



April 1, 2020

BY ELECTRONIC TRANSMISSION

The Honorable Steven Mnuchin,
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Ave., N.W.
Washington, D.C. 20005

The Honorable Jovita Carranza,
Administrator
U.S. Small Business Administration
409 Third St., S.W.
Washington, D.C. 20416

RE: CARES Act – Paycheck Protection Program (Affiliation Waiver)

Dear Secretary Mnuchin and Administrator Carranza:

Now that Congress has passed the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”), work turns to its swift implementation. On behalf of its membership, the Small Business Investor Alliance (“SBIA”) stands ready to assist. We seek clarity in how we are able to assist small businesses, and we offer the following critical recommendation regarding implementation rules governing the waiver of the SBA 7(a) loan program’s affiliation rules under the new Paycheck Protection Program (“PPP”) (“PPP Affiliation Waiver”).

Small Business Investment Companies (“SBICs”) are private funds that are licensed and regulated by SBA. These funds have an explicit mandate to create American jobs via domestic small business investment.¹ In the CARES Act, small businesses seeking emergency PPP loans are granted a waiver from the 7(a) affiliation rules (13 C.F.R. 121.103) if they receive financial assistance from an SBIC (15 U.S.C. 636(a)(36)(iv)). Given the need for speed in accessing these emergency funds, we ask that SBA’s guidance, regulations, and PPP application form explicitly recognize this SBIC provision so that banks processing these forms (i.e., question 3 on draft application released March 31, 2020) are not denying or delaying applications because loan reviewers may not be familiar with SBICs or deep details of the Act. The affiliation provisions should have a check the box for three categories that are explicitly waived in the statute from the affiliation rule.

The waiver for SBIC-backed small businesses is also a grant of public trust in the SBIC funds. SBICs need some guidance, not rulemaking, as to how the Administration would like them to spread the SBIC aid beyond the small businesses already receiving SBIC assistance. SBICs want to support and save as many small businesses as possible, so if the SBA would like to limit how far SBICs can go to save venture-backed or private-equity backed small businesses and their employees, we need to know immediately.

SBIA recognizes the scale of the small business catastrophe that is threatening the jobs of tens of millions of American workers. All small businesses need to be given a chance to survive the pandemic-induced temporary economic stoppage by continuing to be an ongoing concern and by keeping their employees. Specifically, SBIA recommends that the PPP Affiliation Waiver extend to **all domestic small businesses seeking emergency PPP loans that otherwise would qualify for SBIC investment** under the requirements of the Small Business Investment Act (15 U.S.C. 681). This change would benefit nearly all venture-backed businesses that have a majority of their employees in the United States. It would provide similar relief to lower middle market private equity-backed small businesses.

¹ SBIC-backed businesses created 3 million new jobs and retained an addition 6 million domestic jobs according to a 2017 Library of Congress Study.

Congress contemplated that most businesses with more than 500 employees would not qualify for the PPP, so they also created the Emergency Stabilization Fund (ESF). We ask that you do all you can to expedite the ESF and the related Main Street and state facilities because if jobs are to be saved then a working capital lifeline is urgently needed for businesses with over 500 employees too.

As always, SBIA appreciates the opportunity to discuss these issues and looks forward to working together to update applicable regulations to ensure America's small businesses have access to the capital they need.

Sincerely,

A handwritten signature in blue ink that reads "Brett Palmer". The signature is written in a cursive style with a small "03" written below the name.

Brett Palmer
President
Small Business Investor Alliance