

FY 2018 Fees and Miscellaneous Amendments to Business Loan Programs and Surety Bond Guarantee Program

AKA Fees and “Catch-All”



U.S. Small Business Administration



SBA 7(a) Guaranty Fees for FY 18 and Veteran Fee Relief for FY 18

SBA 7(a) Guaranty Fees for FY 18

SBA Up-Front and Annual Servicing Guaranty Fees are updated each year to keep SBA “subsidy neutral”.

- [5000-1954](#) 7(a) and 504 Fees Effective 10/1/17
- [5000-1955](#) Fees for 7(a) Loans Made to Veteran-Owned Small Businesses Effective 10/1/17

SBA 7(a) Guaranty Fees for FY 18

Up-Front Guaranty Fee (loan terms > 12 mo.)

Loan Amount

Fee (% of Gty)

≤ \$125,000

No Fee

\$125,001 to \$150,000

2.0%*

\$150,001 to \$700,000

3.0%

\$700,001 to \$5MM

3.5% of first \$1 MM gty
+ 3.75% for gty > \$1MM

- Fee is due NLT 90 days after SBA Approval.

* Lender may retain 25% of guaranty fees up to \$150,000

SBA 7(a) Guaranty Fees for FY 18

Up-Front Guaranty Fee Short-Term Loans (\leq 12 mos.)

Loan Amount

Fee (% of Gty)

Loans up to \$125,000

No Fee

\$125,001 to \$5 MM

0.25% of the gty amt.

- “Catch-All” changed fee due date for S/T loans to “**10 days after approval**”!
- Fee is NOT refundable on S/T loans (unless SBA changed the lenders proposed terms.)

SBA 7(a) Guaranty Fees for FY 18

What if there are multiple loans to the same borrower?

If 2 or more loans are approved within 90 days:

- Guaranty percentage based on **aggregate** loans amounts.
- Guaranty fee is based on **aggregate** loan amounts.
- **Lenders are not permitted to split loans to avoid fees.**
- Difference is made up with subsequent loans.
 - Reduce guaranty percentage to conform with policy.
 - Increase guaranty fee to conform with policy.

SBA 7(a) Guaranty Fees for FY 18

Annual Service Fee (Ongoing) Guaranty Fee.

- For ALL 7(a) Loans: 0.55% for FY 18
- *Lenders must manually adjust this fee in the Authorization Wizard at this time.*
- Lender may not pass this fee on to the Borrower.

Veteran's Fee Relief for FY 18

SBAExpress Loans up to \$350,000

No Fee

SBA Veteran Advantage (Non-SBAExpress Term Loans)

Loan Amount

Fee (% of Gty)

≤ \$125,000

No Fee

\$125,001 to \$150,000

1.0%*

\$150,001 to \$350,000

1.5%

\$350,001 to \$700,000

3.0%

\$700,001 to \$5MM

3.5% of first \$1 MM gty
+ 3.75% for gty > \$1MM

Veteran's Fee Relief for FY 18

Up-Front Guaranty Fee Short-Term Loans of 12 months or less. (Non-SBAExpress)

Loan Amount

Fee (% of Gty)

To \$125,000

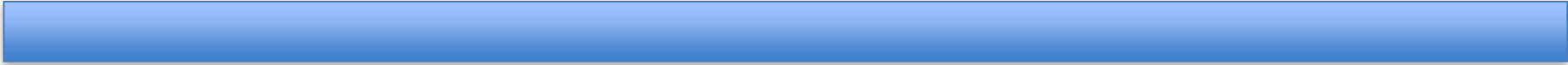
No Fee

\$125,001 to \$350,000

0.125% of the gty amt.

\$350,001 to \$5 MM

0.25% of the gty amt.



Miscellaneous Amendments to Business Loan Programs and Surety Bond Guarantee Program ("Catch-All")

What is “Catch All”?

