

“immediate family”, and “related interest” refer to the same relationship to a financial institution lender as the relationship described in part 215 of title 12 of the Code of Federal Regulations, or any successor to such part.

(8) Capital access for small businesses in underserved communities

At the time that a State applies to the Secretary to have the State capital access program approved as eligible for Federal contributions, the State shall deliver to the Secretary a report stating how the State plans to use the Federal contributions to the reserve fund to provide access to capital for small businesses in low- and moderate-income, minority, and other underserved communities, including women- and minority-owned small businesses.

(Pub. L. 111-240, title III, § 3005, Sept. 27, 2010, 124 Stat. 2574.)

§ 5705. Approving collateral support and other innovative credit access and guarantee initiatives for small businesses and manufacturers

(a) Application

A participating State that establishes a new, or has an existing, credit support program that meets the eligibility criteria in subsection (c) may apply to the Secretary to have the State other credit support program approved as eligible for Federal contributions to, or for the account of, the State program.

(b) Approval

The Secretary shall approve such State other credit support program as eligible for Federal contributions to, or for the account of, the program if—

- (1) the Secretary determines that the State satisfies the requirements of paragraphs (1) through (3) of section 5704(b) of this title;
- (2) the Secretary determines that the State other credit support program meets the eligibility criteria in subsection (c);
- (3) the Secretary determines the State other credit support program to be eligible based on the additional considerations in subsection (d); and
- (4) within 9 months after September 27, 2010, the State has filed with Treasury a complete application for Treasury approval.

(c) Eligibility criteria for State other credit support programs

For a State other credit support program to be approved under this section, that program shall be required to be a program of the State that—

- (1) can demonstrate that, at a minimum, \$1 of public investment by the State program will cause and result in \$1 of new private credit;
- (2) can demonstrate a reasonable expectation that, when considered with all other State programs of the State, such State programs together have the ability to use amounts of new Federal contributions to, or for the account of, all such programs in the State to cause and result in amounts of new

small business lending at least 10 times the new Federal contribution amount;

(3) for those State other credit support programs that provide their credit support through 1 or more financial institution lenders, requires the financial institution lenders to have a meaningful amount of their own capital resources at risk in their small business lending; and

(4) uses Federal funds allocated under this chapter to extend credit support that—

- (A) targets an average borrower size of 500 employees or less;
- (B) does not extend credit support to borrowers that have more than 750 employees;
- (C) targets support towards loans with an average principal amount of \$5,000,000 or less; and
- (D) does not extend credit support to loans that exceed a principal amount of \$20,000,000.

(d) Additional considerations

In making a determination that a State other credit support program is eligible for Federal contributions to, or for the account of, the State program, the Secretary shall take into account the following additional considerations:

- (1) The anticipated benefits to the State, its businesses, and its residents to be derived from the Federal contributions to, or for the account of, the approved State other credit support program, including the extent to which resulting small business lending will expand economic opportunities.
- (2) The operational capacity, skills, and experience of the management team of the State other credit support program.
- (3) The capacity of the State other credit support program to manage increases in the volume of its small business lending.
- (4) The internal accounting and administrative controls systems of the State other credit support program, and the extent to which they can provide reasonable assurance that funds of the State program are safeguarded against waste, loss, unauthorized use, or misappropriation.
- (5) The soundness of the program design and implementation plan of the State other credit support program.

(e) Federal contributions to approved State other credit support programs

A State other credit support program approved under this section will be eligible for receiving Federal contributions to, or for the account of, the State program in an amount consistent with the schedule describing the apportionment of allocated Federal funds among State programs delivered by the State to the Secretary under the allocation agreement.

(f) Minimum Program Requirements for State other credit support programs

(1) Fund¹ to prescribe

The Secretary shall, by regulation or other guidance, prescribe Program requirements for approved State other credit support programs.

(2) Considerations for fund

In prescribing minimum Program requirements for approved State other credit support

¹ So in original. Probably should be “Secretary”.

programs, the Secretary shall take into consideration, to the extent the Secretary determines applicable and appropriate, the minimum Program requirements for approved State capital access programs in section 5704(e) of this title.

