



Billing Code

SMALL BUSINESS ADMINISTRATION

[Docket No. SBA-2020-0006]

Community Advantage Pilot Program

AGENCY: U.S. Small Business Administration.

ACTION: Notice of changes to Community Advantage Pilot Program and request for comments.

SUMMARY: The Community Advantage (“CA”) Pilot Program is a pilot program to increase SBA-guaranteed loans to small businesses in underserved areas. The Small Business Administration (“SBA” or “Agency”) continues to refine and improve the design of the CA Pilot Program. To support SBA’s commitment to expanding access to capital for small businesses and entrepreneurs in underserved markets, SBA is issuing this Notice to revise the requirements for refinancing non-SBA guaranteed, same institution debt in certain circumstances. Further, SBA is revising the number of loans a CA Lender must make before it can begin processing loans under its delegated authority. Finally, SBA is providing guidance on the expiration and process for renewal of CA Lenders’ Loan Guaranty Agreements (SBA Form 750CA).

DATES: The changes take effect [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. The CA Pilot Program will remain in effect until September 30, 2022.

Comment Date: Comments must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments, identified by SBA docket number SBA-2020-0006, by any of the following methods:

- Federal eRulemaking Portal: <https://www.regulations.gov/>. Follow the instructions for submitting comments.
- Mail: Daniel Upham, Chief, Microenterprise Development Division, Office of Financial Assistance, U.S. Small Business Administration, 409 Third Street SW, Washington, DC 20416.
- Hand Delivery/Courier: Daniel Upham, Chief, Microenterprise Development Division, Office of Financial Assistance, U.S. Small Business Administration, 409 Third Street SW, Washington, DC 20416.

SBA will post all comments on <https://www.regulations.gov>. If you wish to submit confidential business information (“CBI”) as defined in the User Notice at <https://www.regulations.gov>, please submit the information to Daniel Upham, Chief, Microenterprise Development Division, Office of Financial Assistance, U.S. Small Business Administration, 409 Third Street SW, Washington, DC 20416; or send an email to communityadvantage@sba.gov. Highlight the information that you consider to be CBI and explain why you believe SBA should hold this information as confidential. SBA will review the information and make the final determination as to whether it will publish the information.

FOR FURTHER INFORMATION CONTACT: Daniel Upham, Chief, Microenterprise Development Division, Office of Financial Assistance, U.S. Small Business Administration, 409 Third Street SW, Washington, DC 20416, (202) 205-7001, daniel.upham@sba.gov.

SUPPLEMENTARY INFORMATION:

1. Background

As part of its efforts to increase the number of SBA-guaranteed 7(a) loans made to small businesses in underserved markets, on February 18, 2011, SBA issued a notice and request for comments introducing the CA Pilot Program (76 FR 9626). That notice provided an overview of the CA Pilot Program requirements and, pursuant to the authority provided to SBA under 13 CFR 120.3 to suspend, modify or waive certain regulations in establishing and testing pilot loan initiatives, SBA modified or waived as appropriate certain regulations which otherwise apply to 7(a) loans for the CA Pilot Program.

Subsequent notices have made changes to the CA Pilot Program to improve the program experience for participants, improve their ability to deliver capital to underserved markets, and appropriately manage risk to the Agency. These notices were issued on the following dates: September 12, 2011 (76 FR 56262), February 8, 2012 (77 FR 6619), November 9, 2012 (77 FR 67433), December 28, 2015 (80 FR 80872), and September 12, 2018 (83 FR 46237). In the notice published September 12, 2018 (the “September 2018 Notice”), SBA extended the pilot program to September 30, 2022, placed a moratorium on the acceptance of applications for new Community Advantage Lenders (“CA Lenders”), modified the requirements for refinancing non-SBA guaranteed, same institution debt, and revised other program requirements. SBA is issuing this Notice to further revise program requirements as described more fully below.

2. Comments

Although the changes are effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], comments are solicited from interested members of the public on all aspects of the CA Pilot Program. Comments must be submitted on or before the deadline for comments listed in the DATES section. SBA will consider these comments and the need for making any revisions as a result of these comments.

3. Changes to the Community Advantage Pilot Program

a) Non-SBA guaranteed, Same Institution Debt Refinancing Requirements

Based on comments received in response to the September 2018 Notice, SBA is modifying the requirements for refinancing non-SBA guaranteed, same institution debt. SBA has learned that the applicants for refinancing are often small businesses that, for one reason or another, have obtained financing with terms that are onerous and unsustainable for the applicant, such as loans with high compound interest rates, draw fees, late fees, and/or substantial prepayment penalties. When a CA Lender receives such an application for refinancing, the CA Lender may opt to make an interim, non-SBA guaranteed loan to immediately restructure the financing on more reasonable terms, in anticipation of providing a permanent solution. SBA recognizes the importance of improving cash flow to a small business as soon as possible with a loan on more reasonable terms, and of providing a small business applicant with the additional time and technical assistance it may need to complete a successful SBA-guaranteed loan application. Therefore, SBA is modifying the restrictions on refinancing non-SBA guaranteed, same institution debt to permit the CA Lender to pay off certain interim loans with an SBA-guaranteed CA loan when beneficial to the small business applicant under certain circumstances. (It is important to note, however, that extension of an interim loan

by a CA Lender is made entirely at the CA Lender's risk as there is no assurance that the interim loan will be eligible to be refinanced with a CA loan.)