- “Periodic review of existing regulations”
- Last done when???
- Meant to:
 - Removes outdated or ineffective regulations.
 - Updates and modernize older regulations.
- Proposed Rule Published for comment 8/9/2016
- 57 Comments received

What CFR Sections are Effected?

Changes to regulations under Sections:

- **§ 109 – Intermediary Lending Pilot Program (ILPP)**
- **§ 115 – Surety Bond Guarantee Program (SBG)**
- **§ 120 – 7(a) and 504 Programs**
- **Changes are effective 9/20/2017***

** Changes to § 120.1400 are effective 10/20/2017*

Business Loan Program Changes

Removed the prohibition against cooperatives:

- *§ 120.110 What businesses are ineligible for SBA business loans?*
 - Cooperatives are eligible as of 9/20/2017.
 - Still must have at least one full, unlimited guarantor.

Business Loan Program Changes

Eligible Passive Company rule changes:

- § 120.111 What conditions must an Eligible Passive Company satisfy?
 - EPC owner(s) can sell to remaining EPC owners.
 - Limitation of OC Lease payment to EPC.
 - Guaranties of owners with < 5% interest.
 - “Lender” becomes “SBA Lender”.

Business Loan Program Changes

Loan proceeds restrictions to pay delinquent taxes:

- § 120.130 *Restrictions on uses of proceeds.*
 - Prohibition on payment of taxes relocated.
 - Added local, state and Federal tax prohibition.
 - Removed inaccurate reference to § 120.203.

Business Loan Program Changes

Guaranty requirements updated:

- *§ 120.160 Loan conditions.*
 - Guaranties of owners with < 5% interest.
 - Allows delegated lenders to also require guaranties regardless of ownership.
 - “Participating Lender” becomes “SBA Lender”.

Business Loan Program Changes

No need to permit “computer forms” if all forms are submitted electronically.

- § 120.194 Use of computer forms.

DID NOT CHANGE Variable Interest Rate rules:

- § 120.214 What conditions apply for variable interest rates?

Business Loan Program Changes

Updated the rules on Fees a Lender pays to SBA.

- *§ 120.220 Fees that Lender pays SBA.*
 - Adds Veteran Fee Relief for SBAExpress loans.
 - Short Term Loan guarantee fee due date.
 - On S/T loans, Lender may collect the fee from Borrower after Lender pays the fee to SBA.

Business Loan Program Changes

Fees a Lender may collect from the Borrower.

- § 120.221 Fees which the Lender may collect from a loan applicant.
 - Removed “No Prepayment Fee” (still not permitted though).
 - Added Legal Fees (previously in § 120.222(e)).

Business Loan Program Changes

Eliminated the list of fees that are not permitted.

- § 120.222 Fees which the Lender or Associate may not collect from the Borrower or share with third parties.

Now:

- § 120.222 Prohibition on sharing premiums for secondary market sales.

Business Loan Program Changes

Increased percentage for land acquisition in the Builder's Loan Program.

- § 120.394 What are the eligible uses of proceeds?

Removed incorrect cross-references.

- § 120.400 Loan Guarantee Agreements

Business Loan Program Changes

The terms “On-site” and “Off-site” reviews eliminated from multiple sections of the CFR.

- Now referred to as “review/examination”, “assessments” or “monitoring”

The term “Good Standing” replaced with “Satisfactory” in multiple sections of the CFR.

Business Loan Program Changes

SBA eliminated the CLP program regulations.

- § 120.440 The Certified Lenders Program.
- § 120.441 How does a Lender become a CLP Lender?

Replaced with Delegated Authority Guidance.

- New § 120.440 How does a 7(a) Lender obtain delegated authority?
 - PLP, PLP-EWCP, SBAExpress, & Export Express.

Business Loan Program Changes

Also removes how to become a PLP lender.

- § 120.451 How does a Lender become a PLP Lender?

Clarified how SBA can collect delinquent fees.

