



March 30, 2020

The Honorable Marco Rubio
Chairman
Committee on Small Business & Entrepreneurship
United States Senate
Washington, D.C. 20510

The Honorable Ben Cardin
Ranking Member
Committee on Small Business & Entrepreneurship
United States Senate
Washington, D.C. 20510

The Honorable Chris Coons
Committee on Small Business & Entrepreneurship
United States Senate
Washington, D.C. 20510

Re: Clarification of the Small Business Administration’s “Affiliate Rules” with respect to Technology Startups Applying for the Paycheck Protection Program

Dear Chairman Rubio, Ranking Member Cardin and Senator Coons:

On behalf of technology startups across the United States, we respectfully and urgently request that you ask the Small Business Administration (“SBA”) to clarify that technology startups with equity investors and under 500 employees are eligible for the Paycheck Protection Program created by the *Coronavirus Aid, Relief, and Economic Security (CARES) Act*.

More specifically, we are seeking clarification of the Small Business Administration’s “affiliation rules” with respect to startups that apply for the Paycheck Protection Program. As you know, the Paycheck Protection Program is available to all small businesses in the United States with under 500 employees. Pursuant to the SBA’s “affiliation rules,” when adjudicating an applicant’s eligibility for a loan, the SBA looks at the applicant’s total number of employees and also the employees of the applicant’s “affiliates.” Those affiliates, in certain circumstances, include minority investors of the applicant and other companies that have received significant investments from those minority investors. Should the SBA find that such startups are “affiliated” with one or more minority investors and those investors’ portfolio companies, that company would likely be found ineligible for the Paycheck Protection Program on a technicality.

Importantly, **our members are now hearing from banks that they are “on hold” in lending under the PPP until this issue is clarified.** If the SBA rejects a loan back as non-qualifying due to this issue, the full guarantee goes away, and the bank won't take that risk.

This technicality has real consequences. Assistance from the Paycheck Protection Program will be essential for many businesses to survive the economic impact of the COVID-19 pandemic. If they do not, the impact will not only be felt by startups, their employees and their families, but the entire American economy. And that impact will be felt for many years to come.

The vast majority of startups are small businesses with less than 500 employees. And while startups account for less than 2.8% of all businesses in the United States, we represent 12.5% of new jobs added to the economy each year.¹ Startups are an important engine for the American economy and will certainly create millions of jobs in the next ten years -- if we can survive the current crisis.

We need your assistance in clarifying that venture-backed companies are eligible for the SBA's Paycheck Protection Program. Specifically, we ask that you convey to the SBA and the Department of Treasury that it was not Congress's intent to exclude equity-backed technology startups from the Paycheck Protection Program and, accordingly, **the SBA should issue guidance or clarifying rules related to the “affiliate rules” with respect to equity-backed startups that apply for the Paycheck Protection Program.**

Alternatively, absent such SBA rule-making or guidance, we request that a technical amendment be included in any Phase 4 supplemental legislation that provides that the SBA's “affiliate rules” are waived with respect to venture-backed companies that apply for the Paycheck Protection Program

We appreciate your decisive efforts to date to help small businesses weather the impact of COVID-19 and look forward to working with you on this issue.

Sincerely,

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¹ See *How Technology-Based Start-Ups Support U.S. Economic Growth*, Information Technology & Innovation Foundation, available at <https://itif.org/publications/2017/11/28/how-technology-based-start-ups-support-us-economic-growth>

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