

January 6, 2023

Ms. Dianna Seaborn
Director
Office of Financial Assistance
Office of Capital Access
U.S. Small Business Administration
409 3rd St. SW
Washington, DC 20416

RE: Small Business Lending Company Moratorium Rescission (RIN 3245-AH92)

Dear Ms. Seaborn:

Opportunity Finance Network (OFN) appreciates the opportunity to comment on the Small Business Administration's proposed rule for lifting the moratorium on Small Business Lending Company (SBLC) licenses and the impact on 7(a) and the Community Advantage loan programs.

OFN is a national network of more than 390 community development financial institutions (CDFIs) investing in opportunities that benefit low-income, low-wealth, and other under-resourced communities across America. Our membership has originated more than \$100 billion in financing in urban, rural, and Native communities through 2021. With cumulative net charge off rates of less than 1 percent, these institutions lend productively in markets underestimated by mainstream banks.¹

Background on CDFI Small Business Lending

CDFIs provide affordable, responsible capital to businesses that cannot access traditional financing. CDFIs do this while still maintaining strong balance sheets and minimal losses by employing sound and prudent lending practices and working closely with their borrowers to provide training and technical assistance. In fiscal year (FY) 2021 alone, certified CDFIs originated more than \$8.1 billion in small business and microloans.² CDFIs have both community relationships and capacity needed to meet the growing demand for small business lending capital.

The Small Business Administration (SBA), as the only federal agency solely focused on bringing access to capital to small businesses, is an important partner for CDFIs. SBA's programs provide capital and credit enhancement to businesses, but some programs are far more successful at reaching underserved borrowers than others. CDFIs have the market expertise and capacity to help SBA resources reach more small businesses that lack access to capital. OFN encourages the SBA to consider the nation's network of CDFIs as priority partners and work closely with these institutions to meet the credit needs of historically disadvantaged small businesses.

Mission-Based SBLC Proposal Creates Undue Burden on CDFIs

OFN agrees with SBA that capital market gaps exist in small business lending, especially for underserved small business. While the addition of SBLCs is potentially the way to address

¹ Data from 2021 OFN annual member survey.

² As reported to the CDFI Fund by CDFI Fund Financial Assistance Program awardees.
https://www.cdfifund.gov/sites/cdfi/files/2021-12/FY2021_Agency_Financial_Report.pdf

these gaps, there are aspects of the proposal that are concerning, particularly related to the requirements for Mission-Based SBLCs.

The proposal states that SBA will determine in its sole discretion every aspect of the targets a Mission-Based SBLC must meet including: the acceptable percentage of loans that it must make in its identified capital market gap, maximum loan size, geographic area of operation, and capitalization as well as the minimum capital requirement. Many of these programmatic aspects are left to the discretion of the Administrator. While this could allow for flexibility to adjust these targets based on market conditions, it also creates potential for inconsistent implementation of these guidelines as leadership changes at the agency.

The proposed requirements for Mission-Based SBLCs are also burdensome and unnecessary for certified CDFIs that already have a proven track record of lending to underserved small businesses. In order to be certified by Treasury Department's CDFI Fund, CDFIs must already meet rigorous requirements demonstrating their commitment and integrity as mission lenders. These lenders also are already required to lend and invest at least 60% of their financing in an approved Target Market. Requiring these lenders to abide by a new set of rules as a condition of participation in the 7(a) program is duplicative.

Additionally, imposing more restrictions on Mission-Based SBLC's than for-profit SBLC's places an undue burden on mission lenders. This will result in a competitive advantage for for-profit SBLCs that are not being held to the same standards regarding reaching distressed communities and meeting certain capital requirements.

Impact of SBLC Proposal on Community Advantage Pilot Program

The SBA's proposal also creates confusion about the future of the Community Advantage Pilot Program. SBA launched the Community Advantage (CA) Pilot Program in 2011 to provide 7(a) loans in underserved markets through mission-oriented lenders. Since the program's inception, CDFIs have been a driving force in its success. OFN members account for more than half of all CA lenders. In 2022, CA lenders in OFN's membership accounted for 77% of the total number of CA loans and lent 75% of the dollar amount of CA loans³. As CA lenders, our member CDFIs have been able to assist, finance, service and grow businesses that traditional 7(a) lenders could not reach.

