

preexisting requirements under generally accepted accounting principles in effect prior to November 15, 2009.

**DATES:** Effective March 18, 2010.

**FOR FURTHER INFORMATION CONTACT:**

Michael Krimminger, Office of the Chairman, 202-898-8950; George Alexander, Division of Resolutions and Receiverships, 202 898-3718; or R. Penfield Starke, Legal Division, 703-562-2422, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

**SUPPLEMENTARY INFORMATION:** In the final rule published in the **Federal Register** of March 18, 2010 (75 FR 12962), an incorrect date was given for the publication of the interim rule published on November 17, 2009, and therefore the following corrections are made:

1. On page 12963 the **DATES** section is corrected to read:

Effective March 18, 2010, the Board of Directors of the Federal Deposit Insurance Corporation confirms as final with changes, the interim rule published on November 17, 2009 (74 FR 59066).

2. On page 12963, the final sentence of the Background statement is corrected to read:

In response to industry concerns, the FDIC published an Interim Final Rule on November 17, 2009 (74 FR 59066) that addressed securitizations (and participations) issued before March 31, 2010.

3. On page 12965, the amendatory language statement is corrected to read:

For the reasons stated above, the Board of Directors of the Federal Deposit Insurance Corporation confirms as final, the interim rule amending chapter III of title 12 of the Code of Federal Regulations by amending Part 360 published on November 17, 2009 (74 FR 59066) with the following changes:

Dated at Washington, DC, this 19th day of March 2010.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**

*Executive Secretary.*

[FR Doc. 2010-6555 Filed 3-24-10; 8:45 am]

**BILLING CODE 6714-01-P**

## SMALL BUSINESS ADMINISTRATION

### 13 CFR Part 123

RIN 3245-AF98

#### Disaster Assistance Loan Program

**AGENCY:** U. S. Small Business Administration (SBA).

**ACTION:** Direct final rule.

**SUMMARY:** SBA is amending its disaster assistance regulations to reflect statutory changes to the disaster assistance program contained in the Food, Conservation, and Energy Act of 2008 (the Farm Act). Except for several grammatical corrections, this direct final rule conforms the regulations to the Farm Act by adopting the new statutory requirements without change.

**DATES:** This rule is effective May 10, 2010 without further action, unless significant adverse comment is received by April 26, 2010. If significant adverse comment is received, SBA will publish a timely withdrawal of the rule in the **Federal Register**.

**ADDRESSES:** *You may submit comments, identified by RIN 3245-AF98, by any of the following methods:* (1) Federal Rulemaking Portal: <http://www.regulations.gov>, following the specific instructions for submitting comments; (2) FAX (202) 481-2226; or E-mail: [James.Rivera@sba.gov](mailto:James.Rivera@sba.gov); or (3) Mail/Hand Delivery/Courier: James E. Rivera, Associate Administrator for Disaster Assistance, 409 3rd Street, SW., Washington, DC 20416.

**FOR FURTHER INFORMATION CONTACT:**

Roger B. Garland, Office of Disaster Assistance, 202-205-6734 or [Roger.Garland@sba.gov](mailto:Roger.Garland@sba.gov).

**SUPPLEMENTARY INFORMATION:** Section 7(b) of the Small Business Act, 15 U.S.C. 636(b), authorizes SBA to make long-term disaster loans to homeowners, renters, businesses, and non-profit organizations that have been adversely affected by a declared disaster. The Farm Act, Public Law 110-246, enacted June 18, 2008, amended the Small Business Act and authorized changes to make the disaster assistance program more accessible to disaster victims by raising the statutory loan limit for loans to businesses, increasing the collateral threshold, and amending the basis for calculation of eligibility for post-disaster mitigation funds. The legislation also amended the statutory definition of disaster to include ice storms and blizzards, deferred the additional payment on net earnings for certain business loans for five years, and extended eligibility for economic injury disaster loan assistance to non-profit organizations. Finally, the legislation amended the date for determining the applicant's status as a major source of employment for Military Reserve Economic Injury Disaster Loan applicants. The regulatory amendments described below reflect these statutory changes.

