



*Congress of the United States  
House of Representatives  
Washington, D.C. 20515*

*Anna G. Eshoo  
Eighteenth District  
California*

April 8, 2020

The Honorable Nancy Pelosi,  
Speaker  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Mitch McConnell,  
Majority Leader  
U.S. Senate  
Washington D.C. 20510

The Honorable Kevin McCarthy,  
Minority Leader  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Charles Schumer,  
Minority Leader  
U.S. Senate  
Washington D.C. 20510

Dear Speaker Pelosi, Majority Leader McConnell, Minority Leader McCarthy, and  
Minority Leader Schumer,

As you draft the next legislative package to help our country respond to the  
coronavirus pandemic, I urge you to clarify a specific issue prohibiting many startups  
in my district and across the country from accessing economic relief that Congress  
intended to assist small businesses.

As with every other part of our society, startups are facing the devastating impact of  
the pandemic. They are experiencing significant cuts to their revenues, have access to  
less capital, and are being forced to lay off employees. Many have already shuttered  
their businesses. We cannot let this terrible pandemic lead to irreparable damage to  
our most innovative and vibrant businesses and their workers.

Unfortunately many startups are unable to access the resources Congress intended to  
help small businesses in the CARES Act because of the SBA's affiliation rules (13  
C.F.R. § 121.103). Under these rules, companies may be ineligible for the Paycheck  
Protection Program (PPP) if the total number of employees at the portfolio companies  
of an investor cumulatively is more than 500. Because startups can have dozens of  
investors, even determining if a startup is eligible could be prohibitively onerous for  
these companies to apply for PPP loans.

Finding a workable solution to this issue has broad bipartisan support in Congress.  
On March 27<sup>th</sup> I led a letter, signed by 10 Democratic and 9 Republican Members of  
Congress, urging SBA Administrator Jovita Carranza to relax the prohibitive rules.<sup>1</sup>  
On March 31<sup>st</sup> Speaker Pelosi wrote to Administrator Carranza and Treasury

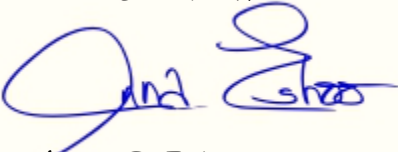
Secretary Steven Mnuchin about this issue.<sup>2</sup> On April 1<sup>st</sup> a bipartisan group of four Senators wrote to Administrator Carranza and Secretary Mnuchin asking for clarity on the issue.<sup>3</sup> On April 2<sup>nd</sup> Minority Leader McCarthy asked Secretary Mnuchin for a workable solution.<sup>4</sup> On April 2<sup>nd</sup> Rep. Dean Phillips led a letter, signed by a bipartisan group of 54 Members of Congress, asking Secretary Mnuchin and Administrator Carranza to fix the problem.<sup>5</sup>

In addition to Congressional advocacy, many stakeholders have called for clarity on this issue, including nearly 200 general counsels of tech companies;<sup>6</sup> over 125 associations, institutes, alliances, councils, networks, and groups that partner with startups in 39 states;<sup>7</sup> and various other organizations.<sup>8</sup>

While the SBA and Treasury have issued guidance about the PPP on several occasions since the CARES Act was enacted, including about affiliation rules, this guidance has been insufficient. I continue to hear from startups and lenders that the ambiguity surrounding this issue is standing in the way of SBA-approved lenders from issuing PPP loans to startups. Press reports as recent as this morning confirm as much.<sup>9</sup>

For these reasons, I ask you to explore a legislative solution to ensure that startups can access the funding Congress is making available to small businesses. Thank you for your hard work to shape legislative solutions to the public health and economic crisis caused by the coronavirus.

Most gratefully,



Anna G. Eshoo  
Member of Congress

cc: The Honorable Nydia Velázquez, Chairwoman, House Committee on Small Business  
The Honorable Steve Chabot, Ranking Member, House Committee on Small Business  
The Honorable Marco Rubio, Chairman, Senate Committee on Small Business and Entrepreneurship  
The Honorable Ben Cardin, Ranking Members, Senate Committee on Small Business and Entrepreneurship

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<sup>1</sup> Letter to Administrator Jovita Carranza from Rep. Anna G. Eshoo et al (March 27, 2020). <https://eshoo.house.gov/sites/eshoo.house.gov/files/Congressional%20letter%20to%20SBA%20re%20affiliations%20rule%20-%2003.27.20.pdf>

<sup>2</sup> Letter to Secretary Steven Mnuchin and Administrator Jovita Carranza from Speaker Nancy Pelosi and Rep. Ro Khanna (March 31, 2020). <https://khanna.house.gov/sites/khanna.house.gov/files/Speaker%20Pelosi%20and%20Rep.%20Khanna%20Letter%203.31.2020%5B1%5D.pdf>

<sup>3</sup> Cat Zakrzewski, "The Technology 202: Mask Scams and Misinformation Still Present on Social Media despite Tougher Policies," *Washington Post*, April 1, 2020, <https://www.washingtonpost.com/news/powerpost/paloma/the-technology-202/2020/04/01/the-technology-202-mask-scams-and-misinformation-still-present-on-social-media-despite-tougher-policies/5e8378ee88e0fa101a75708f/>.

<sup>4</sup> Dan Primack, "Kevin McCarthy: Startups Will Be Eligible for Coronavirus Stimulus Loans," *Axios*, April 2, 2020, <https://www.axios.com/coronavirus-vc-startups-small-business-loans-6ae9e125-fbbb-4349-9d67-ce68d4a5ac57.html>.

<sup>5</sup> "Rep. Phillips Pushes for CARES Act Fix and New Business Preservation Act to Shield Startups," (April 3, 2020). <https://phillips.house.gov/media/press-releases/rep-phillips-pushes-cares-act-fix-and-new-business-preservation-act-shield>.

<sup>6</sup> Letter to Senate Small Business & Entrepreneurship Committee from TechGC (March 30, 2020). <https://www.nelsonmullins.com/files/files/Clarification%20of%20the%20SBA's%20Affiliation%20Rules.pdf>

<sup>7</sup> "Startups Nationwide to See Job Losses Absent Urgent SBA Rule Fix," March 29, 2020, <http://technet.org/press-release/startups-nationwide-to-see-job-losses-absent-urgent-sba-rule-fix>.

<sup>8</sup> See, e.g., Letter to Secretary Steven Mnuchin and Administrator Jovita Carranza from National Venture Capital Association (March 27, 2020). <https://nvca.org/wp-content/uploads/2020/03/NVCA-letter-to-Treasury-and-SBA-re-affiliation-rules.pdf>

<sup>9</sup> Emily Birnbaum and Biz Carson, "Startups Are in a Race against Time for Stimulus Funds — and Washington's Efforts Are Falling Short," *Protocol*, April 8, 2020, <https://www.protocol.com/stimulus-cares-startups-vc-sba>.