



User Name: Diane Wright

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1. [13 CFR 120.466](#)

Client/Matter: -None-

[13 CFR 120.466](#)

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LEXISNEXIS' CODE OF FEDERAL REGULATIONS > Title 13 Business Credit and Assistance > Chapter I — Small Business Administration > Part 120 — Business Loans > Subpart D — Lenders > Sba Supervised Lenders

§ 120.466 SBA Supervised Lender application.

An entity seeking to participate as an SBA Supervised Lender must apply to SBA. SBA evaluates SBA Supervised Lender applicants through an initial review and final review, as follows:

(a) Initial review. SBA Supervised Lender applicants must submit a written plan containing information about the organization and its current and proposed lending activities (“Lender Assessment Plan”). After SBA’s review of the Lender Assessment Plan, the Office of Capital Access may require an interview with the applicant and its management team. SBA will determine, in its sole discretion, whether an applicant may proceed to the final review. If SBA determines that an applicant may not proceed to the final review, the applicant must wait at least 6 months before it may submit a new Lender Assessment Plan. Each applicant must demonstrate to SBA’s satisfaction that it meets the ethical requirements and the participation criteria set forth in [13 CFR 120.140](#) and [120.410](#). The Lender Assessment Plan must include the following items:

- (1)** The legal name, address, telephone number and email address of the applicant;
- (2)** Business plan, detailing the applicant’s proposed lending area and the volume of loan activity projected over the next 3 years (supported by current and projected balance sheets, income statements and statements of cash flows);
- (3)** Capitalization (current and proposed), including the form of organization and the identification of all debt and classes of equity capital and proposed funding amounts, including any rights or preferences accorded to such interests (e.g., voting rights, redemption rights and rights of convertibility) and any conditions for the transfer, sale or assignment of such interests;
- (4)** A list of all members of the applicant’s management team, including the applicant’s officers, directors, managers and key employees, as well as the applicant’s owners, Associates (as defined in § 120.10) and Affiliates (as defined in § 121.103 of this chapter);
- (5)** A written summary of the professional experience (including any prior experience with any SBA program) of the applicant’s management team (including key employees);
- (6)** In connection with any application to acquire an existing SBLC License, the applicant must include a letter agreement signed by an authorized official of the SBLC whose License is to be acquired certifying that the SBLC is seeking to transfer its SBA lending authority to the applicant;
- (7)** If approval of any state or Federal chartering, licensing or other regulatory authority is required, copies of any licenses issued by or documents filed with such authority.

(b) Final review. Each applicant that receives notice from SBA in writing that it may proceed to the final review must submit a complete application to SBA within 90 calendar days. The application requirements for SBA Supervised Lenders are set forth in official SBA policy and procedures. An incomplete application submitted to SBA will not be processed and will be returned to the applicant. SBA may, in its sole discretion, approve or deny any SBA Supervised Lender application. The decision

to approve or deny an SBA Supervised Lender application is a final agency decision. If an SBA Supervised Lender application is denied by SBA or if a complete application is not timely submitted, the applicant may not submit a new Lender Assessment Plan and restart the application process until 12 months from the date of denial or the date a complete application was due to SBA, as applicable.

(c) NFRL operating and lending experience requirement. For an entity seeking to become an NFRL, evidence of at least 1 year of current operating and relevant commercial lending experience by the entity must be provided.

Statutory Authority

[Authority Note Applicable to 13 CFR Ch. I, Pt. 120](#)

History

[[85 FR 78205](#), 78213, Dec. 4, 2020; [88 FR 21890](#), 21899, Apr. 12, 2023]

Annotations

Notes

[EFFECTIVE DATE NOTE:

[85 FR 78205](#), 78213, Dec. 4, 2020, added this section, effective Jan. 4, 2021; [88 FR 21890](#), 21899, Apr. 12, 2023, revised paragraph (a)(6), effective May, 23, 2023.]

Research References & Practice Aids

Hierarchy Notes:

[13 CFR Ch. I](#)

[13 CFR Ch. I, Pt. 120](#)

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1. [13 CFR 120.467](#)

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LEXISNEXIS' CODE OF FEDERAL REGULATIONS > Title 13 Business Credit and Assistance > Chapter I — Small Business Administration > Part 120 — Business Loans > Subpart D — Lenders > Sba Supervised Lenders

§ 120.467 Evaluation of SBA Supervised Lender applicants.

(a) SBA will evaluate an SBA Supervised Lender applicant based on information from, among other sources, the Lender Assessment Plan, an interview with the applicant's management team (if required), the application and any other documentation submitted by the applicant, the results of background investigations, public record searches and due diligence conducted by SBA or other Federal or state agencies. SBA's evaluation will consider factors such as the following:

- (1)** Professional qualifications of its management team (including key employees), including demonstrated commercial lending experience, business reputation, adherence to legal and ethical standards, track record in making and monitoring business loans, and prior history, if any, working as an officer, manager, director or key employee of a lender involved in any SBA program or any other Federal or state lending program.
- (2)** Historical performance measures of loans originated by the applicant or attributable to its management team (including key employees), including loan default rates, purchase rates and loss rates, measured in both percentage terms and in comparison to appropriate industry benchmarks, review/ examination assessments and other performance measures.
- (3)** The applicant's capitalization, organizational structure, business plan (including any risk factors), projected financial performance, financial strength, liquidity, the soundness of its financial projections and underlying assumptions, loan underwriting process, operations plan and the history of compliance of the applicant and its management team (including key employees) with SBA Loan Program Requirements.
- (4)** Whether the NFRL's state regulator and the state statute or regulations governing the NFRL's operations, including but not limited to those pertaining to audit, examination, supervision, enforcement and information sharing, are satisfactory to SBA in its sole discretion.
- (5)** For changes of ownership or control, in addition to the factors listed in paragraphs (a)(1) through (4) of this section, SBA will consider whether the applicant's plan for the resolution of any outstanding monetary liabilities to SBA, including repairs and denials and civil monetary penalties, is acceptable to SBA in its sole discretion.

