

§ 4713. Incentives for depository institution participation

(a) Function of Administrator

(1) In general

Of any funds appropriated pursuant to the authorization in section 4718(a) of this title, the funds made available for use in carrying out this section in accordance with section 4718(a)(4) of this title shall be administered by the Administrator of the Fund, in consultation with—

(A) the Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act [12 U.S.C. 1813]) and the National Credit Union Administration;

(B) the individuals named pursuant to clauses (ii) and (iv) of section 4703(d)(2)(G) of this title; and

(C) any other representatives of insured depository institutions or other persons as the Administrator may determine to be appropriate.

(2) Applicability of Bank Enterprise Act of 1991

Subject to subsection (b) and the consultation requirement of paragraph (1)—

(A) section 233 of the Bank Enterprise Act of 1991 [12 U.S.C. 1834a] shall be applicable to the Administrator, for purposes of this section, in the same manner and to the same extent that such section is applicable to the Community Enterprise Assessment Credit Board;

(B) the Administrator shall, for purposes of carrying out this section and section 233 of the Bank Enterprise Act of 1991 [12 U.S.C. 1834a]—

(i) have all powers and rights of the Community Enterprise Assessment Credit Board under section 233 of the Bank Enterprise Act of 1991 to administer and enforce any provision of such section 233 which is applicable to the Administrator under this section; and

(ii) shall be subject to the same duties and restrictions imposed on the Community Enterprise Assessment Credit Board; and

(C) the Administrator shall—

(i) have all powers and rights of an appropriate Federal banking agency under section 233(b)(2) of the Bank Enterprise Act of 1991 [12 U.S.C. 1834a(b)(2)] to approve or disapprove the designation of qualified distressed communities for purposes of this section and provide information and assistance with respect to any such designation; and

(ii) shall be subject to the same duties imposed on the appropriate Federal banking agencies under such section 233(b)(2).

(3) Awards

The Administrator shall determine the amount of assessment credits, and shall make awards of those credits.

(4) Regulations and guidelines

The Administrator may prescribe such regulations and issue such guidelines as the Ad-

ministrator determines to be appropriate to carry out this section.

(5) Exceptions to applicability

Notwithstanding paragraphs (1) through (4) of this subsection, subsections (a)(1) and (e)(2) of section 233 of the Bank Enterprise Act of 1991 [12 U.S.C. 1834a(a)(1), (e)(2)], and any other provision of the Federal Deposit Insurance Act [12 U.S.C. 1811 et seq.] relating to the Bank Enterprise Act of 1991, do not apply to the Administrator for purposes of this subchapter.

(b) Provisions relating to administration of this section

(1) New lifeline accounts

In applying section 233 of the Bank Enterprise Act of 1991 [12 U.S.C. 1834a] for purposes of this section, the Administrator shall treat the provision of new lifeline accounts by an insured depository institution as an activity which is qualified to be taken into account under section 233(a)(2)(A) of such Act.

(2) Determination of assessment credit

For the purpose of this subchapter, section 233(a)(3) of the Bank Enterprise Act of 1991 [12 U.S.C. 1834a(a)(3)] shall be applied by substituting the following text:

“(3) Amount of assessment credit

“The amount of an assessment credit which may be awarded to an insured depository institution to carry out the qualified activities of the institution or of the subsidiaries of the institution pursuant to this section for any semiannual period shall be equal to the sum of—

“(A) with respect to qualifying activities described in paragraph (2)(A), the amount which is equal to—

“(i) 5 percent of the sum of the amounts determined under such subparagraph, in the case of an institution which is not a community development financial institution; or

“(ii) 15 percent of the sum of the amounts determined under such subparagraph, in the case of an institution which is a community development financial institution; and

“(B) with respect to qualifying activities described in paragraph (2)(C), 15 percent of the amounts determined under such subparagraph.”

(3) Adjustment of percentage

Section 233(a)(5) of the Bank Enterprise Act of 1991 [12 U.S.C. 1834a(a)(5)] shall be applied for purposes of this section by—

(A) substituting “institutions which are community development financial institutions” for “institutions which meet the community development organization requirements under section 234 [12 U.S.C. 1834b]”; and

(B) substituting “institutions which are not community development financial institutions” for “institutions which do not meet such requirements”.

