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Title 13 – Business Credit and Assistance

Chapter I – Small Business Administration

Part 120 – Business Loans

Definitions

Source: 74 FR 56093, Oct. 30, 2009, unless otherwise noted.

Source: 72 FR 25194, May 4, 2007, unless otherwise noted.

Authority: 15 U.S.C. 634(b) (6), (b) (7), (b) (14), (h), and note, 636(a), (h) and (m), 650, 687(f), 696(3) and (7), and 697(a) and (e); sec. 521, Pub. L. 114-113, 129 Stat. 2242; sec. 328(a), Pub. L. 116-260, 134 Stat. 1182.

Source: 61 FR 3235, Jan. 31, 1996, unless otherwise noted.

Editorial Note: Nomenclature changes to part 120 appear at 72 FR 50039, Aug. 30, 2007.

§ 120.10 Definitions.

The following terms have the same meaning wherever they are used in this part. Defined terms are capitalized wherever they appear.

Acceptable Risk Rating is an SBA-assigned Risk Rating, currently defined by SBA as “1”, “2” or “3” on a scale of 1 to 5, which represents an acceptable level of risk as determined by SBA, and which may be revised by SBA from time to time as published in the FEDERAL REGISTER through notice and comment.

Associate.

(1) An Associate of a Lender or CDC is:

- (i) An officer, director, key employee, or holder of 20 percent or more of the value of the Lender's or CDC's stock or debt instruments, or an agent involved in the loan process; or
- (ii) Any entity in which one or more individuals referred to in paragraphs (1)(i) of this definition or a Close Relative of any such individual owns or controls at least 20 percent.

(2) An Associate of a small business is:

- (i) An officer, director, owner of more than 20 percent of the equity, or key employee of the small business;
- (ii) Any entity in which one or more individuals referred to in paragraphs (2)(i) of this definition owns or controls at least 20 percent; and
- (iii) Any individual or entity in control of or controlled by the small business (except a Small Business Investment Company (“SBIC”) licensed by SBA).

(3) For purposes of this definition, the time during which an Associate relationship exists commences six months before the following dates and continues as long as the certification, participation agreement, or loan is outstanding:

- (i) For a CDC, the date of certification by SBA;
- (ii) For a Lender, the date of application for a loan guarantee on behalf of an applicant; or

- (iii) For a small business, the date of the loan application to SBA, the CDC, the Intermediary, or the Lender.

Authorized CDC Liquidator is a CDC in good standing with authority under the Act and SBA regulations to conduct liquidation and certain debt collection litigation in connection with 504 loans, as authorized by § 120.975.

Borrower is the obligor of an SBA business loan.

Certified Development Company ("CDC") is an entity authorized by SBA to deliver 504 financing to small businesses.

Close Relative is a spouse; a parent; or a child or sibling, or the spouse of any such person.

Community Advantage Small Business Lending Company (Community Advantage SBLC) is a type of SBLC that is a nonprofit lending institution licensed and authorized by SBA to make loans pursuant to section 7(a) of the Small Business Act. Note: This includes former Community Advantage Pilot Lenders that were grandfathered in at the time Community Advantage SBLC licenses were authorized regardless of their profit or nonprofit status. SBA accepts applications for Community Advantage SBLCs from time to time as published in the FEDERAL REGISTER.

Eligible Passive Company is a small entity or trust which does not engage in regular and continuous business activity, which leases real or personal property to an Operating Company for use in the Operating Company's business, and which complies with the conditions set forth in § 120.111.

Federal Financial Institution Regulator is the Federal banking regulator of a 7(a) Lender and may include the Federal Deposit Insurance Corporation, the Federal Reserve Board, the Office of the Comptroller of the Currency, the National Credit Union Administration, and the Farm Credit Administration.

Intermediary is the entity in the Microloan program that receives SBA financial assistance and makes loans to small businesses in amounts up to \$50,000.

Lender or 7(a) Lender is an institution that has executed a participation agreement with SBA under the guaranteed loan program.

Lender Oversight Committee (LOC) is a committee established within SBA by legislation, which meets at least quarterly, and which has the membership and duties set forth in section 48 of the Small Business Act as further outlined in Delegations of Authority published in the FEDERAL REGISTER. The LOC's duties include, but are not limited to, reviewing (in an advisory capacity) any lender oversight, portfolio risk management, or program integrity matters brought by the Director of the Office of Credit Risk Management (D/OCRM), and voting on formal enforcement action recommendations.