#### Section-by-Section Analysis

SBA is amending section 123.11 to reflect that SBA will not require a borrower to pledge collateral on a disaster home loan or a physical disaster business loan of \$14,000 or less. The present threshold is \$10,000, so the Farm Act raised the amount by \$4,000. As contemplated by the statute, the regulation will also authorize the Administrator to increase the \$14,000 threshold in the event of a major disaster.

SBA is amending sections 123.202(a) and 123.202(b) to reflect the increased aggregate loan limit for businesses and non-profit organizations from \$1.5 million to \$2 million. The change applies to both physical and economic injury disaster loans to the same borrower, together with its affiliates. The loan limit may be waived if the borrower is a major source of employment as described in the section presently. SBA is adding a new paragraph (e) to section 123.202 which, as authorized by the Farm Act, states that a higher loan limit may be established by the Administrator for a particular disaster based on appropriate economic indicators for the region in which that disaster occurred.

SBA is adding a new paragraph (c) to section 123.203(c) to describe the supplementary payment, based on a percentage of net earnings that may be required to reduce the balance of a disaster loan. To reflect the recent statutory changes, SBA specifies that the supplementary payment, if applicable, will not be due until 5 years after repayment of the loan commences. SBA is also correcting a grammatical error in the second sentence in section 123.203(a), by changing the word "have" to "has."

SBA is changing the method of calculating eligibility for additional loan funds for mitigation measures that would protect the damaged property from possible future disasters. Currently, eligibility is calculated based on the approved loan amount. The Farm Act authorizes SBA to calculate eligibility based on the verified loss amount instead. Accordingly, SBA is changing sections 123.105(a)(4), 123.107 and 123.204 to reflect that, for mitigation purposes, the borrower can request an increase in the approved loan by the lesser of the cost of the mitigation measure or up to 20 percent of the verified loss before deducting compensation from other sources. For home loans only, to remain consistent with the regulatory limits placed on disaster home loan amounts generally, mitigation is limited to a maximum of

\$200,000 in sections 123.105(a)(4) and 123.107.

SBA is amending section 123.300 to designate private non-profit organizations as eligible for economic injury disaster loan assistance and to define an eligible private non-profit organization. SBA is adopting FEMA's definition of a private non-profit organization set forth in 44 CFR 206.221(f). For consistency, SBA is also amending section 123.301 to revise the eligibility exclusion for non-profit or charitable organizations to say that such organizations are ineligible unless they are an eligible private non-profit organization. SBA is also amending 123.300(b) to remove the exception for applications filed under declarations for hurricanes Katrina, Rita, and Wilma, since the declarations for these disasters have closed, and further applications are not anticipated. SBA is also correcting a spelling error in section 123.300(b), changing "principle" to "principal".

SBA is amending section 123.507 to amend the date used to determine if an applicant business qualifies as a major source of employment (MSE) for Military Reservist Economic Injury Disaster Loan (MREIDL) assistance. SBA may waive the \$2 million limit for MREIDL assistance if the applicant is an MSE. The Farm Act authorizes SBA to waive the limit if the MREIDL applicant is an MSE, or if it has become an MSE as a result of changed economic circumstances. SBA has previously determined whether an applicant business qualified as an MSE based on its status on the date on which the disaster commenced. As a result of the Farm Act changes, SBA may make the determination based on the MREIDL applicant's status on or after the date the disaster commenced.

The Farm Act also contained a statutory change that codifies SBA existing practice of treating ice storms and blizzards as disasters. Because ice storms and blizzards have previously qualified under SBA's existing regulations as disasters for purposes of both physical as well as economic injury disaster loan assistance, SBA has determined that no regulatory amendment is necessary to reflect this statutory change.

*Consideration of comments:* SBA believes that this rule is routine and non-controversial since it merely implements changes required by statute, and SBA anticipates no significant adverse comments to this rulemaking. If SBA receives any significant adverse comments, it will publish a timely withdrawal of this direct final rule.

**Compliance With Executive Orders 12866, 12988, 13132 and the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Paperwork Reduction Act (44 U.S.C. Ch. 35)**

*Executive Order 12866*

The Office of Management and Budget (OMB) has determined that this rule does not constitute a significant regulatory action under Executive Order 12866.

