

April 10, 2020

The Honorable Steven Mnuchin  
Secretary  
U.S. Department of Treasury  
1500 Pennsylvania Avenue NW  
Washington, DC 20220

The Honorable Jerome Powell  
Chairman  
Board of Governors of the Federal Reserve  
20<sup>th</sup> Street and Constitution Avenue NW  
Washington, DC 20551

The Honorable Jovita Carranza  
Administrator  
U.S. Small Business Administration  
409 3<sup>rd</sup> Street SW  
Washington, DC 20416

Dear Secretary Mnuchin, Chairman Powell, and Administrator Carranza:

The undersigned trade organizations write to you regarding implementation of the Paycheck Protection Program as well as lending facilities and programs established by the Federal Reserve and U.S. Treasury Department under the recently passed Coronavirus Aid, Relief, and Economic Security (CARES) Act.

A recent survey by the U.S. Chamber of Commerce found that almost one quarter of small businesses have reported having already temporarily shut down, and of those that haven't shut down, 40% report it is likely they will temporarily shut down in the next two weeks. The Paycheck Protection Program, established within the Small Business Administration's (SBA) currently existing 7(a) loan program, provides \$349 billion total and up to \$10 million per eligible business in critical funding for America's small businesses to support payroll during this difficult economic period from February 15, 2020 to June 30, 2020. We applaud the Administration for quickly establishing this program and note that there is significant demand for assistance from small businesses across the country, and we urge the Administration to quickly issue guidance that would expand access to financial assistance through the program for even more small businesses needing support.

The affiliation rules under existing regulations require that small businesses, in determining whether they have less than 500 employees in which to qualify for the program, must also include employees at other businesses that are part of a corporate family, affiliated complex or an investor's portfolio. Furthermore, the exceptions to the affiliation rules explicitly outlined in the CARES Act only narrowly applies to a few certain industries regarding accommodation and food services, small business franchises, or who are otherwise supported by a Small Business Investment Company (SBIC). While we believe those waivers benefit the economy, the current affiliation rules leave a large number of small businesses and startups without access to critical support funding including a host of businesses from travel, tourism, manufacturing, commercial real estate, community based financial institutions and Indian tribes, to name a few. While strict affiliation rules make sense during normal operations, the intent of the CARES Act to stabilize the overall economy would be effectuated with a broader interpretation.

Furthermore, the current interpretation of the affiliation rules harm start-up and small and middle market businesses that will be key to the economic recovery. Many of these businesses are supported through equity investors, such as angel investors, venture capital and private equity. Investment vehicles such as these are supported by public and private pension funds, insurance companies, university endowments, and charitable foundations. The success of these businesses is a key component of workers' retirement plans, policy-holder security and our educational and philanthropic systems. These businesses, because of their equity structures, are currently ineligible for loan guarantee assistance through the Paycheck Protection Program under current SBA regulations.

We strongly urge you to quickly provide additional guidance around affiliation rules under the Paycheck Protection Program to allow small businesses supported by venture capital, angel capital and private equity firm investors to access critical funding that would help retain workers and jobs during the economic fallout of this health crisis. We also encourage SBA in reviewing its affiliation rules to consider any other businesses or parts of the economy that would otherwise qualify as a small business but are currently excluded during this extraordinary time.

Additionally, as Treasury and the Federal Reserve implement other lending facilities that will increase the amount of available funding for U.S. businesses, we encourage that funding be made available to U.S. operating companies across all sectors of the economy, to the extent permitted by statute. These programs should be administered effectively and efficiently and should benefit markets and the broader economy as a whole. This includes the establishment of rules that are flexible and inclusive of businesses, despite ownership structure and whether they are financed in part by private investors. This will ensure such lending facilities reach all parts of the economy and help in promoting recovery and restoring growth.

We appreciate your attention to these issues and ensuring that intended relief is widely available to U.S. businesses that need it during these extraordinary times. We are happy to discuss further and respond to any additional questions.

Sincerely,

American Investment Council  
Advanced Medical Technology Association  
Angel Capital Association  
Associated Equipment Distributors  
Association for Corporate Growth  
Biotechnology Innovation Organization  
Certified Commercial Investment Member Institute  
Institute of Real Estate Management  
International Council of Shopping Centers  
Institutional Limited Partners Association  
Loan Syndications and Trading Association  
Managed Funds Association  
National Independent Automobile Dealers Association  
National Automatic Merchandising Association

Small Business Investor Alliance  
The Real Estate Roundtable  
U.S. Chamber of Commerce