

April 8, 2020

The Honorable Jovita Carranza
SBA Administrator
U.S. Small Business Administration
409 3rd St, SW
Washington DC 20416

**Re: *Business Loan Program Temporary Changes; Paycheck Protection Program
Docket No. SBA-2020-0015***

Dear Administrator Carranza,

The American Financial Services Association (AFSA)¹ represents small, community-based traditional installment lenders, as well as large, multi-state vehicle finance companies. The former need Paycheck Protection Program (PPP) loans and the latter are eager to make PPP loans. We urge the Small Business Administration (SBA) to amend the interim final rule (Rule) that implements sections 1102 and 1106 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) to allow installment lenders to apply for PPP loans and vehicle finance companies to make them.

I. PPP Loans for Installment Lenders

Traditional installment lenders are community-based lenders in cities and towns nationwide. Many are family-owned businesses. As recognized by so many and for so long, installment lending has proven to be an affordable and responsible form of consumer credit for working Americans. “Personal installment loans are often a critical lifeline for borrowers with limited credit options, allowing them to pay for unexpected expenses or to consolidate debts,” said Assistant Attorney General Bill Baer, Justice Department Antitrust Division (2015).

Traditional installment lenders provide loans to individuals and families. Their customers are medical technicians, teachers, lawn-service employees, lawyers, stay-at-home parents, childcare workers, and farmers. In short, they are Americans of almost all walks of life and socioeconomic classes. Sometimes, these customers are “unbanked” or “under-banked.” They may be “credit invisible” or have credit histories containing insufficient or stale information. Customers often have impaired credit histories, so they may not be served by banks or credit unions. Some of these customers have prime credit scores and regular banking relationships. They may use installment loans because they like the product and the personal touch of the branch-based nature of finance companies. Or they may use installment loans because they have very little or no savings. Or they simply need quick access to smaller amounts of credit than banks will offer.

At times of economic turmoil, access to financial services, particularly for the most vulnerable who do not have banking relationships, is essential to minimizing hardship and setting the stage for eventual recovery. Recognizing this, the federal Department of Homeland Security’s Cybersecurity & Infrastructure Security Agency (CISA)

¹ Founded in 1916, AFSA is the national trade association for the consumer credit industry, protecting access to credit and consumer choice. AFSA members provide consumers with many kinds of credit, including traditional installment loans, mortgages, direct and indirect vehicle financing, payment cards, and retail sales finance.

considers the financial services sector to be one of sixteen vital components of the nation's critical infrastructure. This sector includes non-depository "credit and financing organizations," such as traditional installment lenders.

Traditional installment lenders are mobilizing to ensure they are part of the solution to the crisis *and* the recovery, providing emergency credit to meet critical short-term needs and working with borrowers to minimize future economic consequences. This is what installment lenders have done for more than a century through wars, natural disasters, depression, recession, and uncertainties of all kinds. From their offices in their customers' communities, they are continuing to serve those who need them.

To continue to do so, however, installment lenders need help. Like other small businesses, they need money to keep the lights on and pay their employees. They need to be eligible for PPP loans as the CARES Act intended.

The CARES Act states that any business with under 500 employees is eligible for loans made under the program: "SEC. 1102. 7(a) LOAN PROGRAM. ... (b) Increased Eligibility For Certain Small Businesses And Organizations.— (1) IN GENERAL.— During the covered period, *any business concern*, private nonprofit organization, or public nonprofit organization *which employs not more than 500 employees shall be eligible* to receive a loan made under section 7(a) of the Small Business Act (15 U.S.C. 636(a)), in addition to small business concerns" [emphasis added].

Despite Congress' clear intent, the Section 2(a)(i)(A) of the Rule states that only businesses as defined in section 3 of the Small Business Act (15 USC 632), and subject to the SBA's affiliation rule under 13 CFR 121.301(f), are eligible for PPP loans. The PPP FAQs seem to have a different interpretation. As of April 8, the Q & A #3 of the PPP FAQs states, "Does my business have to qualify as a small business concern (as defined in section 3 of the Small Business Act, 15 U.S.C. 632) in order to participate in the PPP? Answer: No." Despite this clarification, many traditional installment lenders have been told by banks that they are ineligible for PPP loans.

To meet the letter and the spirit of the CARES Act, the SBA should amend the Rule to make all legal businesses with 500 or fewer employs eligible for PPP loans by doing the following:

- (1) Issuing an emergency rulemaking to suspend 13 CFR § 120.110 (b) until December 31, 2020 and, in the event successor legislation relating to, amending, or superseding the SBA lending provisions of the CARES Act, is enacted, the date of the successor statute;
- (2) Amending the Rule and FAQs so that they state that any legal business is eligible for a PPP loan if the business has 500 or fewer employees, including businesses that are ineligible under the SBA's 7(a) loan program; and
- (3) Broadening the exceptions to the affiliation rules to include the financial services industry.

The COVID-19 pandemic has created this economic emergency, thereby providing good and immediate cause for such action.

II. PPP Lenders

AFSA respectfully requests that the SBA consider the needs of the thousands of small business auto dealers across the country. AFSA's members include vehicle finance companies that regularly lend to these dealers. The quickest way to get loans to small business dealers is through the finance companies that are already lending to them. We

encourage the SBA to ensure that vehicle finance companies can quickly qualify to become SBA lenders and participate in the PPP.

We appreciate the inclusion of non-depositories in the Rule, as non-depositories account for \$537 billion in consumer credit. However, AFSA is concerned because:

- The Rule only lays out the requirements for non-depositories to become qualified lenders, but not the actual process by which non-depositories will become qualified lenders;
- For non-depositories, it is quite risky to make a loan not knowing how or if the SBA will accept the loan, because non-depositories do not have automatic delegated authority; and
- The Rule seems to require that non-depositories have Bank Secrecy Act (BSA) compliance in place. Because vehicle and equipment finance companies do not take deposits and lend to specific entities (dealers), they do not have BSA compliance in place.

As a solution, we respectfully request that the SBA specify that vehicle and equipment finance companies that are regulated and supervised by the CFPB automatically be designated as qualified lenders. Without that correction, vehicle finance companies may not be able to lend to small business dealerships.

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Thank you so much for everything you are doing for America's small businesses. We are happy to help in any way possible. Please contact me at 202-466-8616 or bhimpler@afsamail.org with any questions.

Sincerely,



Bill Himpler
President & CEO
American Financial Services Association