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## United States Senate

COMMITTEE ON SMALL BUSINESS & ENTREPRENEURSHIP

WASHINGTON, DC 20510-6350

TELEPHONE: (202) 224-5175 FAX: (202) 224-5619

April 22, 2020

Brian Moynihan  
Chairman of the Board and Chief Executive Officer  
Bank of America Corporation  
100 North Tryon Street  
Charlotte, North Carolina 28255

Dear Mr. Moynihan:

America's nearly 30 million small businesses face an unprecedented challenge in surviving the economic contraction caused by public health restrictions related to the novel coronavirus. Many small business owners face losing their life's work and the prospects of laying off employees they know and care for. In response to this challenge, on March 27, 2020 President Trump signed into law the *Coronavirus Aid, Relief, and Economic Security (CARES) Act* (P.L. 116-136). This law enacted the Paycheck Protection Program (PPP), a historic and bipartisan expansion of financial relief for small businesses.

In the *CARES Act*, Congress authorized and funded \$349 billion in PPP loans, which are forgivable loans made to small businesses and nonprofits to cover payroll costs and fixed debt obligations for an eight-week period. These loans, which are made through the U.S. Small Business Administration (SBA)'s flagship 7(a) Loan Guaranty Program, serve entrepreneurs and business owners ranging from the self-employed and independent contractors, to small and medium sized businesses with up to 500 employees. They are available to borrowers nationwide, regardless of location in an urban or rural area.

Thanks to the hard work of the Department of Treasury, the SBA, and thousands of lenders who have worked around the clock, the Administration has thus far approved over 1.6 million PPP loans for a sum of nearly \$350 billion. The largest category of loan size is under \$350,000, and it is estimated that these loans have saved over 30 million jobs from impending layoffs.

Banks like yours fulfill an important duty of public service through their participation in PPP. Small businesses are the backbone of America and they contribute to the public far more than economic output. Small businesses are also community institutions that provide essential services and employment. During this time of great need, Americans need small businesses to be the source of stability they are used to them being.

Banks' duties to provide assistance during this time correspond to the public necessity of a strong small business sector. Banks are publicly chartered institutions that receive the license of the state to create credit. The PPP provides terms for banks to create credit that sustains small

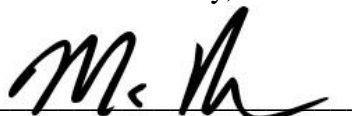
businesses during this time of uncertainty. Moreover, there is ample private benefit at stake for banks. The largest processing fees banks earn on PPP loans are for loans of less than \$350,000. Preserving small businesses during this crisis by helping them retain their employees and pay their bills will help to ensure a strong economic recovery, and more small business clients in the future.

However, since the program began accepting applications and issuing approvals on Friday, April 3, 2020, I, as well as other members of the Senate, have received reports of priority being given to certain applicants over others. While I recognize the challenges of setting up a program of this size, processes to handle applications, and appropriate guidance to administer the program, it is important for small businesses and nonprofits of various sizes, regional locations, and missions to have equal access to PPP assistance. To ensure a neutral distribution of assistance, I request that you provide the Committee with answers to the following questions:

1. Did your financial institution set up an application process for PPP that is based on a first-come, first-serve basis from within the pool of eligible applicants? If not, please describe why not.
2. Did your financial institution include any filters in its application process that would prioritize certain borrowers over others? If so, please describe the factors for which those filters select.
3. What practices and processes does your financial institution have in place to ensure neutral access to PPP loans for small business borrowers across relevant size, regional, and ownership categories?

I remain committed to working with you to serve small businesses across the country who are shuttered, and devastated, by the public closures as a result of the novel coronavirus. Please provide answers to the Committee by May 1, 2020. I appreciate your attention to this important matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Rubio', written over a horizontal line.

Marco Rubio  
Chairman