

§ 109.10

13 CFR Ch. I (1–1–13 Edition)

109.520 Events of default and revocation of authority to participate in the ILP program.

109.530 Debarment and Suspension.

AUTHORITY: 15 U.S.C. 634(b)(6), (b)(7), and 636(l).

SOURCE: 76 FR 18015, Apr. 1, 2011, unless otherwise noted.

Subpart A—Introduction

§ 109.10 Description of the Intermediary Lending Pilot program.

The Small Business Intermediary Lending Pilot program (ILP program) provides direct loans to ILP Intermediaries to make loans of up to \$200,000 to startup, newly established, or growing small businesses. ILP Intermediaries continue to relend a portion of the payments received on small business loans made under the program until they have fully repaid their loans to SBA.

§ 109.20 Definitions.

Affiliate has the meaning set forth in § 121.103 of this chapter.

Associate. (1) An Associate of an ILP Intermediary is:

(i) An officer, director, key employee, or holder of 20 percent or more of the value of the ILP Intermediary or its debt instruments, or an agent involved in the loan process;

(ii) Any entity in which one or more individuals referred to in paragraph (1)(i) of this definition or a Close Relative of any such individual owns or controls at least 20 percent;

(2) An Associate of an Eligible Small Business Concern is:

(i) An officer director, owner of more than 20 percent of the equity, or key employee of the Eligible Small Business Concern;

(ii) Any entity in which one or more individuals referred to in paragraphs (2)(i) of this definition owns or controls at least 20 percent; and

(iii) Any individual or entity in control of or controlled by the small business (except a Small Business Investment Company (SBIC) licensed by SBA).

(3) For the purposes of this definition, the time during which an Associate relationship exists commences six months before the following dates

and continues as long as the ILP Note or the loan to the Eligible Small Business Concern is outstanding:

(i) For an ILP Intermediary, the date of the ILP Note;

(ii) For an Eligible Small Business Concern, the date of the loan application to the ILP Intermediary.

Close Relative is a spouse; a parent; a child or sibling, or the spouse of any such person.

Eligible Small Business Concern is a small business that meets the requirements of § 109.400.

ILP Intermediary means a private, nonprofit entity that has applied for and been selected by SBA to receive an ILP Loan through the competitive application process described in this Part.

ILP Loan means a direct loan made by SBA to an ILP Intermediary under this program.

ILP Note means the instrument that represents the obligation of the ILP Intermediary to repay the ILP Loan to SBA.

ILP Program Activities Report means the quarterly report that identifies the use and management of ILP program funds.

ILP Program Requirements are requirements imposed upon an ILP Intermediary by statute, SBA regulations, any agreement executed between SBA and the ILP Intermediary, SBA SOPs, SBA procedural guidance, official SBA notices and forms applicable to the ILP program, and the ILP Note and Loan Authorization, as such requirements are issued and revised by SBA from time to time.

ILP Relending Fund means a federally insured depository account established by the ILP Intermediary at a well-capitalized financial institution which includes, at a minimum, the ILP Loan proceeds and the principal portion of repayments from Eligible Small Business Concerns.

Intermediary Lending Program Electronic Reporting System (ILPERS) means the web-based, electronic reporting system used by the ILP Intermediary to report each loan made to Eligible Small Business Concerns, to provide aging information on each loan, and to

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update the outstanding principal balance of each loan until all loans are either paid in full or charged off.

Native American Tribal Government means the governing body of any Native American tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C.A. § 1601 *et seq.*), which is recognized as eligible for the special programs and services provided by the United States to Native Americans because of their status as Native Americans.

Portfolio Identification Report means the electronic report that collects identifying information on loans made to Eligible Small Business Concerns, including demographic information, use of proceeds, payment terms, and jobs created and retained.

Portfolio Status Report means the quarterly electronic report that summarizes the payment status and outstanding principal balances of an ILP Intermediary's loans to Eligible Small Business Concerns.

Subpart B—ILP Intermediary Application and Selection Process

§ 109.100 ILP Intermediary eligibility and continuing participation requirements.

(a) *Organization type*: An ILP Intermediary must be a private, nonprofit entity other than an intermediary participating in the SBA Microloan program as described in subpart G of Part 120. Eligible entities include:

(1) Private, nonprofit community development corporations;

(2) Consortia of private, nonprofit organizations or nonprofit community development corporations; and

(3) Agencies of or nonprofit entities established by Native American tribal governments.

(b) *Prior experience*: An ILP Intermediary must have at least one year of successful experience making and servicing loans to startup, newly established, or growing small businesses.

(c) *Management and operations*. (1) An ILP Intermediary must have paid staff

with loan making and servicing experience acceptable to SBA.

(2) An ILP Intermediary must have a continuing ability to evaluate, process, close, disburse, service and liquidate small business loans including, but not limited to:

(i) Holding sufficient permanent capital (as determined by SBA) to support lending activities under this program; and

(ii) Maintaining satisfactory SBA performance, as determined by SBA in its discretion.

(3) An ILP Intermediary must meet and maintain the ethical requirements of 13 CFR 120.140.

(4) An ILP Intermediary (and any Affiliates) that participates in other SBA programs must be in compliance with those program requirements.

(5) An ILP Intermediary must be in good standing with its Federal and/or State regulator, as applicable.

(6) An ILP Intermediary must have the ability to comply with the ILP Program Requirements, including reporting requirements, as such requirements are revised from time to time, and maintain compliance with ILP Program Requirements for as long as the ILP Intermediary participates in the ILP program.

§ 109.200 Application to become an ILP Intermediary.

(a) *Notice of Funds Availability (NOFA)*. SBA will periodically publish a NOFA in the FEDERAL REGISTER, advising potential applicants of the availability of funds for the ILP program. Any eligible entity may then submit an application to become an ILP Intermediary. When submitting its application, an applicant must comply with both these regulations and any requirements specified in the NOFA, including submission deadlines. The NOFA may specify limitations, special rules, procedures, and restrictions for a particular funding round.

(b) *Contents of application*. The application to become an ILP Intermediary must include:

(1) Documentation that the applicant meets the eligibility and continuing participation requirements for the ILP program set forth in § 109.100;