

August 26, 2021

The Honorable Isabella Guzman
Administrator
U.S. Small Business Administration
409 3rd Street SW
Washington, D.C. 20416

Dear Administrator Guzman:

I write to request the clarification of guidance issued by the U.S. Small Business Administration (SBA) related to agent fees for Paycheck Protection Program (PPP) loans. I have heard from several Florida lenders that the existing guidance is overly ambiguous in its treatment of fees for PPP loans of less than \$50,000. This ambiguity has created confusion and costly uncertainty between lenders and loan agents, many of whom have provided vital services to sustain local communities, employers, and workers throughout the pandemic.

On December 27, 2020, President Trump signed the *Consolidated Appropriations Act, 2021*, which included the *Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act*. This legislation extended and authorized a second draw of loans from the PPP, a forgivable loan program that I authored and has provided more than 11 million emergency loans worth nearly \$800 billion to struggling small businesses and nonprofits across the country. As part of this PPP reauthorization, Congress recognized the need to prioritize the smallest businesses for relief, and accordingly, increased lenders' compensation significantly for processing PPP loans of not more than \$50,000.

Though Congress made specific changes to lender processing fees for these small-dollar loans, SBA guidance with respect to agent fees for these loans has remained the same. On January 14, 2021, the SBA and U.S. Department of Treasury issued an interim final rule providing guidelines for implementation of the newly amended PPP.¹ The rule established caps on agent fee collections from lenders, set at one percent for loans of \$350,000 or less, 0.5 percent for loans between \$350,000 and \$2 million, and 0.25 percent for loans of \$2 million or greater.

Unlike the lender fees enacted by Congress, the rule does not make any distinction for loans of not more than \$50,000. This potential ambiguity has created confusion between lenders and loan agents in my state, and should be remedied by a clarification from the SBA regarding how such loans should be treated. I ask that you provide this clarification in writing, or through new rulemaking.

¹ <https://www.govinfo.gov/content/pkg/FR-2021-01-14/pdf/2021-00451.pdf>

Thank you in advance for your prompt reply.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Rubio', with a stylized flourish at the end.

Marco Rubio
U.S. Senator