

July 31, 2020

The Honorable Steven Mnuchin
Secretary
U.S. Treasury
1500 Pennsylvania Avenue, N.W.
Washington, D.C. 20220

The Honorable Jovita Carranza
Administrator
U.S. Small Business Administration
409 3rd Street, S.W.
Washington, D.C. 20416

Dear Secretary Mnuchin and Administrator Carranza:

Thank you for your continued work on the Paycheck Protection Program (PPP). As our member banks continue our efforts to work with small businesses, one issue of critical importance that requires immediate attention is a formal declaration about the relationship between lender and agent when completing applications as part of the program. Formal guidance is needed to clear up mounting confusion between lenders and agents that has resulted in numerous lawsuits across the country over alleged fees owed to agents.

As part of the PPP, there is an option for a lender to work with an agent in the processing of a PPP application on behalf of the borrower. For this service, an agent may be compensated out of the lender's fee which they received from SBA for each PPP application. Our members have expressed concerns about the line being blurred between an agent providing a legitimate service to the borrower and helping get the loan processed, and agents initiating this relationship without lender consent and then seeking payment on the backend.

During a June 30, 2020 hearing before the U.S. House of Representatives' Financial Services Committee, Secretary Mnuchin answered a question from Representative Steve Stivers (R-OH) about the issue of agent fees on PPP loans and increasing litigation between agents and banks by saying: "What our guidance did say is that banks could pay agent fees out of the fees that they received. That was intended to be based upon a contractual relationship between the agent and the bank. And to the extent that there is any confusion on that we will look into clarifying that."¹ (emphasis added). We ask that you provide this much needed clarification so that the focus of our members can rightly shift away from fending off numerous lawsuits.

Banks of all sizes will continue to support their business customers and do their part to spur the economic recovery to come. We all share the same goal of making sure businesses receive these much-needed PPP loans during this time, but want to make sure there is a clear understanding of how the lender-agent-borrower relationship works and that it is being acted on in good faith.

¹ *Hybrid Hearing – Oversight of the Treasury Department's and Federal Reserve's Pandemic Response*, June 30, 2020 <https://financialservices.house.gov/calendar/eventsingle.aspx?EventID=406688> (last accessed July 29, 2020).

Sincerely,

American Bankers Association
Alabama Bankers Association
Alaska Bankers Association
Arizona Bankers Association
Arkansas Bankers Association
California Bankers Association
Colorado Bankers Association
Connecticut Bankers Association
Delaware Bankers Association
Florida Bankers Association
Georgia Bankers Association
Hawaii Bankers Association
Idaho Bankers Association
Illinois Bankers Association
Indiana Bankers Association
Iowa Bankers Association
Kansas Bankers Association
Kentucky Bankers Association
Louisiana Bankers Association
Maine Bankers Association
Maryland Bankers Association
Massachusetts Bankers Association
Michigan Bankers Association
Minnesota Bankers Association
Mississippi Bankers Association
Missouri Bankers Association
Montana Bankers Association
Nebraska Bankers Association
Nevada Bankers Association
New Hampshire Bankers Association
New Jersey Bankers Association
New Mexico Bankers Association
New York Bankers Association
North Carolina Bankers Association
North Dakota Bankers Association
Ohio Bankers League
Oklahoma Bankers Association
Oregon Bankers Association
Pennsylvania Bankers Association
Puerto Rico Bankers Association
Rhode Island Bankers Association
South Carolina Bankers Association
South Dakota Bankers Association
Tennessee Bankers Association

Texas Bankers Association

Utah Bankers Association

Vermont Bankers Association

Virginia Bankers Association

Washington Bankers Association

West Virginia Bankers Association

Wisconsin Bankers Association

Wyoming Bankers Association