

(F) the Federal Home Loan Mortgage Corporation; and

(G) any other financial institution that the appropriate Federal regulators, jointly, by rule, determine should be treated as a covered financial institution for purposes of this section.

**(f) Exemption for certain financial institutions**

The requirements of this section shall not apply to covered financial institutions with assets of less than \$1,000,000,000.

(Pub. L. 111–203, title IX, §956, July 21, 2010, 124 Stat. 1905.)

**Editorial Notes**

REFERENCES IN TEXT

Section 1831p-1 of this title, referred to in subsec. (c)(1), was in the original “section of the Federal Deposit Insurance Act (12 U.S.C. 2 1831p-1)”, and was translated as reading “section 39 of the Federal Deposit Insurance Act”, which is classified to section 1831p-1 of this title, to reflect the probable intent of Congress.

The Gramm-Leach-Bliley Act, referred to in subsec. (d), is Pub. L. 106–102, Nov. 12, 1999, 113 Stat. 1338. Subtitle A (§§501–510) of title V of the Act is classified principally to subchapter I (§6801 et seq.) of chapter 94 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title of 1999 Amendment note set out under section 1811 of this title and Tables.

**Statutory Notes and Related Subsidiaries**

EFFECTIVE DATE

Section effective 1 day after July 21, 2010, except as otherwise provided, see section 4 of Pub. L. 111–203, set out as a note under section 5301 of this title.

**CHAPTER 54—STATE SMALL BUSINESS CREDIT INITIATIVE**

Sec.	
5701.	Definitions.
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;

(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; and

(E) a Tribal government, or a group of Tribal governments that jointly apply for an allocation.

**(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.

**(15) Business enterprise owned and controlled by socially and economically disadvantaged individuals**

The term “business enterprise owned and controlled by socially and economically disadvantaged individuals” means a business that—

(A) if privately owned, 51 percent is owned by one or more socially and economically disadvantaged individuals;

(B) if publicly owned, 51 percent of the stock is owned by one or more socially and economically disadvantaged individuals; and

(C) in the case of a mutual institution, a majority of the Board of Directors, account holders, and the community which the institution services is predominantly comprised of socially and economically disadvantaged individuals.

**(16) Community development financial institution**

The term “community development financial institution” has the meaning given that term under section 4702 of this title.

**(17) Minority depository institution**

The term “minority depository institution” has the meaning given that term under section 308(b) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

**(18) Socially and economically disadvantaged individual**

The term “socially and economically disadvantaged individual” means an individual who is a socially disadvantaged individual or an economically disadvantaged individual, as such terms are defined, respectively, under section 637 of title 15 and the regulations thereunder.

**(19) Tribal government**

The term “Tribal government” means the recognized governing body of any Indian or Alaska Native tribe, band, nation, pueblo, village, community, component band, or component reservation, individually identified (including parenthetically) in the list published most recently as of March 11, 2021, pursuant to section 5131 of title 25.

(Pub. L. 111-240, title III, §3002, Sept. 27, 2010, 124 Stat. 2568; Pub. L. 117-2, title III, §3301(e), (f), Mar. 11, 2021, 135 Stat. 71.)

**Editorial Notes**

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.

Section 308(b) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, referred to in par. (17), is section 308(b) of Pub. L. 101-73, which is set out in a note under section 1463 of this title.

AMENDMENTS

2021—Par. (10)(E). Pub. L. 117-2, §3301(e), added subpar. (E).

Pars. (15) to (19). Pub. L. 117-2, §3301(f), added pars. (15) to (19).

**Statutory Notes and Related Subsidiaries**

EFFECTIVE DATE OF 2021 AMENDMENT

Pub. L. 117-2, title III, §3301(g), Mar. 11, 2021, 135 Stat. 72, provided that: “The amendments made by this section [amending this section and sections 5702 to 5706, 5708, and 5710 of this title and enacting provisions set out as a note below] shall apply with respect to funds appropriated under this section and funds appropriated on and after the date of enactment of this section [Mar. 11, 2021].”

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.’”

APPROPRIATION

Pub. L. 117-2, title III, §3301(a)(2), Mar. 11, 2021, 135 Stat. 69, provided that:

“(A) IN GENERAL.—In addition to amounts otherwise available, there is hereby appropriated to the Secretary of the Treasury for fiscal year 2021, out of any money in the Treasury not otherwise appropriated, \$10,000,000,000, to remain available until expended, to provide support to small businesses responding to and recovering from the economic effects of the COVID-19 pandemic, ensure business enterprises owned and controlled by socially and economically disadvantaged individuals have access to credit and investments, provide technical assistance to help small businesses applying for various support programs, and to pay reasonable costs of administering such Initiative.

“(B) RESCISSION.—With respect to amounts appropriated under subparagraph (A)—

“(i) the Secretary of the Treasury shall complete all disbursements and remaining obligations before September 30, 2030; and

“(ii) any amounts that remain unexpended (whether obligated or unobligated) on September 30, 2030, shall be rescinded and deposited into the general fund of the Treasury.”

**§ 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 March 11, 2021, the Secretary shall allocate Federal funds to participating States so that each State is eligible to receive an amount equal to what the State would receive under the 2021 allocation, as determined under paragraph (2).

**(2) 2021 allocation formula**

**(A) In general**

With respect to States other than Tribal governments, the Secretary shall determine the 2021 allocation by allocating Federal funds among the States in the proportion that each such State’s 2020 State employment decline bears to the aggregate of the 2020 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)<sup>1</sup> 2020 State employment decline defined**

In this paragraph and with respect to a State, the term “2020 State employment decline” means the excess (if any) of—

- (i) the number of individuals employed in such State determined for December 2019; over

- (ii) the number of individuals employed in such State determined for December 2020.

**(C)<sup>1</sup> Separate allocation for Tribal governments**

**(i) In general**

With respect to States that are Tribal governments, the Secretary shall determine the 2021 allocation by allocating \$500,000,000 among the Tribal governments in the proportion the Secretary determines appropriate, including with consideration to available employment and economic data regarding each such Tribal government.

**(ii) Notice of intent; timing of allocation**

With respect to allocations to States that are Tribal governments, the Secretary may—

- (I) require Tribal governments that individually or jointly wish to participate in the Program to file a notice of intent with the Secretary not later than 30 days after March 11, 2021; and

- (II) notwithstanding paragraph (1), allocate Federal funds to participating Tribal governments not later than 60 days after March 11, 2021.

**(D) Employment data**

If the Secretary determines that employment data with respect to a State is unavailable from the Bureau of Labor Statistics of the Department of Labor, the Secretary shall consider such other economic and employment data that is otherwise available for purposes of determining the employment data of such State.

**(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 ⅓ when the Secretary approves the State for participation under section 5703 of this title; and

- (iii) transfer to the participating State each successive ⅓ when the State has certified to the Secretary that it has expended, transferred, or obligated 80 percent of the last transferred ⅓ for Federal contributions to, or for the account of, State programs that have delivered loans or investments to eligible businesses.

**(B) Authority to withhold pending audit**

The Secretary may withhold the transfer of any successive ⅓ 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

<sup>1</sup> So in original. Two subpars. (C) have been enacted.