(Pub. L. 111-240, title III, § 3006, Sept. 27, 2010, 124 Stat. 2577.)

§ 5706. Reports

(a) Quarterly use-of-funds report

(1) In general

Not later than 30 days after the beginning of each calendar quarter, beginning after the first full calendar quarter to occur after the date the Secretary approves a State for participation, the participating State shall submit to the Secretary a report on the use of Federal funding by the participating State during the previous calendar quarter.

(2) Report contents

Each report under this subsection shall—

(A) indicate the total amount of Federal funding used by the participating State; and
(B) include a certification by the participating State that—

(i) the information provided in accordance with subparagraph (A) is accurate;

(ii) funds continue to be available and legally committed to contributions by the State to, or for the account of, approved State programs, less any amount that has been contributed by the State to, or for the account of, approved State programs subsequent to the State being approved for participation in the Program; and

(iii) the participating State is implementing its approved State program or programs in accordance with this chapter and regulations issued under section 5709 of this title.

(b) Annual report

Not later than March 31 of each year, beginning March 31, 2011, each participating State shall submit to the Secretary an annual report that shall include the following information:

(1) The number of borrowers that received new loans originated under the approved State program or programs after the State program was approved as eligible for Federal contributions.

(2) The total amount of such new loans.

(3) Breakdowns by industry type, loan size, annual sales, and number of employees of the borrowers that received such new loans.

(4) The zip code of each borrower that received such a new loan.

(5) Such other data as the Secretary, in the Secretary's sole discretion, may require to carry out the purposes of the Program.

(c) Form

The reports and data filed under subsections (a) and (b) shall be in such form as the Secretary, in the Secretary's sole discretion, may require.

(d) Termination of reporting requirements

The requirement to submit reports under subsections (a) and (b) shall terminate for a partici-

pating State with the submission of the completed reports due on the first March 31 to occur after 5 complete 12-month periods after the State is approved by the Secretary to be a participating State.

(Pub. L. 111-240, title III, § 3007, Sept. 27, 2010, 124 Stat. 2579.)

§ 5707. Remedies for State program termination or failures

(a) Remedies

(1) In general

If any of the events listed in paragraph (2) occur, the Secretary, in the Secretary's discretion, may—

(A) reduce the amount of Federal funds allocated to the State under the Program; or

(B) terminate any further transfers of allocated amounts that have not yet been transferred to the State.

(2) Causal events

The events referred to in paragraph (1) are—

(A) termination by a participating State of its participation in the Program;

(B) failure on the part of a participating State to submit complete reports under section 5706 of this title on a timely basis; or

(C) noncompliance by the State with the terms of the allocation agreement between the Secretary and the State.

(b) Deallocated amounts to be reallocated

If, after 13 months, any portion of the amount of Federal funds allocated to a participating State is deemed by the Secretary to be no longer allocated to the State after actions taken by the Secretary under subsection (a)(1), the Secretary shall reallocate that portion among the participating States, excluding the State whose allocated funds were deemed to be no longer allocated, as provided in section 5702(b) of this title.

(Pub. L. 111-240, title III, § 3008, Sept. 27, 2010, 124 Stat. 2580.)

§ 5708. Implementation and administration

(a) General authorities and duties

The Secretary shall—

(1) consult with the Administrator of the Small Business Administration and the appropriate Federal banking agencies on the administration of the Program;

(2) establish minimum national standards for approved State programs;

(3) provide technical assistance to States for starting State programs and generally disseminate best practices;

(4) manage, administer, and perform necessary program integrity functions for the Program; and

(5) ensure adequate oversight of the approved State programs, including oversight of the cash flows, performance, and compliance of each approved State program.

(b) Appropriations

There is hereby appropriated to the Secretary, out of funds in the Treasury not otherwise appropriated, \$1,500,000,000 to carry out the Pro-