*Executive Order 12988*

This action meets applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden. The action does not have retroactive or preemptive effect.

*Executive Order 13132*

The final rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. Therefore, SBA determines that this final rule has no federalism implications warranting preparation of a federalism assessment.

*Paperwork Reduction Act*

SBA has determined that this final rule does not impose additional reporting or recordkeeping requirements under the Paperwork Reduction Act, 44 U.S.C., Chapter 35.

*Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601, requires administrative agencies to consider the effect of their actions on small entities, including small businesses. According to the RFA, when an agency issues a rule, the agency must prepare an analysis to determine whether the impact of the rule will have a significant economic impact on a substantial number of small entities. However, the RFA allows an agency to certify a rule in lieu of preparing an analysis, if the rulemaking is not expected to have a significant impact on a substantial number of small entities. This rule only makes conforming amendments to recent legislation on the disaster loan program, and does not implement new agency policies. Some of these amendments will affect small entities; however SBA certifies that these amendments will not have a significant economic impact on a substantial number of such entities.

**List of Subjects in 13 CFR Part 123**

Disaster assistance, Loan programs—business, Reporting and recordkeeping requirements, Small businesses.

■ For the reasons set forth in the preamble, the SBA amends 13 CFR part 123 as follows:

**PART 123—DISASTER LOAN PROGRAM**

■ 1. The authority citation for part 123 is revised to read as follows:

**Authority:** 15 U.S.C. 634(b)(6), 636(b), 636(c); Pub. L. 102–395, 106 Stat. 1828; Pub. L. 103–75, 107 Stat. 739; Pub. L. 106–50, 113 Stat. 245; Pub. L. 110–246, 122 Stat. 1651.

■ 2. Amend § 123.11 by revising the first sentence of the introductory paragraph, and the second sentence of paragraph (a) to read as follows:

**§ 123.11 Does SBA require collateral for any of its disaster loans?**

Generally, SBA will not require that you pledge collateral to secure a disaster home loan or a physical disaster business loan of \$14,000 or less (or such higher amount as the Administrator determines appropriate in the event the President declares a major disaster), or an economic injury disaster loan of \$5,000 or less. \* \* \*

(a) \* \* \* In deciding whether collateral is required, SBA will add up all physical disaster loans to see if they exceed \$14,000 and all economic injury disaster loans to see if they exceed \$5,000.

\* \* \* \* \*

■ 3. Amend § 123.105 by revising paragraph (a)(4) to read as follows:

**§ 123.105 How much can I borrow with a home disaster loan and what limits apply on use of funds and repayment terms?**

(a) \* \* \*  
(4) 20 percent of the verified loss (not including refinancing), before deduction compensation from other sources, up to a maximum of \$200,000 (see § 123.107).

\* \* \* \* \*

■ 4. Revise § 123.107 to read as follows:

**§ 123.107 How much can I borrow for post-disaster mitigation for my home?**

For mitigation measures implemented after a disaster has occurred, you can request that the approved home disaster loan amount be increased by the lesser of the cost of the mitigation measure, or up to 20 percent of the verified loss (before deducting compensation from other sources), to a maximum of \$200,000.

■ 5. Amend § 123.202 by revising paragraphs (a), (b) introductory text,

(b)(1) and adding a new paragraph (e) to read as follows:

**§ 123.202 How much can my business borrow with a physical disaster loan?**

(a) Disaster business loans, including both physical disaster and economic injury loans to the same borrower, together with its affiliates, cannot exceed the lesser of the uncompensated physical loss and economic injury or \$2 million. Physical disaster loans may include amounts to meet current building code requirements. If your business is a major source of employment, SBA may waive the \$2 million limitation. A major source of employment is a business concern that has one or more locations in the disaster area, on or after the date of the disaster, which:

\* \* \* \* \*

(b) SBA will consider waiving the \$2 million loan limit for a major source of employment only if:

(1) Your damaged location or locations are out of business or in imminent danger of going out of business as a result of the disaster, and a loan in excess of \$2 million is necessary to reopen or keep open the damaged locations in order to avoid substantial unemployment in the disaster area; and

\* \* \* \* \*

(e) The SBA Administrator may increase the \$2 million loan limit for disaster business physical and economic injury loans under an individual disaster declaration based on appropriate economic indicators for the region(s) in which the disaster occurred. SBA will publish the increased loan amount in the **Federal Register**.

