith errors, even where the borrower spent the funds for eligible purposes in good faith reliance on promised forgiveness.** Given that the complexities and ambiguities of the program rules and the chaotic roll-out made mistakes inevitable, good faith errors should be decided in favor of the small businesses PPP was designed to help. This approach should be applied both for business owners who have not yet applied for forgiveness and those who have been denied full forgiveness under SBA’s unfair January 15, 2021 standard.
- 3. Alleviate unnecessary paperwork burdens for microbusinesses by implementing automatic forgiveness for loans of \$25,000 or less that have not yet applied for forgiveness.** For microbusinesses, the administrative burden of applying for forgiveness is daunting. Whether working with their lender directly or through the SBA Direct Forgiveness Portal, there are several steps to figure out and multiple rules to parse in order to apply for forgiveness – all while continuing to keep their business operating so they can avoid unemployment for their employees and themselves. Especially in the case of non-employer firms – self-employed individuals, independent contractors, and sole proprietors with no employees other than the business owner – the forgiveness application is a mere formality. Under SBA rules, because the loan amount for non-employee firms was based on documented owner income and included a strict maximum cap, and because they were permitted to use their entire PPP loan to replace their lost income, no additional supporting documentation is necessary at forgiveness. Yet if these microbusiness owners fail to navigate what continues to be a multi-step process to complete their forgiveness application, their promised PPP lifeline will leave them sinking under the weight of unexpected debt. Automatic forgiveness of loans of \$25,000 or less would ensure that these smallest businesses are not unfairly penalized – and further harmed – by an unnecessary administrative burden.

In requesting these three changes to the forgiveness process, we recognize and strongly support SBA’s diligence in rooting out fraud. None of these requested changes would impede SBA’s ability to continue ensuring that cases of fraud are prosecuted, and misused funds are repaid. SBA may review a PPP loan at any time, either before, during or after forgiveness, and PPP borrowers are required to maintain their

records for three to six years following the date forgiveness is granted.¹⁴ Ensuring that deserving small businesses receive the forgiveness they were promised by Congress does not compromise SBA's ongoing efforts to diligently prosecute fraud and recover funds obtained through fraudulent means. Bad actors who knowingly committed fraud to take advantage of a public health and economic emergency can and should be held accountable, and SBA has the authority to do so even after the loan has been forgiven.

We appreciate your immediate attention to this request and thank you for your continued work to mitigate the impact of this public health crisis on small businesses, and to ensure fairness for underserved microbusinesses and businesses owned by people of color.

Sincerely,

American Business Immigration Coalition
American Latino Veterans Association (ALVA)
Arcata Economic Development Corporation
Appleseed Network
Business Expansion Funding Corp.
CAMEO - California Association for Micro Enterprise Opportunity
California Capital Finance Development Corporation
California Hispanic Chambers of Commerce
California Reinvestment Coalition
CDC Small Business Finance
CDFI Coalition
Center for Responsible Lending
Community Reinvestment Fund, USA
Consumer Action
Crowdfund Better
Economic Policy Institute
Fresno Metro Black Chamber of Commerce
Illinois Business Immigration Coalition
Illinois Hispanic Chamber of Commerce
Hope Policy Institute
Jefferson Economic Development Institute
Latino Coalition
League of United Latin American Citizens (LULAC)
Local First Arizona
Local Initiatives Support Coalition (LISC)
M&F Bank
Main Street Launch
Main Street Alliance
Microenterprise Collaborative of Inland Southern California
Mission Economic Development Agency
Mountain BizWorks
Nogales-Santa Cruz County Chamber of Commerce
National Association for Latino Community Asset Builders
National CAPACD - National Coalition for Asian Pacific American Community Development

National Cooperative Bank
National Urban League
NCRC Community Development Fund
North Virginia Hispanic Chamber of Commerce
Opportunity Finance Network
Pacific Community Ventures
Partner Community Capital
Prosperity Now
Rochdale Capital
Self-Help Federal Credit Union
Small Business & Entrepreneurship Council
Small Business for America's Future
Small Business Majority
TELACU
The Leadership Conference on Civil Rights
The Resurrection Project
UnidosUS
United States Hispanic Chamber of Commerce

