(d) Enforcement

The provisions of this section and the regulations issued under this section shall be enforced under section 505 of the Gramm-Leach-Bliley Act [15 U.S.C. 6805] and, for purposes of such section, a violation of this section or such regulations shall be treated as a violation of subtitle A of title V of such Act [15 U.S.C. 6801 et seq.].

(e) Definitions

As used in this section—

(1) the term ''appropriate Federal regulator'' means the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Board of Directors of the Federal Deposit Insurance Corporation, the Director of the Office of Thrift Supervision, the National Credit Union Administration Board, the Securities and Exchange Commission, the Federal Housing Finance Agency; and

(2) the term ''covered financial institution'' means—

(A) a depository institution or depository institution holding company, as such terms are defined in section 1813 of this title;

(B) a broker-dealer registered under section 78*o* of title 15;

(C) a credit union, as described in section 461(b)(1)(A)(iv) of this title;

(D) an investment advisor, as such term is defined in section 80b–2(a)(11) of title 15;

(E) the Federal National Mortgage Association;

(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.)

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.

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.
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§ 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; and

(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.

(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.

(Pub. L. 111–240, title III, § 3002, Sept. 27, 2010, 124 Stat. 2568.)

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.

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'.''

§ 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 September 27, 2010, the Secretary shall allocate Federal funds to participating States so that each State is eligible to receive an amount equal to the average of the respective amounts that the State—

(A) would receive under the 2009 allocation, as determined under paragraph (2); and

(B) would receive under the 2010 allocation, as determined under paragraph (3).

(2) 2009 allocation formula

(A) In general

The Secretary shall determine the 2009 allocation by allocating Federal funds among the States in the proportion that each such State's 2008 State employment decline bears to the aggregate of the 2008 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) 2008 state employment decline defined

In this paragraph and with respect to a State, the term ''2008 State employment decline'' means the excess (if any) of—

(i) the number of individuals employed in such State determined for December 2007; over

(ii) the number of individuals employed in such State determined for December 2008.

(3) 2010 allocation formula

(A) In general

The Secretary shall determine the 2010 allocation by allocating Federal funds among the States in the proportion that each such State's 2009 unemployment number bears to the aggregate of the 2009 unemployment numbers for all of the 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) 2009 unemployment number defined

In this paragraph and with respect to a State, the term ''2009 unemployment number'' means the number of individuals within such State who were determined to be unemployed by the Bureau of Labor Statistics for December 2009.

(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.

(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 the participating State's use of allocated Federal funds transferred to the State.

(ii) Recoupment of misused transferred funds required

The allocation agreement between the Secretary and the participating State shall provide that the Secretary shall recoup any allocated Federal funds transferred to the participating State if the results of the an audit include a finding that there was an intentional or reckless misuse of transferred funds by the State.

(iii) Penalty for misstatement

Any participating State that is found to have intentionally misstated any report issued to the Secretary under the Program shall be ineligible to receive any additional funds under the Program. Funds that had been allocated or that would otherwise have been allocated to such participating State shall be paid into the general fund of the Treasury for reduction of the public debt.

(iv) Municipalities

In this subparagraph, the term ''participating State'' shall include a municipality given special permission to participate in the Program, under section 5703(d) of this title.

(D) Exception

The Secretary may, in the Secretary's discretion, transfer the full amount of the participating State's allocated amount to the State in a single transfer if the participating State applies to the Secretary for approval to use the full amount of the allocation as collateral for a qualifying loan or swap funding facility.

(2) Transferred amounts

Each amount transferred to a participating State under this section shall remain available to the State until used by the State as permitted under paragraph (3).

(3) Use of transferred funds

Each participating State may use funds transferred to it under this section only—

(A) for making Federal contributions to, or for the account of, an approved State program;

(B) as collateral for a qualifying loan or swap funding facility;

(C) in the case of the first ⅓ transferred, for paying administrative costs incurred by the State in implementing an approved State program in an amount not to exceed 5 percent of that first ⅓; or

(D) in the case of each successive ⅓ transferred, for paying administrative costs incurred by the State in implementing an approved State program in an amount not to exceed 3 percent of that successive ⅓.

(4) Termination of availability of amounts not transferred within 2 years of participation

Any portion of a participating State's allocated amount that has not been transferred to the State under this section by the end of the 2-year period beginning on the date that the Secretary approves the State for participation may be deemed by the Secretary to be no longer allocated to the State and no longer available to the State and shall be returned to the General Fund of the Treasury.