(4) Designation of QDC

Section 233(b)(2) of the Bank Enterprise Act of 1991 [12 U.S.C. 1834a(b)(2)] shall be applied

for purposes of this section without regard to subparagraph (A)(ii) of such section 233(b)(2).

(5) Operation on annual basis

The Administrator may, in the Administrator's discretion, apply section 233 of the Bank Enterprise Act of 1991 for purposes of this section by providing community enterprise assessment credits with respect to annual periods rather than semiannual periods.

(6) Outreach

The Administrator shall ensure that information about the Bank Enterprise Act of 1991 under this section is widely disseminated to all interested parties.

(7) Qualified activities

For the purpose of this subchapter, section 233(a)(2)(A) of the Bank Enterprise Act of 1991 shall be applied by inserting "of the increase" after "the amount".

(Pub. L. 103-325, title I, § 114, Sept. 23, 1994, 108 Stat. 2179.)

REFERENCES IN TEXT

The Bank Enterprise Act of 1991, referred to in subsecs. (a)(2), (5) and (b)(6), is subtitle C (§§ 231-234) of title II of Pub. L. 102-242, Dec. 19, 1991, 105 Stat. 2308-2315, which enacted sections 1834 to 1834b of this title, amended section 1817 of this title, and enacted provisions set out as a note under section 1811 of this title. For complete classification of this Act to the Code, see Short Title of 1991 Amendment note set out under section 1811 of this title and Tables.

The Federal Deposit Insurance Act, referred to in subsec. (a)(5), is act Sept. 21, 1950, ch. 967, § 2, 64 Stat. 873, as amended, which is classified generally to chapter 16 (§1811 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1811 of this title and Tables.

CODIFICATION

Section is comprised of section 114 of Pub. L. 103-325. Subsec. (c) of section 114 of Pub. L. 103-325 amended section 1834a of this title.

§ 4713a. Guarantees for bonds and notes issued for community or economic development purposes

(a) Definitions

In this section, the following definitions shall apply:

(1) Eligible community development financial institution

The term "eligible community development financial institution" means a community development financial institution (as described in section 1805.201 of title 12, Code of Federal Regulations, or any successor thereto) certified by the Secretary that has applied to a qualified issuer for, or been granted by a qualified issuer, a loan under the Program.

(2) Eligible community or economic development purpose

The term "eligible community or economic development purpose"—

(A) means any purpose described in section 4707(b) of this title; and

(B) includes the provision of community or economic development in low-income or underserved rural areas.

(3) Guarantee

The term "guarantee" means a written agreement between the Secretary and a qualified issuer (or trustee), pursuant to which the Secretary ensures repayment of the verifiable losses of principal, interest, and call premium, if any, on notes or bonds issued by a qualified issuer to finance or refinance loans to eligible community development financial institutions.

(4) Loan

The term "loan" means any credit instrument that is extended under the Program for any eligible community or economic development purpose.

(5) Master servicer

(A) In general

The term "master servicer" means any entity approved by the Secretary in accordance with subparagraph (B) to oversee the activities of servicers, as provided in subsection (f)(4).

(B) Approval criteria for master servicers

The Secretary shall approve or deny any application to become a master servicer under the Program not later than 90 days after the date on which all required information is submitted to the Secretary, based on the capacity and experience of the applicant in—

(i) loan administration, servicing, and loan monitoring;

(ii) managing regional or national loan intake, processing, or servicing operational systems and infrastructure;

(iii) managing regional or national originator communication systems and infrastructure;

(iv) developing and implementing training and other risk management strategies on a regional or national basis; and

(v) compliance monitoring, investor relations, and reporting.

(6) Program

The term "Program" means the guarantee Program for bonds and notes issued for eligible community or economic development purposes established under this section.

(7) Program administrator

The term "Program administrator" means an entity designated by the issuer to perform administrative duties, as provided in subsection (f)(2).

(8) Qualified issuer

(A) In general

The term "qualified issuer" means a community development financial institution (or any entity designated to issue notes or bonds on behalf of such community development financial institution) that meets the qualification requirements of this paragraph.

(B) Approval criteria for qualified issuers

(i) In general

The Secretary shall approve a qualified issuer for a guarantee under the Program