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House of Representatives

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SELECT SUBCOMMITTEE ON THE CORONAVIRUS CRISIS

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July 2, 2020

The Honorable James E. Clyburn
Chairman
Select Subcommittee on the Coronavirus Crisis
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Clyburn:

On June 15, 2020, Democratic Members of the Select Subcommittee on the Coronavirus Crisis (SSOCC) alleged without evidence that “large banks created two-tier systems for processing [Paycheck Protection Program] loan applications that benefit wealthy existing clients at the expense of truly struggling small businesses in underserved communities.”¹

You and your colleagues sent letters to the Treasury Department, the Small Business Administration, and eight national banks seeking documents and information related to the PPP. The records they provided in response show those large banks—like thousands of lenders of all sizes—worked around the clock to administer the PPP, which saved millions of jobs and kept countless small businesses afloat with loans that averaged \$107,199.² Considering the exculpatory information obtained pursuant to your investigation, and the redundant and extraordinarily burdensome nature of your requests, we respectfully advise you to withdraw your allegations and close this inquiry with respect to the banks.

The banks did not create a “two-tier” system to benefit wealthy clients, as you allege. In fact, the banks submitted complete applications to SBA on a first come, first serve basis.

The banks in question had largely similar experiences in the days before and after the Paycheck Protection Program launched. In a series of SSOCC staff briefings, the banks described an “all hands on deck” environment where thousands of employees worked day and night to implement the program in accordance with a constantly evolving set of guidelines.

¹ Press Release, “Select Subcommittee Launches Investigation Into Disbursement Of PPP Funds,” June 15, 2020, <https://coronavirus.house.gov/news/press-releases/select-subcommittee-launches-investigation-disbursement-ppp-funds>.

² Paycheck Protection Program data as of 5:00 p.m. EDT, June 30, 2020, <https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/paycheck-protection-program#section-header-2>.

These economic first responders developed the machinery that eventually allowed PPP to reach 4.8 million small businesses.³

The evidence shows the systems they built—in a matter of weeks—did not consider an applicant’s wealth, as you allege. In fact, bank staff who processed and submitted applications to SBA had no way to determine whether an application came from an existing client or a new customer. Applications were submitted to SBA on a first come, first serve basis.

The evidence further shows you and your colleagues mischaracterized why banks were able to process applications from existing clients more quickly than those from new customers. Simply put, the disparity is attributable to vetting requirements that apply to new customers. Those vetting requirements exist so the Treasury Department and financial institutions can detect and prevent money laundering and terrorism financing.

In fact, before the PPP began accepting applications on April 3, 2020, the banking industry warned that disparate vetting requirements would disadvantage new customers compared to existing clients, regardless of their wealth or size. In a letter to the Treasury Department, an industry group wrote, “As currently envisioned, Cares Act funding will only be provided to banks’ current legal entity customers.”⁴

The Treasury Department and the SBA subsequently issued guidance that lifted certain Know Your Customer (KYC) obligations for existing clients; KYC requirements for new customers remained in effect. Specifically, the guidance stated that “[i]f the PPP loan is being made to an existing customer and the necessary information was previously verified, [financial institutions] do not need to re-verify the information,” and that financial institutions “do not need to collect and verify beneficial ownership information for [existing] customers applying for new PPP loans, unless otherwise indicated by the lender’s risk-based approach to [Bank Secrecy Act] compliance.”⁵

In a series of briefings, the banks confirmed that the requirement to collect and verify Bank Secrecy Act information from new customers allowed applications from existing clients to move through the process faster. When the initial round of PPP funding expired after 13 days, bank employees continued to process thousands of applications from new customers. When Democrats in Congress stopped holding small businesses hostage and agreed to provide additional funds for the program, bank employees once again worked around the clock to compile the backlog of applications into batches to submit to SBA when the program re-opened.

³ *Id.*

⁴ Jonathan O’Connell, Jeanne Whalen, Jeff Stein and Erica Werner, *Following messy start, enormous Paycheck Protection Program shows signs of buttressing economy*, WASH. POST, June 10, 2020, <https://www.washingtonpost.com/business/2020/06/09/how-effective-is-ppp-small-business/>.

⁵ Paycheck Protection Program Loans FAQs, <https://home.treasury.gov/system/files/136/Paycheck-Protection-Program-Frequently-Asked-Questions.pdf>.

Contrary to your allegations, Paycheck Protection Program data show the administration and the banks reached minority-owned, rural, and other underserved businesses. The evidence further shows the banks you targeted will not profit from participating in PPP.

The central allegations in your letters and attendant press release are that the Treasury Department and SBA failed to reach “underserved and rural markets,” and large banks prioritized wealthy clients at the expense of “small businesses in underserved communities.”⁶ The data show otherwise. With respect to the administration’s efforts to reach a diverse array of small businesses, the data show approximately 210,000 PPP loans totaling \$16.3 billion to Community Development Financial Institutions (CDFIs) and Minority Depository Institutions (MDIs).⁷ In fact, 424 CDFIs and MDIs across the country participated in PPP.⁸ Approximately twenty percent of all PPP lending was directed to businesses in Historically Underutilized Business Zones (HUBZones).⁹

The evidence further shows Treasury and SBA took a series of actions while the program was open to ensure rural and underserved businesses were prioritized, including a dedicated window where SBA exclusively accepted applications from lending institutions with asset sizes less than \$1 billion dollars.¹⁰

Large banks have a similarly compelling story about outreach to underserved and rural small businesses. Bank of America, for example, approved more than 74,000 loans to businesses in low- and moderate-income (LMI) census tracts.¹¹ Those loans provided more than \$6.3 billion in relief.¹² Citibank issued approximately twenty percent of its total PPP lending to LMI tracts.¹³ More than eight percent of U.S. Bank’s loans went to rural borrowers.¹⁴ Moreover, several of the banks targeted by your investigation advised the Committee they will donate any revenue from participating in PPP to organizations that support underserved communities, which belies the notion that those banks were motivated by the prospect of profits, as you alleged.

The administration will provide the highly sensitive borrower-specific data that you requested from the banks. Compelling the banks to produce redundant data is wasteful and may force them to divert resources away from mission critical relief work.

Your request to each of eight banks covered a complete list of every PPP application received by the bank, including twelve subcategories of borrower-specific information. Your request to the Treasury Department and SBA covered the same information, and more.

⁶ *Id.*

⁷ Briefing from Dep’t of Treasury and SBA for SSOCC staff (July 2, 2020).

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ Briefing from Bank of America for SSOCC staff (July 2, 2020).

¹² *Id.*

¹³ Briefing from Citibank for SSOCC staff (July 1, 2020).

¹⁴ Briefing from US Bank for SSOCC staff (July 1, 2020).

The Honorable James E. Clyburn

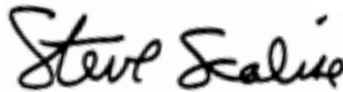
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The Treasury Department agreed to provide the PPP data you requested, under conditions that reflect the legitimate concern that certain loan-level data should remain confidential because it contains proprietary information about millions of small businesses, and the salaries of sole proprietors and independent contractors. There is no such agreement with the banks, which find themselves forced to choose between exposing their small business customers or withholding information from Congress.

In light of the Treasury Department's commitment to provide the data you requested, you should withdraw your request to the banks and allow them to focus on continuing to service PPP applicants. We look forward to continuing to work with you and your staff to reduce waste, fraud, abuse in these programs quickly established in the wake of an unprecedented global pandemic.

Sincerely,

A handwritten signature in black ink that reads "Steve Scalise". The signature is written in a cursive, slightly slanted style.

Steve Scalise
Ranking Member