(5) Transferred amounts not assistance

The amounts transferred to a participating State under this section shall not be considered assistance for purposes of subtitle V of title 31.

(6) Definitions

In this section—

(A) the term ''allocated amount'' means the total amount of Federal funds allocated

by the Secretary under subsection (b) to the participating State; and

(B) the term ''⅓'' means—

(i) in the case of the first ⅓ and second ⅓, an amount equal to 33 percent of a participating State's allocated amount; and

(ii) in the case of the last ⅓, an amount equal to 34 percent of a participating State's allocated amount.

(Pub. L. 111–240, title III, § 3003, Sept. 27, 2010, 124 Stat. 2570.)

§ 5703. Approving States for participation

(a) Application

Any State may apply to the Secretary for approval to be a participating State under the Program and to be eligible for an allocation of Federal funds under the Program.

(b) General approval criteria

The Secretary shall approve a State to be a participating State, if—

(1) a specific department, agency, or political subdivision of the State has been designated to implement a State program and participate in the Program;

(2) all legal actions necessary to enable such designated department, agency, or political subdivision to implement a State program and participate in the Program have been accomplished;

(3) the State has filed an application with the Secretary for approval of a State capital access program under section 5704 of this title or approval as a State other credit support program under section 5705 of this title, in each case within the time period provided in the respective section; and

(4) the State and the Secretary have executed an allocation agreement that—

(A) conforms to the requirements of this chapter;

(B) ensures that the State program complies with such national standards as are established by the Secretary under section 5708(a)(2) of this title;

(C) sets forth internal control, compliance, and reporting requirements as established by the Secretary, and such other terms and conditions necessary to carry out the purposes of this chapter, including an agreement by the State to allow the Secretary to audit State programs;

(D) requires that the State program be fully positioned, within 90 days of the State's execution of the allocation agreement with the Secretary, to act on providing the kind of credit support that the State program was established to provide; and

(E) includes an agreement by the State to deliver to the Secretary, and update annually, a schedule describing how the State intends to apportion among its State programs the Federal funds allocated to the State.

(c) Contractual arrangements for implementation of State programs

A State may be approved to be a participating State, and be eligible for an allocation of Federal funds under the Program, if the State has contractual arrangements for the implementation and administration of its State program with—

(1) an existing, approved State program administered by another State; or

(2) an authorized agent of, or entity supervised by, the State, including for-profit and not-for-profit entities.

(d) Special permission

(1) Circumstances when a municipality may apply directly

If a State does not, within 60 days after September 27, 2010, file with the Secretary a notice of its intent to apply for approval by the Secretary of a State program or within 9 months after September 27, 2010, file with the Secretary a complete application for approval of a State program, the Secretary may grant to municipalities of that State a special permission that will allow them to apply directly to the Secretary without the State for approval to be participating municipalities.

(2) Timing requirements applicable to municipalities applying directly

To qualify for the special permission, a municipality of a State shall be required, within 12 months after September 27, 2010, to file with the Secretary a complete application for approval by the Secretary of a State program.

(3) Notices of intent and applications from more than 1 municipality

A municipality of a State may combine with 1 or more other municipalities of that State to file a joint notice of intent to file and a joint application.

(4) Approval criteria

The general approval criteria in paragraphs (2) and (4) shall apply.

(5) Allocation to municipalities

(A) If more than 3

If more than 3 municipalities, or combination of municipalities as provided in paragraph (3), of a State apply for approval by the Secretary to be participating municipalities under this subsection, and the applications meet the approval criteria in paragraph (4), the Secretary shall allocate Federal funds to the 3 municipalities with the largest populations.

(B) If 3 or fewer

If 3 or fewer municipalities, or combination of municipalities as provided in paragraph (3), of a State apply for approval by the Secretary to be participating municipalities under this subsection, and the applications meet the approval criteria in paragraph (4), the Secretary shall allocate Federal funds to each applicant municipality or combination of municipalities.

(6) Apportionment of allocated amount among participating municipalities

If the Secretary approves municipalities to be participating municipalities under this subsection, the Secretary shall apportion the full amount of the Federal funds that are allocated to that State to municipalities that are approved under this subsection in amounts pro-

portionate to the population of those municipalities, based on the most recent available decennial census.

