

April 10, 2020

The Honorable Nancy Pelosi  
Speaker of the House  
United States House of Representatives  
H-222, US Capitol  
Washington, D.C. 20515

The Honorable Mitch McConnell  
Senate Majority Leader  
United States Senate  
S-230, US Capitol  
Washington, D.C. 20515

The Honorable Kevin McCarthy  
Minority Leader  
United States House of Representatives  
Washington, D.C. 20515

The Honorable Charles Schumer  
Minority Leader  
United States Senate  
Washington, D.C. 20515

Dear Speaker Pelosi, Leader McCarthy, Leader McConnell, and Leader Schumer:

On behalf of the following organizations invested in private equity and venture capital funds (“LPs” or “Limited Partners”) <sup>1</sup>, we are writing to encourage you to ensure venture capital and private equity-backed small businesses are able to access the necessary capital provided under the upcoming legislation related to the Paycheck Protection Program (“PPP”). As you are aware, the PPP was recently enacted into law under *the Keeping American Workers Paid and Employed Act*, Title I of the *Coronavirus Aid, Relief and Economic Security Act (“CARES Act”)*.

As the trusted stewards of capital for millions of American beneficiaries, we are the indirect investors in small businesses and startups across the United States. We believe it is critical to the health of the American economy and well-being of countless workers that these businesses be afforded a level playing field in accessing the CARES Act stimulus programs, including the PPP, in order to continue their operations and maintain payrolls during this crisis. We ask you to make a specific legislative fix to PPP eligibility for certain small businesses owned by private equity and venture capital funds in the upcoming fourth COVID-19 stimulus bill.

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<sup>1</sup> Limited Partners, including public and private pensions, insurers, endowments, foundations, family offices and sovereign funds, provide the capital that fuels private equity and venture capital investment, generating economic growth and job creation, across America and around the world. In addition to providing this critical capital for economic growth, LPs are the trusted financial stewards investing the assets of millions of Americans. Limited partner beneficiaries include teachers, first responders, students receiving university scholarships, charity recipients, and insurance policyholders, among others.

The existing SBA affiliation rules under 13 C.F.R. §121.301 significantly limit the ability of these small businesses to participate in the PPP simply because of their private fund ownership structure. This is because these rules aggregate the 500-employee threshold across the entirety of a private fund's portfolio, even though these businesses are separate entities in every other regard. Speaker Pelosi and Leader McCarthy have indicated support in the past week for this issue to be addressed.

The upcoming fourth stimulus package represents an opportunity to remove this limitation by clarifying that each individual company in a portfolio of a 3(c)(1) or 3(c)(7) exempted fund under the Investment Company Act of 1940 will be considered unaffiliated for purposes of meeting the 500 employee threshold test. We are also absolutely supportive of additional guardrails to ensure that this PPP capital is only used to directly support the portfolio company and its employees, rather than being used to pay for direct and indirect fees or services provided by the private equity or venture capital manager or their affiliates to the company.

Virtually all small businesses will suffer some impairment from COVID-19, regardless of their ownership structure. We see little justification for companies owned via a fund structure being precluded from emergency access to capital needed to keep their businesses from closing and employees losing their livelihoods. If these businesses are unable to access the PPP, this will likely result in significant harm not only to employees that see their hours reduced or jobs eliminated, but also materially reduced returns to the institutions providing retirement security through pensions, insurance policies and other investments that millions of American beneficiaries rely upon.

As you work to provide additional economic stimulus for the COVID-19 crisis, we encourage you to ensure this discrepancy is addressed to save jobs and protect the retirement and other investment assets of everyday Americans.

Sincerely,

AEGON Asset Management  
California Public Employees' Retirement System (CalPERS)  
California State Teachers' Retirement System (CalSTRS)  
District of Columbia Retirement Board (DCRB)  
Farmers Insurance  
Florida State Board of Administration  
Institutional Limited Partners Association (ILPA)  
Los Angeles Fire and Police Pensions (LAFPP)

Montgomery County Employee Retirement Plans (MCERP)  
New York State Common Retirement Fund (CRF)  
Ohio Police & Fire Pension Fund  
Ohio Public Employees Retirement System (OPERS)  
San Francisco Employees' Retirement System (SFERS)  
School Employees Retirement System of Ohio (SERS)  
Textron Pension Retirement Plan  
Washington State Investment Board

cc:

The Honorable Marco Rubio, Chair, Senate Small Business Committee  
The Honorable Ben Cardin, Ranking Member, Senate Small Business Committee  
The Honorable Nydia Velazquez, Chair, House Small Business Committee  
The Honorable Steve Chabot, Ranking Member, House Small Business Committee