Small Business Administration

§ 120.398 America’s Recovery Capital (ARC) Loan Program

(a) Purpose. The purpose of the ARC Loan Program is to enable SBA to guarantee certain loans to viable small businesses that are experiencing immediate financial hardship. Loans made under this loan program are referred to as ARC Loans and are subject to the requirements set forth in this Part for 7(a) loans except as noted in this section.

(b) Definitions.

(1) (i) Eligible Borrower is a small business concern as defined in Section 3 of the Small Business Act and §120.100. Eligible Borrower does not include:

(A) Ineligible small businesses as listed in §120.110; and

(B) Small business concerns with the following primary industry North American Industry Classification System (NAICS) codes:

(1) 713210 (Casinos (Except Casino Hotels));

(2) 721120 (Casino Hotels);

(3) 713910 (Golf Courses and Country Clubs); and

(4) 713940 (Fitness and Recreational Sports Centers) will be identified and reviewed by SBA to determine eligibility in accordance with the statutory restriction on assistance to swimming pools.

(2) Going Concern is a small business concern actively engaging in business with the expectation of indefinite continuance.

(3) Qualifying Small Business Loan is a loan previously made to an Eligible Borrower for any of the purposes set forth in §120.120 and not for any of the purposes set forth in §120.130 or 120.160(d). Qualifying Small Business Loans may include credit card obligations, capital leases for major equipment and vehicles, notes payable to vendors or suppliers, loans in the first lien position made by commercial lenders in connection with the Development Company Loan Program (504), home equity loans used to finance business operations, other loans to small businesses made without an SBA guaranty, and loans made by or with an SBA guaranty on or after February 17, 2009. Loans made or guaranteed by SBA before February 17, 2009 are not Qualifying Small Business Loans for the purposes of the ARC Loan Program. A Qualifying Small Business Loan may not be used as the basis for more than one ARC Loan but ARC Loans may be used to pay multiple Qualifying Small Business Loans.

(4) Viable small business is a small business that is a Going Concern but which is having difficulty making periodic payments of principal and interest on Qualifying Small Business Loan(s) and/or meeting operating expenses of the business although it can reasonably demonstrate its projected continued operation for a reasonable period.