(b) SBA may prohibit any individual or entity from participating as an officer, director, manager, owner or key employee of the applicant if such individual or entity:

- (1)** Has a previous record of failing to materially comply with SBA Loan Program Requirements;
- (2)** Previously participated in a material way with any past or present SBA Lender or Intermediary that failed to maintain satisfactory SBA performance;
- (3)** Previously defaulted on any Federal loan or Federally assisted financing that resulted in the Federal Government or any of its agencies or departments sustaining a loss in any of its programs; or

(4) Ever failed to pay when due any debt or obligation, including any amounts in dispute, to the Federal Government or guaranteed by the Federal Government (including but not limited to taxes or business or student loans).

Statutory Authority

[Authority Note Applicable to 13 CFR Ch. I, Pt. 120](#)

History

[[85 FR 78205](#), 78214, Dec. 4, 2020]

Annotations

Notes

[EFFECTIVE DATE NOTE:

[85 FR 78205](#), 78214, Dec. 4, 2020, added this section, effective Jan. 4, 2021; [86 FR 52955](#), 52957, Sept. 24, 2021, amended paragraph (b), effective Sept. 24, 2021; [87 FR 28756](#), 28758, May 11, 2022, amended paragraph (b), effective May 11, 2022.]

Research References & Practice Aids

Hierarchy Notes:

[13 CFR Ch. I](#)

[13 CFR Ch. I, Pt. 120](#)

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LEXISNEXIS' CODE OF FEDERAL REGULATIONS > Title 13 Business Credit and Assistance > Chapter I — Small Business Administration > Part 120 — Business Loans > Subpart D — Lenders > Sba Supervised Lenders

§ 120.468 Change of ownership or control requirements for SBA Supervised Lenders.

(a) SBA prior approval required. Any change of ownership or control of an SBA Supervised Lender without SBA's prior written approval is prohibited. Prior to entering into any agreement, other than a non-binding letter of intent, for a change of ownership or control, SBA Supervised Lenders must receive SBA's prior written approval from the appropriate SBA official in accordance with the prevailing Delegations of Authority. An SBA Supervised Lender may not register proposed new owners on its books and records or permit them to participate in any manner in the conduct of the SBA Supervised Lender's affairs unless approved in writing by SBA. Any type of non-binding letter of intent regarding a prospective change of ownership or control must be reported to SBA within 30 calendar days. A change of ownership or control includes the following:

- (1)** Any transfer(s) (direct or indirect) of 10 percent or more of any class of the SBA Supervised Lender's stock or ownership interests (or series of transfers which, in the aggregate over an 18 month period, equals 10 percent or more), or any agreement providing for such transfer;
- (2)** Any transfer(s) (direct or indirect) that could result in the beneficial ownership by any person or group of persons acting in concert of 10 percent or more of any class of the SBA Supervised Lender's stock or ownership interests, or any agreement providing for such transfer(s);
- (3)** Any merger, consolidation, or reorganization;
- (4)** Any other transaction or agreement that transfers control of an SBA Supervised Lender; or
- (5)** Any other transaction or event that results in any change in the possession (direct or indirect) of the right to control, or the power to direct or cause the direction of, the management or policies of an SBA Supervised Lender, whether through the ownership of voting securities, by contract or otherwise.

(b) Approval required by other regulatory authorities. If a change of ownership or control of an SBA Supervised Lender is subject to the approval of any state or Federal chartering, licensing or other regulatory authority, copies of any documents filed with such authority must, at the same time, be transmitted to the appropriate SBA official in accordance with the prevailing Delegations of Authority. The approval of any state or Federal authority will be required in addition to SBA's prior written approval.

(c) Application requirements for changes of ownership or control. An applicant must submit a Lender Assessment Plan and a new application in accordance with § 120.466 for any change of ownership or control. If a proposed change of ownership is for less than 50 percent of the ownership interests in an SBA Supervised Lender, SBA may, in its sole discretion, limit the requirements of the Lender Assessment Plan or the complete application as set forth in official SBA policy and procedures.

(d) Voluntary surrender of SBA lending authority. An SBA Supervised Lender may voluntarily surrender its SBA lending authority (including its SBLC license or NFRL lending authority, as applicable) and withdraw as a participating Lender with SBA's prior written approval. The SBA Supervised Lender must agree to transfer its entire 7(a) loan portfolio to one or more Lenders acceptable to SBA in accordance with § 120.432(a), and enter

into a withdrawal agreement to resolve any outstanding issues, including any outstanding monetary liabilities, to SBA's satisfaction. SBA may, in its sole discretion, take over the servicing of an SBA Supervised Lender's 7(a) loan portfolio in accordance with § 120.535(d) upon the voluntary surrender of its SBA lending authority.

Statutory Authority

[Authority Note Applicable to 13 CFR Ch. I, Pt. 120](#)

History

[[85 FR 78205](#), 78214, Dec. 4, 2020]

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Research References & Practice Aids

Hierarchy Notes:

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[13 CFR Ch. I, Pt. 120](#)

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