Less Than Acceptable Risk Rating is an SBA-assigned Risk Rating, currently defined by SBA as "4" or "5" on a scale of 1 to 5, which represents a higher level of risk as determined by SBA, and which may be revised by SBA from time to time as published in the FEDERAL REGISTER through notice and comment.

Loan Instruments are the note, instruments of hypothecation, and all other agreements and documents related to a loan.

Loan Program Requirements or SBA Loan Program Requirements are requirements imposed upon Lenders, CDCs, or Intermediaries by statute; SBA and applicable government-wide regulations; any agreement the Lender, CDC, or Intermediary has executed with SBA or to which the Lender or CDC is subject; SBA Standard Operating Procedures (SOPs); FEDERAL REGISTER notices; and official SBA notices and forms applicable to the 7(a) Loan Program, 504 Loan Program or Microloan Program, as such requirements are issued and

revised by SBA from time to time. For CDCs, this term also includes requirements imposed by Debentures, as that term is defined in § 120.802. For Intermediaries, this term also includes requirements imposed by promissory notes, collateral documents, and grant agreements.

Management Official is an officer, director, general partner, manager, employee participating in management, agent or other participant in the management of the affairs of the SBA Supervised Lender's activities under the 7(a) program.

Non-Federally Regulated Lender (NFRL) is a business concern that is authorized by the SBA to make loans under section 7(a) and is subject to regulation by a state but whose lending activities are not regulated by a Federal Financial Institution Regulator.

Operating Company is an eligible small business actively involved in conducting business operations now or about to be located on real property owned by an Eligible Passive Company, or using or about to use in its business operations personal property owned by an Eligible Passive Company.

Other Regulated SBLC is a Small Business Lending Company whose SBA operations receive regular safety and soundness examinations by a state banking regulator or a Federal Financial Institution Regulator, and which meets the requirements set forth in § 120.1511.

Person is any individual, corporation, partnership, association, unit of government, or legal entity, however organized.

Preference is any arrangement giving a Lender or a CDC a preferred position compared to SBA relating to the making, servicing, or liquidation of a business loan with respect to such things as repayment, collateral, guarantees, control, maintenance of a compensating balance, purchase of a Certificate of deposit or acceptance of a separate or companion loan, without SBA's consent.

Rentable Property is the total square footage of all buildings or facilities used for business operations.

Risk Rating is an SBA internal composite rating assigned to individual SBA Lenders and Intermediaries that reflects the risk associated with the SBA Lender's or Intermediary's portfolio of SBA loans. Risk Ratings currently range from one to five, with one representing the least risk and five representing the most risk, and may be revised by SBA from time to time as published in the FEDERAL REGISTER through notice and comment.

Rural Area is a political subdivision or unincorporated area in a non-metropolitan county (as defined by the Department of Agriculture), or, if in a metropolitan county, any such subdivision or area with a resident population under 20,000 which is designated by SBA as rural.

SBA Lender is a 7(a) Lender or a CDC. This term includes SBA Supervised Lenders.

SBA Supervised Lender is a 7(a) Lender that is either a Small Business Lending Company or a NFRL.

Service Provider is an entity that contracts with a Lender or CDC to perform management, marketing, legal or other services.

Small Business Lending Company (SBLC) is a non-depository lending institution that is SBA-licensed and is authorized by SBA to make loans pursuant to section 7(a) of the Small Business Act and loans to Intermediaries in SBA's Microloan program. SBA accepts applications for SBLCs from time to time as published in the FEDERAL REGISTER.

SOPs are SBA Standard Operating Procedures, as issued and revised by SBA from time to time. SOPs are publicly available on SBA's Web site at <http://www.sba.gov> in the online library.

[61 FR 3235, Jan. 31, 1996, as amended at 64 FR 2117, Jan. 13, 1999; 68 FR 57980, Oct. 7, 2003; 72 FR 18360, Apr. 12, 2007; 73 FR 75510, Dec. 11, 2008; 76 FR 63545, Oct. 12, 2011; 85 FR 7647, Feb. 10, 2020; 85 FR 14780, Mar. 16, 2020; 85 FR 80588, Dec. 14, 2020; 87 FR 38908, June 30, 2022; 88 FR 21899, Apr. 12, 2023]