Exhibit A
Microbusinesses Unfairly Harmed by Current Forgiveness Rules

- A product design microbusiness in Illinois was approved by his lender and SBA for a PPP loan of just under \$20,000. Just days before his application was submitted, SBA issued a new rule, effective immediately, that limited the types of documentation self-employed individuals could use to apply. Despite completing his application in good faith, providing documentation to support his request, and spending the funds appropriately, his loan will not be forgiven. Instead of receiving the forgiveness promised by Congress, this microbusiness is being held back by an unexpected \$20,000 debt trap.¹⁵
- A recording studio microbusiness in New Jersey was approved by her lender and SBA for a PPP loan of approximately \$14,000 to cover the lost income of her only staff – the owner and her husband. Receiving PPP funds allowed them to avoid drawing the unemployment for which they were eligible and saved them from shutting down the business altogether. The owner applied in good faith under the rules as she understood them, was approved by her lender and SBA, and used the funds as intended – to replace her and her husband’s lost income. Because rules for how a microbusiness may document owner income were confusing, with piecemeal changes and clarifications rolled out by SBA over time, she was unaware that their documented lost income did not provide a sufficient basis for obtaining a PPP loan.¹⁶
- A small family-owned microbrewery in California made a good-faith error in calculating its loan amount due to confusion concerning NAICS code requirements for restaurants and was approved for approximately \$13,000 in PPP funding. Despite spending the funds properly on employee payroll and eligible uses, this microbusiness must now repay a portion of its loan, even though it is still struggling due to the impact of the pandemic.¹⁷
- A mediation and arbitration microbusiness in Massachusetts was approved by her lender and SBA for a \$5,800 PPP loan. When she applied for forgiveness, her lender informed her she was not eligible for her loan amount, and therefore would be required to repay a portion of her loan. Disabled and on a fixed income, she believes this will result in permanent closure of her business.¹⁸
- An events microbusiness in Florida was approved by his lender and SBA for a PPP loan of \$5,494, and meticulously documented his proper use of funds to ensure his PPP loan would be forgiven. But at forgiveness, his lender told him that because his income is seasonal, he is not eligible for full forgiveness. A portion of his PPP loan will become unexpected debt, which he notes will prevent him from investing in new equipment and staff.¹⁹
- A massage therapy microbusiness in New York was approved by her lender and SBA for a \$10,000 PPP loan but has been denied forgiveness and will have to repay the full amount. She was told by her lender that she wasn’t eligible for any PPP funds because her Schedule C showed negative net income – despite the fact that her negative net income was the result of investing her net profits back into her business. Because of the continuing impact of COVID-19 on her business, her business may not be able survive this additional blow.²⁰
- A personal training microbusiness in Florida was approved by his lender and SBA for a \$5,000 PPP loan. At forgiveness, his lender told him he was not eligible for a loan that size. Faced with the continuing impact of COVID-19 on his business and unexpected debt of approximately \$4,000, he has decided to close his business permanently.²¹
- A Black sole proprietor was approved by his lender and SBA for a \$1,200 PPP loan in May 2020.

At forgiveness, his lender notified him that he was only eligible for a loan of \$600, saddling him with \$600 of unexpected debt. When he contacted his lender to seek clarification on why he had not received full forgiveness for his loan, he was told that he could appeal with SBA through SBA's Capital Access Financial System borrower help desk, which he did; however, he reported that SBA referred him back to his lender. This microbusiness noted that the \$600 he is expected to repay is the difference between making one month's rent or not.²²

Endnotes

¹ Dilger, R. J. (2021). *Small Business Administration and Job Creation* (No. R41523). Congressional Research Service. <https://sgp.fas.org/crs/misc/R41523.pdf>.

² Farrell, Diana, Christopher Wheat, and Carlos Grandet (2019) *Place Matters: Small Business Financial Health in Urban Communities* JPMorgan Chase Institute. <https://www.jpmorganchase.com/corporate/institute/report-place-matters.htm>.

³ *Paycheck protection program*. (n.d.). U.S. Department of the Treasury. Retrieved November 23, 2021, from <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-small-businesses/paycheck-protection-program>

PPP lender information. (n.d.). PPP Lender Information. Retrieved November 23, 2021, from <https://www.sba.gov/funding-programs/loans/covid-19-relief-options/paycheck-protection-program/ppp-lender-information#section-header-4>

⁴*Paycheck protection program*. (n.d.). Paycheck Protection Program. Retrieved November 23, 2021, from <https://www.sba.gov/funding-programs/loans/covid-19-relief-options/paycheck-protection-program>

⁵ *Business Loan Program Temporary Changes; Paycheck Protection Program*. (April 15,2020). U.S. Small Business Administration Federal Register Vol. 85, No. 73, Section II, April 15, 2020 PPP PPP--IFRN FINAL.pdf (treasury.gov)

⁶ See Exhibit A attached hereto.

