

## Multifamily Industry Priorities for SBA/PPP Eligibility

The apartment industry is a robust sector that contributes \$3.4 trillion to the economy annually and supports 17.5 million jobs. And, like all American businesses, the rental housing industry is under tremendous financial strain as a result of the COVID-19 pandemic.

As the government extends nationwide social distancing protocols and implements stay at home orders, the apartment industry is on the front lines of responding to the COVID-19 outbreak in communities across the nation. Rental housing owners and operators take seriously their responsibility to ensure residents are safe and secure. We are working alongside public officials to put residents and employees at ease. Yet as more residents face job loss or furloughs and are unable to fulfill rent obligations, many owners/operators fear they, too, will not be able to satisfy their own financial obligations required to operate their properties. Rental income is used to pay employees, mortgage payments, taxes, insurance and, importantly, funds to maintain continuity of essential services to ensure apartment communities remain safe and secure.

With economic strain across all lines of the economy, Congress was right to provide substantial funding for the Small Business Administration's (SBA) Paycheck Protection Program (PPP). Congress also rightly intended, through the CARES Act, to offer assistance to all types of businesses. Yet, the SBA issued an interim final rule on April 2 that specifically denies eligibility to rental housing developer and owner firms. In addition to requesting Congress and the SBA reverse this decision, the apartment industry urges the following legislative and regulatory changes to protect rental housing operators, their residents and their employees from further economic harm as a direct result of the COVID-19 crisis.

### Top Message

**Congress and the SBA must amend the Paycheck Protection Program to expand eligibility to all multifamily housing firms so that they can ensure their employees are paid and continue to operate safe and secure apartment communities.**

### Top Priorities

#### **Regulatory Fix:**

- The CARES Act allows participation by owners and operators of multifamily real estate, including passive owners that have mortgages, debts and covered expenses to pay. Yet, the SBA interim final rule denies most multifamily firms access to the program. SBA must correct and clarify their implementation.<sup>1</sup> The Rule relies on obsolete 2019 guidance.

#### **Legislative Fix:**

- The CARES Act provided an eligibility-waiver for certain business concerns with more than 500 employees but with more than one physical location, such as in the hotel industry. The multifamily industry operates under a very similar business model to other sectors targeted for inclusion with this language. Because apartment firms operate similarly to other eligible businesses, we believe it is critical that Congress also extend similar eligibility to multifamily and student housing businesses. To expand eligibility of the PPP to a greater number of rental housing providers, Congress should provide the same affiliation exceptions for real estate (beginning with code 53) as extended to restaurants and hospitality (code 72) under Section 1102 of the CARES Act.

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<sup>1</sup> The Interim Final Rule, April 2, 2020, Section III, question 2(c) incorporates SBA's 2019 Standard Operating Procedures 50 10 (SOP) and 13 CFR 120.110.