- § 120.524 When is SBA released from liability on its guarantee?
 - Judicial remedies and Right to Offset

Business Loan Program Changes

Multiple changes under Suspension and revocation authority of SBA.

- § 120.660 Suspension or revocation.
 - Concurrence of D/FA and D/OCRM
 - 120 day temporary suspension limit
 - 2 year temporary revocation limit
 - Removed reference to Form 1085

Business Loan Program Changes

Additional guidance on who a Lender may share their confidential reports.

- § 120.1060 Confidentiality of Reports, Risk Ratings and related Confidential Information.
 - With whom can a Lender share their Reviews, Risk Ratings and other confidential information?
 - Does not include LSPs.

Business Loan Program Changes

Revised how SBA charges lender oversight fees.

- § 120.1070 Lender oversight fees.
 - Removed “On-Site” and Off-site” .
 - Gives discretion to SBA on fee allocation.
 - Allows SBA to charge Lender for their share of expenses when costs are not attributed to only one Lender.

Business Loan Program Changes

Grounds for Enforcement Actions on SBA Supervised Lenders, including CDCs and SBLCs (but not “Other Regulated SBLCs”) **Effective 10/20/2017**

- § 120.1400 Grounds for enforcement actions - SBA Lenders.
 - Consent to Appointment by a Receiver.
 - Consent is not a mandate, but provides additional flexibility to SBA if necessary or appropriate. www.sba.gov

Business Loan Program Changes

Adjusts the types of enforcement actions for SBA regulated Lenders including CDCs and SBLCs (but not “Other Regulated SBLCs”).

- § 120.1500 Types of enforcement actions—SBA Lenders.
 - Adds flexibility in seeking receiverships.
 - Not a mandate an appointment, but provides SBA flexibility to SBA.

Business Loan Program Changes

Added procedures to appoint a receiver.

- § 120.1600 General procedures for enforcement actions against SBA Lenders, SBA Supervised Lenders...
 - Provides SBA added flexibility.
 - Safeguards the security and integrity of SBA loan programs.

Business Loan Program Changes

The “Allonge” rule.

- § 120.1707 Seller's retained Loan Interest.
 - Purchaser can execute an allonge to the Note instead of issuing a new 1st position 504 Loan Pool Agreement.
 - Pool loan payments will be withheld until SBA completes the transfer.

Business Loan Program Changes

Deletes Subpart K in its entirety!

- Subpart K—Establishment of an SBA Direct Loan Program for Systemically Important Secondary Market Broker-Dealers (SISMBD Loan Program).
 - Program expired 2/16/2011.
 - Last loan PIF 2/16/2013
 - No need to have rules on an program that no longer exists!



Keys to Success

7(a) Loan Portfolio Transfer via Merger or Asset/Loan Sale

Mergers/Sales - 7(a) Portfolio Transfer

On Merger or Asset Sales:

- LRS notifies acquiring and target Bank(s) to check for, and pay-off all outstanding SBA Fees.
- Contact DFCActionDesk@sba.gov for DFC fees questions
- Acquiring Bank provides “prior written consent” before merger/sale takes place.

Mergers/Sales - 7(a) Portfolio Transfer

LRS also obtains from the Banks involved:

- “Plan of Merger” **OR** “Purchase and Sales Agreement”.
- List of all SBA loan being transferred (descending order)
- Lender Obligation Statement (Asset/Loan Sales)

LRS sends the completed Asset/Loan Sale package to OFA for OFA/OCRM review, including the Banks Location ID numbers (pulled from PIMS).

Mergers/Sales - 7(a) Portfolio Transfer

Once the Asset Sales package is received by OFA:

- OFA Analyst reviews & makes a recommendation.
- Package is forwarded to OCRM for risk factor review.
- After OCRM clearance, OFA Analyst forwards package with recommendation to D/FA for final approval.
- OPSM then transfers loan portfolio in PIMS.
- ***SBA only approves the SBA loan portfolio transfer; NOT the actual Bank merger!***

Questions?