In order to refinance its own interim, non-SBA guaranteed same institution loan with a CA loan, the CA Lender must comply with all of the following:

i. The sole purpose of the interim loan must have been to refinance debt that was on onerous terms (e.g., the refinancing will improve the Applicant's cash flow by at least 15%), including necessary out-of-pocket costs.

ii. The Annual Percentage Rate ("APR") on the interim loan must not exceed the maximum interest rate allowable under the CA Pilot Program.

iii. The interim loan must not have been made more than 6 months prior to the submission in E-TRAN of the SBA-guaranteed CA loan application.

iv. The CA Lender must provide a transcript showing the due dates and when payments were received for the entire term of the interim loan. If there are any late payments and/or late charges on the interim loan, the CA Lender must explain in its credit memorandum the late payments and late charges and substantiate how the CA Lender has determined that SBA will not be in a position to sustain a loss from refinancing the interim loan.

v. The CA Lender may not charge any fees on the interim loan except for necessary out-of-pocket costs associated with closing the loan, such as filing or recording fees. There must be no prepayment penalty or other charge for prepayment of the interim loan.

vi. The CA loan that refinances the interim loan must be submitted to SBA for non-delegated processing and may not be approved under a CA Lender's delegated authority.

vii. The CA Lender must address in its credit memorandum how the original debt meets the requirements set forth in SOP 50 10 for debt refinancing (currently, Subpart B, Chapter 2, Paragraph V.E.).

b) Delegated Authority

Currently, a CA Lender that is determined to be eligible for delegated authority may not process loans using its delegated authority until (i) it closes and makes an initial disbursement on at least seven non-delegated CA loans, and (ii) the Office of Credit Risk Management ("OCRM") determines, in consultation with the Loan Guaranty Processing Center ("LGPC"), that it has satisfactory knowledge of SBA Loan Program Requirements. SBA is increasing the number of CA loans that must be initially disbursed before a CA Lender may receive approval to process applications under delegated authority. Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], the number of loans is increased to ten.

c) Loan Guaranty Agreement (SBA Form 750CA) Expiration and Renewal

On September 12, 2018, SBA extended the Community Advantage Pilot Program from March 31, 2020, to September 30, 2022. Currently, most CA Lenders have a Loan Guaranty Agreement (SBA Form 750CA) that expires on March 31, 2020. As set forth in the CA Participant Guide, OCRM will conduct a review of each CA Lender prior to March 31, 2020. The review will include, but not be limited to, an assessment of the CA Lender's compliance with SBA Loan Program Requirements, including the requirement

to make 60 percent of its loans to small businesses in the CA underserved markets, satisfactory SBA performance as determined by SBA in its discretion, and other risk-related criteria. Based on the results of a CA Lender's review, OCRM may: 1) renew the CA Lender's SBA Form 750CA until the expiration date of the pilot program (September 30, 2022); 2) renew the CA Lender's SBA Form 750CA for a shorter period; or 3) not renew the CA Lender's SBA Form 750CA beyond March 31, 2020. In the latter two cases, OCRM will provide an explanation for the shortened renewal or non-renewal, as appropriate.

d) Limited Moratorium Exception

As stated in the September 2018 Notice, SBA believes there are a sufficient number of CA Lenders for SBA to perform a proper evaluation of the pilot program. In order to maintain a sufficient number of CA Lenders, SBA will accept new applications from qualified eligible entities to replace CA Lenders that voluntarily withdraw from the program, are not renewed, or are otherwise removed from the pilot program. SBA will provide further information on this process after March 31, 2020, when it expects to know the number of CA Lenders that will not be continuing in the pilot program. In accordance with the September 2018 Notice, SBA is not increasing the total number of CA Lenders.

4. General Information

The changes in this Notice are limited to the CA Pilot Program only. All other SBA Loan Program Requirements and regulatory waivers or modifications related to the CA Pilot Program remain unchanged.

SBA has provided more detailed guidance in the form of a Participant Guide, which will be updated to reflect these changes and will be available on SBA's website at <http://www.sba.gov>. SBA may provide additional guidance, through SBA notices, which may also be published on SBA's website at <http://www.sba.gov/category/lender-navigation/forms-notices-sops/notices>. Questions regarding the CA Pilot Program may be directed to the Lender Relations Specialist in the local SBA district office. The local SBA district office may be found at <http://www.sba.gov/about-offices-list/2>.

Authority: 15 U.S.C. 636(a)(25) and 13 CFR 120.3.

Dated: February 11, 2020.

Jovita Carranza,
Administrator.

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