⁷ CRL calculations using PPP loan data downloaded from the SBA website on February 9, 2022. To determine the share of fully forgiven loans, CRL calculated the number of loans whose currently approved PPP loan amount exceeded the forgiveness amount listed in the data. Loans with actively undisbursed funds (N<1,900) were excluded from calculations because these funds had not been distributed to borrowers and therefore borrowers would not be seeking forgiveness for funding received. Loans with “Current Approval Amounts” that were equal to 0 (N<10) were also omitted from the analysis. This analysis includes all data files in the SBA data library for PPP loans. Fully Paid loans were not omitted from the dataset as per the purpose of this analysis is to determine borrowers who did not receive full forgiveness regardless of whether or not the loan has been fully paid off.

⁸ *Ibid*.

⁹ *Employer and Nonemployer Firms: Firms and Receipts for Minority-Owned Businesses for 2018*. (December 2021). United States Census Bureau <https://www.census.gov/library/visualizations/2021/comm/employer-and-nonemployer-firms.html>; see also *Small Business Credit Survey, 2021 Report on Firms Owned by People of Color*. (2021). Federal Reserve. [sbc-report-on-firms-owned-by-people-of-color](https://www.federalreserve.gov/sbc/sbcs-report-on-firms-owned-by-people-of-color) (fedsmallbusiness.org) ; and *Survey of Business Owners*. (2016). <https://www.census.gov/library/publications/2012/econ/2012-sbo.html#1/25> note: over 95% of all Black-owned businesses and over 91% of all Latino-owned businesses are non-employer firms.

¹⁰ CARES Act, Pub. L. No. 116-36. Section 1102(a)(2)(36)(P)(iv)(2020).

<https://www.congress.gov/116/plaws/publ136/PLAW-116publ136.pdf>

¹¹ Parilla, S. L. and J. (September 17, 2020). *New data shows small businesses in communities of color had unequal access to federal COVID-19 relief*. Brookings.

<https://www.brookings.edu/research/new-data-shows-small-businesses-in-communities-of-color-had-unequal-access-to-federal-covid-19-relief/>

Paycheck Protection Program: Loan Forgiveness and Other Challenges, 116th Cong. House Small Business Committee. (June 17,2020).

<https://smallbusiness.house.gov/calendar/eventsingle.aspx?EventID=3296>

¹² Wilmoth, D. (2020, August). *Black Business Owners Hit Hard by Pandemic*. U.S. Small Business Administration Office of Advocacy.

<https://cdn.advocacy.sba.gov/wp-content/uploads/2020/08/31083212/Black-Business-Owners-Hit-Hard-By-Pandemic.pdf> 20.

¹³ See Administrative Procedure Act at 5 U.S.C. 553(d)(3); see also Congressional Review Act at 5 U.S.C. 808(2).

¹⁴ *Business Loan Program Temporary Changes; Paycheck Protection Program-Loan Forgiveness Requirements and Loan Review Procedures as Amended by Economic Aid Act*. (February 5, 2021). 86 Fed. Reg. 8294 (13 C.F.R. pt. 120)

¹⁵ Borrower profiles were collected through 2021 by staff of CRL and its affiliates. Profiled individuals shared their stories with the condition that their identities would remain anonymous. The purpose of collecting anecdotal evidence was to demonstrate the myriad of reasons for which microbusinesses were unfairly penalized and denied full forgiveness for their PPP loan.

¹⁶ *Ibid.*

¹⁷ *Ibid.*

¹⁸ *Banks are Reversing Course on PPP Loans to Small Business Owners.* (July 12, 2021). *The Intercept* (<https://theintercept.com/2021/07/12/covid-banks-sba-ppp-loans/>).

¹⁹ *Ibid.*

²⁰ *Ibid.*

²¹ *Ibid.*

²² Burt, Kiyadh (2021). *Problems Remain for Minority Businesses after PPP Ends.* Hope Policy Institute <http://hopepolicy.org/blog/problems-remain-for-minority-businesses-after-ppp-ends/>.