

Sec.	
5702.	Federal funds allocated to States.
5703.	Approving States for participation.
5704.	Approving State capital access programs.
5705.	Approving collateral support and other innovative credit access and guarantee initiatives for small businesses and manufacturers.
5706.	Reports.
5707.	Remedies for State program termination or failures.
5708.	Implementation and administration.
5709.	Regulations.
5710.	Oversight and audits.

§ 5701. Definitions

In this chapter, the following definitions shall apply:

(1) Appropriate committees of Congress

The term “appropriate committees of Congress” means—

(A) the Committee on Small Business and Entrepreneurship, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Banking, Housing, and Urban Affairs, the Committee on Finance, the Committee on the Budget, and the Committee on Appropriations of the Senate; and

(B) the Committee on Small Business, the Committee on Agriculture, the Committee on Financial Services, the Committee on Ways and Means, the Committee on the Budget, and the Committee on Appropriations of the House of Representatives.

(2) Appropriate Federal banking agency

The term “appropriate Federal banking agency”—

(A) has the same meaning as in section 1813(q) of this title; and

(B) includes the National Credit Union Administration Board in the case of any credit union the deposits of which are insured in accordance with the Federal Credit Union Act [12 U.S.C. 1751 et seq.].

(3) Enrolled loan

The term “enrolled loan” means a loan made by a financial institution lender that is enrolled by a participating State in an approved State capital access program in accordance with this chapter.

(4) Federal contribution

The term “Federal contribution” means the portion of the contribution made by a participating State to, or for the account of, an approved State program that is made with Federal funds allocated to the State by the Secretary under section 5702 of this title.

(5) Financial institution

The term “financial institution” means any insured depository institution, insured credit union, or community development financial institution, as those terms are each defined in section 4702 of this title.

(6) Participating State

The term “participating State” means any State that has been approved for participation in the Program under section 5703 of this title.

(7) Program

The term “Program” means the State Small Business Credit Initiative established under this chapter.

(8) Qualifying loan or swap funding facility

The term “qualifying loan or swap funding facility” means a contractual arrangement between a participating State and a private financial entity under which—

(A) the participating State delivers funds to the entity as collateral;

(B) the entity provides funding from the arrangement back to the participating State; and

(C) the full amount of resulting funding from the arrangement, less any fees and other costs of the arrangement, is contributed to, or for the account of, an approved State program.

(9) Reserve fund

The term “reserve fund” means a fund, established by a participating State, dedicated to a particular financial institution lender, for the purposes of—

(A) depositing all required premium charges paid by the financial institution lender and by each borrower receiving a loan under an approved State program from that financial institution lender;

(B) depositing contributions made by the participating State, including State contributions made with Federal contributions; and

(C) covering losses on enrolled loans by disbursing accumulated funds.

(10) State

The term “State” means—

(A) a State of the United States;

(B) the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of Northern Mariana Islands, Guam, American Samoa, and the United States Virgin Islands;

(C) when designated by a State of the United States, a political subdivision of that State that the Secretary determines has the capacity to participate in the Program; and

(D) under the circumstances described in section 5703(d) of this title, a municipality of a State of the United States to which the Secretary has given a special permission under section 5703(d) of this title.

(11) State capital access program

The term “State capital access program” means a program of a State that—

(A) uses public resources to promote private access to credit; and

(B) meets the eligibility criteria in section 5704(c) of this title.

(12) State other credit support program

The term “State other credit support program”—

(A) means a program of a State that—

(i) uses public resources to promote private access to credit;

(ii) is not a State capital access program; and

(iii) meets the eligibility criteria in section 5705(c) of this title; and

(B) includes, collateral support programs, loan participation programs, State-run venture capital fund programs, and credit guarantee programs.

(13) State program

The term “State program” means a State capital access program or a State other credit support program.

(14) Secretary

The term “Secretary” means the Secretary of the Treasury.

