# United States Congress

April 6, 2020

The Honorable Steven T. Mnuchin
Secretary
United States Department of the Treasury
1500 Pennsylvania Avenue, N.W.
Washington, D.C. 20220

Dear Secretary Mnuchin,

We write to you today regarding concerns voiced to us by small and mid-sized businesses across Maryland. These businesses have been forced to make tough decisions to lay off hundreds of employees, slash salaries, and adapt to new to-go and delivery dependent service operations as a result of the COVID-19 pandemic.

While the Coronavirus Aid, Relief, and Economic Security (CARES) Act established the Paycheck Protection Program (PPP) to provide critical emergency funding for these businesses, recent guidance from the Treasury Department seems to weaken the program, which is meant to serve as a lifeline to these small and mid-sized businesses and their employees. Below, we have outlined instances in which the Treasury Department's guidance could limit the effectiveness of PPP and, thereby, be misaligned with the intent of Congress.

- **Loan Term:** The Treasury Department's PPP interim final rule sets the maturity date of the loan for two years instead of the ten years provided for in the CARES Act. This sets an unrealistic timeline for businesses to find cash to service their loans, which is made even more difficult by having to do so while recovering from a national health and economic crisis.

- **Permitted Uses:** The CARES Act indicated that during the covered period, an eligible recipient may use loan proceeds of a PPP loan for the allowable uses of a loan made under Subsection 7(a) of the Small Business Act, which includes uses such as working capital. The Treasury Department's interim final rule indicates that the loan may only be used for payroll costs, interest on mortgage obligations, rent, and utilities. And the sample application published by Treasury includes a certification to this effect. As a result of the length of the COVID-19-related closures, small businesses need flexibility to use PPP loan proceeds for working capital to keep their businesses alive.

- **Forgiveness for Non-Payroll Spending:** The CARES Act specified that an eligible recipient shall be eligible for forgiveness of indebtedness on a covered loan for (1) "any payment of interest on a covered mortgage obligation," (2) "any payment on any covered rent obligation" and (3) "any covered utility payment." The Treasury Department's interim final rule indicates that forgiveness for non-payroll expenses would be capped at 25% of the forgiveness amount. The interim rule places additional restrictions on the borrower by requiring that 75% of the loan proceeds be used for payroll costs. This guidance is inconsistent with the PPP spending flexibility allowed under the CARES Act.

Furthermore, we are hearing that Maryland constituents are facing difficulties obtaining loans through the PPP. For example, some financial institutions have required that businesses have an existing line of credit or a credit card account in order to obtain a loan. Imposition of such requirements, which are outside the purpose of the program, are unnecessary at best and, in the case of some of our constituents, harmful to their ability to access the program. We therefore ask that Treasury firmly prohibit lenders from imposing PPP loan requirements outside the scope of the CARES Act in the Department's final rulemaking.

We have fought successfully to ensure this rescue package throws an economic lifeline to those who need it most by extending help to small and mid-sized businesses struggling to stay afloat. The Treasury Department's guidelines must not undermine Congress's intent for PPP, and we urge you to provide updated guidance that fully addresses and corrects the matters of concern outlined above.

As we continue to navigate this difficult time for our Nation, we must stay united in our resolve to eradicate this virus and the economic crisis it has created.

Sincerely,

/s/ Chris Van Hollen
United States Senator

/s/ David Trone
Member of Congress