(7) Approving State programs for municipalities

If the Secretary approves municipalities to be participating municipalities under this subsection, the Secretary shall take into account the additional considerations in section 5705(d) of this title in making the determination under section 5704 or 5705 of this title that the State program or programs to be implemented by the participating municipalities, including a State capital access program, is eligible for Federal contributions to, or for the account of, the State program.

(Pub. L. 111–240, title III, § 3004, Sept. 27, 2010, 124 Stat. 2573.)

§ 5704. Approving State capital access programs

(a) Application

A participating State that establishes a new, or has an existing, State capital access program that meets the eligibility criteria in subsection (c) may apply to Secretary to have the State capital access program approved as eligible for Federal contributions to the reserve fund.

(b) Approval

The Secretary shall approve such State capital access program as eligible for Federal contributions to the reserve fund if—

(1) within 60 days after September 27, 2010, the State has filed with the Secretary a notice of intent to apply for approval by the Secretary of a State capital access program;

(2) within 9 months after September 27, 2010, the State has filed with the Secretary a complete application for approval by the Secretary of a capital access program;

(3) the State satisfies the requirements of subsections (a) and (b) of section 5703 of this title; and

(4) the State capital access program meets the eligibility criteria in subsection (c).

(c) Eligibility criteria for State capital access programs

For a State capital access program to be approved under this section, that program shall be required to be a program of the State that—

(1) provides portfolio insurance for business loans based on a separate loan-loss reserve fund for each financial institution;

(2) requires insurance premiums to be paid by the financial institution lenders and by the business borrowers to the reserve fund to have their loans enrolled in the reserve fund;

(3) provides for contributions to be made by the State to the reserve fund in amounts at least equal to the sum of the amount of the insurance premium charges paid by the borrower and the financial institution to the reserve fund for any newly enrolled loan; and

(4) provides its portfolio insurance solely for loans that meet both the following requirements:

(A) The borrower has 500 employees or less at the time that the loan is enrolled in the Program.

(B) The loan amount does not exceed $5,000,000.

(d) Federal contributions to approved State capital access programs

A State capital access program approved under this section will be eligible for receiving Federal contributions to the reserve fund in an amount equal to the sum of the amount of the insurance premium charges paid by the borrowers and by the financial institution to the reserve fund for loans that meet the requirements in subsection (c)(4). A participating State may use the Federal contribution to make its contribution to the reserve fund of an approved State capital access program.

(e) Minimum program requirements for State capital access programs

The Secretary shall, by regulation or other guidance, prescribe Program requirements that meet the following minimum requirements:

(1) Experience and capacity

The participating State shall determine for each financial institution that participates in the State capital access program, after consultation with the appropriate Federal banking agency or, in the case of a financial institution that is a nondepository community development financial institution, the Community Development Financial Institution Fund, that the financial institution has sufficient commercial lending experience and financial and managerial capacity to participate in the approved State capital access program. The determination by the State shall not be reviewable by the Secretary.

(2) Investment authority

Subject to applicable State law, the participating State may invest, or cause to be invested, funds held in a reserve fund by establishing a deposit account at the financial institution lender in the name of the participating State. In the event that funds in the reserve fund are not deposited in such an account, such funds shall be invested in a form that the participating State determines is safe and liquid.

(3) Loan terms and conditions to be determined by agreement

A loan to be filed for enrollment in an approved State capital access program may be made with such interest rate, fees, and other terms and conditions, and the loan may be enrolled in the approved State capital access program and claims may be filed and paid, as agreed upon by the financial institution lender and the borrower, consistent with applicable law.

(4) Lender capital at-risk

A loan to be filed for enrollment in the State capital access program shall require the financial institution lender to have a meaningful amount of its own capital resources at risk in the loan.

(5) Premium charges minimum and maximum amounts

The insurance premium charges payable to the reserve fund by the borrower and the fi-

nancial institution lender shall be prescribed by the financial institution lender, within minimum and maximum limits that require that the sum of the insurance premium charges paid in connection with a loan by the borrower and the financial institution lender may not be less than 2 percent nor more than 7 percent of the amount of the loan enrolled in the approved State capital access program.

(6) State contributions

In enrolling a loan in an approved State capital access program, the participating State may make a contribution to the reserve fund to supplement Federal contributions made under this Program.