SBA's intent is to translate the success of CA lending into the traditional 7(a) program by creating this classification of Mission-Based SBLC licenses, providing a long-term pathway for successful CA lenders to participate in the 7(a) program. OFN appreciates the effort to provide a more permanent loan program for mission lenders including CDFIs to participate in the 7(a) program as the Community Advantage program remains in pilot phase. However, we are concerned that this proposal may undermine the future of the CA program at a time when the program is positioned for success.

In 2022, OFN worked closely with the SBA to make significant changes to the CA program. Those changes have not yet had time to fully be implemented for both lenders and borrowers. In the proposed SBLC rule, the SBA cited that CA has an inadequate loan volume and has been unable to adequately reach some rural and underserved areas. Concerns about low loan volume in CA can be attributed to the lack of certainty around the future of

³ OFN calculations of public SBA data. <https://data.sba.gov/dataset/7-a-504-foia>

the program as it was only extended for two years through 2024 despite the SBA's authority to extend the program for a ten-year period.

CA program loan volume was also negatively impacted by the pandemic – having decreased over the last couple of years as many lenders focused on the Paycheck Protection Program. However, that trend has already started to reverse. As the Mission Lenders Working Group notes in its comments, CA loan volume increased in FY 2022 by 21 percent. Loan volume will likely increase further as the 2022 changes become fully integrated into the program, making this an inopportune time for SBA to shift its focus away from one of the programs that has been most effective at reaching disadvantaged small businesses.

OFN urges the SBA to fully allow the impacts of those recent CA program updates to materialize before attempting to implement a Mission-Based SBLC license that could result in high capacity, high performing lenders diverting their resources from the CA program.

Recommendations

- **Delay Implementation of Proposed Rule to Gather Additional Lender Input -** OFN recommends SBA pause the implementation of this rule and does not issue any new SBLC licenses at this time. As mentioned, SBA made reforms to CA in 2022 based on direct input from CA lenders and borrowers. We recommend SBA follow a similar process, engaging directly with lenders outside of this comment period to seek feedback. Before moving forward with Mission-Based SBLCs, SBA should reassess the requirements for mission lenders seeking this new license and work with CA participants to ensure the objective of filling capital market gaps is met.
- **Leverage Existing CA Lenders and Certified CDFIs to Reach Underserved Businesses -** Mission lenders like CDFIs have a proven track record of serving underserved markets. OFN encourages the SBA to leverage the specialized lending expertise and existing relationships CDFIs have with small businesses to improve SBA loan programs. Should SBA choose to move forward with issuing new SBLC licenses, OFN encourages SBA to allow certified CDFIs to use their existing CDFI Fund target markets and other relevant data from their CDFI certification as opposed to imposing duplicative onerous and burdensome requirements.
- **Ensure Responsible Lending Practices -** OFN echoes the recommendation from Accion Opportunity Fund and the Responsible Business Lending Coalition that the agency require non-CDFIs and non-bank lenders to abide by responsible lending practices. To prevent predatory lending and abuses, lenders should be required to comply with the [Small Business Borrowers' Bill of Rights \(BBoR\)](#) established by the Responsible Business Lending Coalition (RBLC).

The BBoR identifies six fundamental rights that all small business owners seeking financing deserve and outlines how lenders should uphold and protect these rights. These protections include the right to transparent pricing and terms; non-abusive products; responsible underwriting; fair treatment from brokers; inclusive credit access, and the right to fair collections practices. Greater access to capital is counterproductive if capital is unaffordable and against the best interest of small business borrowers. Lenders seeking to participate in this program should abide by the BBoR.

- **Increase SBA Capacity to Ensure Adequate Oversight** - Lender oversight is important in ensuring responsible lending practices, especially from non-CDFI and non-bank lenders. OFN shares Accion Opportunity Fund's concerns regarding SBA's capacity for appropriate lender oversight due to limited personnel resources and urges the agency to ensure there is adequate staffing and capacity to supervise new lenders before issuing new licenses.

Conclusion

OFN appreciates SBA's effort to increase access to capital in underserved markets. We encourage SBA to engage more closely with stakeholders, especially CDFIs, as the agency seeks to remedy capital market gaps. OFN is committed to continue working with SBA to increase access to affordable, responsible finance for small businesses. Please contact me at dwilliams@ofn.org or 202.868.6922 with any questions about these recommendations.

Sincerely,



Dafina Williams
Executive Vice President, External Affairs
Opportunity Finance Network