(Pub. L. 111–240, title III, §3002, Sept. 27, 2010, 124 Stat. 2568.)

REFERENCES IN TEXT

The Federal Credit Union Act, referred to in par. (2)(B), is act June 26, 1934, ch. 750, 48 Stat. 1216, which is classified principally to chapter 14 (§1751 et seq.) of this title. For complete classification of this Act to the Code, see section 1751 of this title and Tables.

SHORT TITLE

Pub. L. 111–240, title III, §3001, Sept. 27, 2010, 124 Stat. 2568, provided that: “This title [enacting this chapter] may be cited as the ‘State Small Business Credit Initiative Act of 2010.’”

§ 5702. Federal funds allocated to States**(a) Program established; purpose**

There is established the State Small Business Credit Initiative, to be administered by the Secretary. Under the Program, the Secretary shall allocate Federal funds to participating States and make the allocated funds available to the participating States as provided in this section for the uses described in this section.

(b) Allocation formula**(1) In general**

Not later than 30 days after September 27, 2010, the Secretary shall allocate Federal funds to participating States so that each State is eligible to receive an amount equal to the average of the respective amounts that the State—

- (A) would receive under the 2009 allocation, as determined under paragraph (2); and
- (B) would receive under the 2010 allocation, as determined under paragraph (3).

(2) 2009 allocation formula**(A) In general**

The Secretary shall determine the 2009 allocation by allocating Federal funds among the States in the proportion that each such State’s 2008 State employment decline bears to the aggregate of the 2008 State employment declines for all States.

(B) Minimum allocation

The Secretary shall adjust the allocations under subparagraph (A) for each State to the extent necessary to ensure that no State receives less than 0.9 percent of the Federal funds.

(C) 2008 state employment decline defined

In this paragraph and with respect to a State, the term “2008 State employment decline” means the excess (if any) of—

- (i) the number of individuals employed in such State determined for December 2007; over
- (ii) the number of individuals employed in such State determined for December 2008.

(3) 2010 allocation formula**(A) In general**

The Secretary shall determine the 2010 allocation by allocating Federal funds among the States in the proportion that each such State’s 2009 unemployment number bears to the aggregate of the 2009 unemployment numbers for all of the States.

(B) Minimum allocation

The Secretary shall adjust the allocations under subparagraph (A) for each State to the extent necessary to ensure that no State receives less than 0.9 percent of the Federal funds.

(C) 2009 unemployment number defined

In this paragraph and with respect to a State, the term “2009 unemployment number” means the number of individuals within such State who were determined to be unemployed by the Bureau of Labor Statistics for December 2009.

(c) Availability of allocated amount

The amount allocated by the Secretary to each participating State under subsection (b) shall be made available to the State as follows:

(1) Allocated amount generally to be available to State in one-thirds**(A) In general**

The Secretary shall—

- (i) apportion the participating State’s allocated amount into thirds;
- (ii) transfer to the participating State the first $\frac{1}{3}$ when the Secretary approves the State for participation under section 5703 of this title; and
- (iii) transfer to the participating State each successive $\frac{1}{3}$ when the State has certified to the Secretary that it has expended, transferred, or obligated 80 percent of the last transferred $\frac{1}{3}$ for Federal contributions to, or for the account of, State programs.

(B) Authority to withhold pending audit

The Secretary may withhold the transfer of any successive $\frac{1}{3}$ pending results of a financial audit.

(C) Inspector General audits**(i) In general**

The Inspector General of the Department of the Treasury shall carry out an audit of the participating State’s use of allocated Federal funds transferred to the State.

(ii) Recoupment of misused transferred funds required

The allocation agreement between the Secretary and the participating State shall provide that the Secretary shall recoup any allocated Federal funds transferred to the participating State if the results of the an audit include a finding that there was an intentional or reckless misuse of transferred funds by the State.

(iii) Penalty for misstatement

Any participating State that is found to have intentionally misstated any report