(7) Loan purpose

(A) Particular loan purpose requirements and prohibitions

In connection with the filing of a loan for enrollment in an approved State capital access program, the financial institution lender—

(i) shall obtain an assurance from each borrower that—

(I) the proceeds of the loan will be used for a business purpose;

(II) the loan will not be used to finance such business activities as the Secretary, by regulation, may proscribe as prohibited loan purposes for enrollment in an approved State capital access program; and

(III) the borrower is not—

(aa) an executive officer, director, or principal shareholder of the financial institution lender;

(bb) a member of the immediate family of an executive officer, director, or principal shareholder of the financial institution lender; or

(cc) a related interest of any such executive officer, director, principal shareholder, or member of the immediate family;

(ii) shall provide assurances to the participating State that the loan has not been made in order to place under the protection of the approved State capital access program prior debt that is not covered under the approved State capital access program and that is or was owed by the borrower to the financial institution lender or to an affiliate of the financial institution lender;

(iii) shall not allow the enrollment of a loan to a borrower that is a refinancing of a loan previously made to that borrower by the financial institution lender or an affiliate of the financial institution lender; and

(iv) may include additional restrictions on the eligibility of loans or borrowers that are not inconsistent with the provisions and purposes of this chapter, including compliance with all applicable Federal and State laws, regulations, ordinances, and Executive orders.

(B) Definitions

In this paragraph, the terms ''executive officer'', ''director'', ''principal shareholder'', ''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) Fund [1] 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 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-

[1] So in original. Probably should be ''Secretary''.

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 Program, including to pay reasonable costs of administering the Program.

(c) Termination of Secretary's Program administration functions

The authorities and duties of the Secretary to implement and administer the Program shall terminate at the end of the 7-year period beginning on September 27, 2010.

(d) Expedited contracting

During the 1-year period beginning on September 27, 2010, the Secretary may enter into contracts without regard to any other provision of law regarding public contracts, for purposes of carrying out this chapter.

(Pub. L. 111–240, title III, § 3009, Sept. 27, 2010, 124 Stat. 2580.)

§ 5709. Regulations

The Secretary, in consultation with the Administrator of the Small Business Administration, shall issue such regulations and other guidance as the Secretary determines necessary or appropriate to implement this chapter including to define terms, to establish compliance and reporting requirements, and such other terms and conditions necessary to carry out the purposes of this chapter.

(Pub. L. 111–240, title III, § 3010, Sept. 27, 2010, 124 Stat. 2581.)

§ 5710. Oversight and audits

(a) Inspector General oversight

The Inspector General of the Department of the Treasury shall conduct, supervise, and coordinate audits and investigations of the use of funds made available under the Program.

(b) GAO audit

The Comptroller General of the United States shall perform an annual audit of the Program and issue a report to the appropriate committees of Congress containing the results of such audit.

(c) Required certification

(1) Financial institutions certification

With respect to funds received by a participating State under the Program, any financial institution that receives a loan, a loan guarantee, or other financial assistance using such funds after September 27, 2010, shall certify that such institution is in compliance with the requirements of section 103.121 of title 31, Code of Federal Regulations, a regulation that, at a minimum, requires financial institutions, as that term is defined in section 5312(a)(2) and (c)(1)(A) of title 31, to implement reasonable procedures to verify the identity of any person seeking to open an account, to the extent reasonable and practicable, maintain records of the information used to verify the person's identity, and determine whether the person appears on any lists of known or suspected terrorists or terrorist organizations provided to the financial institution by any government agency.

(2) Sex offense certification

With respect to funds received by a participating State under the Program, any private

entity that receives a loan, a loan guarantee, or other financial assistance using such funds after September 27, 2010, shall certify to the participating State that the principals of such entity have not been convicted of a sex offense against a minor (as such terms are defined in section 16911 of title 42).

(d) Prohibition on pornography

None of the funds made available under this chapter may be used to pay the salary of any individual engaged in activities related to the Program who has been officially disciplined for violations of subpart G of the Standards of Ethical Conduct for Employees of the Executive Branch for viewing, downloading, or exchanging pornography, including child pornography, on a Federal Government computer or while performing official Federal Government duties.

(Pub. L. 111–240, title III, § 3011, Sept. 27, 2010, 124 Stat. 2581.)