■ 6. Amend § 123.203 by revising the second sentence of paragraph (a) and adding new paragraph (c) to read as follows:

**§ 123.203 What interest rate will my business pay on a physical disaster business loan and what are the repayment terms?**

(a) \* \* \* If your business, together with its affiliates and principal owners, has credit elsewhere, your interest rate is set by a statutory formula, but will not exceed 8 percent per annum. \* \* \*

\* \* \* \* \*

(c) For certain disaster business physical and economic injury loans, an additional payment, based on a percentage of net earnings, will be required to reduce the balance of the loan. This additional payment will not be required until 5 years after repayment begins.

■ 7. Revise § 123.204 to read as follows:

**§ 123.204 How much can your business borrow for post-disaster mitigation?**

For mitigation measures implemented after a disaster has occurred, you can request an increase in the approved physical disaster business loan by the lesser of the cost of the mitigation measure, or up to 20 percent of the verified loss, before deducting compensation from other sources, to repair or replace your damaged business.

■ 8. Amend § 123.300 by revising paragraph (b), (c)(3) and adding new paragraph (d) to read as follows:

**§ 123.300 Is my business eligible to apply for an economic injury disaster loan?**

\* \* \* \* \*

(b) Economic injury disaster loans are available only if you were a small business (as defined in part 121 of this chapter) or a private non-profit organization when the declared disaster commenced, you and your affiliates and principal owners (20% or more ownership interest) have used all reasonably available funds, and you are unable to obtain credit elsewhere (see § 123.104).

(c) \* \* \*

(3) Producer cooperatives; and

(d) An eligible private non-profit organization is a non-governmental agency or entity that currently has:

(1) An effective ruling letter from the U.S. Internal Revenue Service, granting tax exemption under sections 510(c), (d), or (e) of the Internal Revenue Code of 1954, or

(2) Satisfactory evidence from the State that the non-revenue producing organization or entity is a non-profit one organized or doing business under State law.

■ 9. Amend § 123.301 by revising paragraph (b) to read as follows:

**§ 123.301 When would my business not be eligible to apply for an economic injury disaster loan?**

\* \* \* \* \*

(b) A non-profit or charitable concern, other than a private non-profit organization;

\* \* \* \* \*

■ 10. Amend § 123.507 by revising the introductory paragraph and paragraph (a) to read as follows:

**§ 123.507 Under what circumstances will SBA consider waiving the \$2 million loan limit?**

SBA will consider waiving the \$2 million limit if you can certify to the following conditions and SBA approves of such certification based on the information supplied in your application:

(a) Your small business is a major source of employment. A major source of employment is a business concern that, on or after the date of the disaster:

\* \* \* \* \*

Dated: March 5, 2010.

**Karen G. Mills,**  
Administrator.

[FR Doc. 2010-6430 Filed 3-24-10; 8:45 am]

**BILLING CODE 8025-01-P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

[Docket No. FAA-2010-0274; Directorate Identifier 2010-NM-055-AD; Amendment 39-16248; AD 2010-07-04]

**RIN 2120-AA64**

**Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model ERJ 170 and Model ERJ 190 Airplanes**

**AGENCY:** Federal Aviation Administration (FAA), Department of Transportation (DOT).

**ACTION:** Final rule; request for comments.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for the products listed above. This AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

It has been determined that due to an intermittent communication between AMS [Air Management System] controller cards and both Secondary Power Distribution Assemblies (SPDAs) the message "RECIRC SMK DET FAIL" is displayed in the Engine Indication and Crew Alerting System (EICAS). This communication failure could result in loss of automatic activation of engine inlet ice protection system when in ice condition. In this situation the caution messages "A-I Eng 1 Fail" and "A-I Eng 2 Fail" will be displayed and if the flight crews do not follow the associated procedures ice may accrete in the engines inlet and cause a dual engine shut down.

\* \* \* \* \*

This AD requires actions that are intended to address the unsafe condition described in the MCAI.

**DATES:** This AD becomes effective April 9, 2010.

We must receive comments on this AD by May 10, 2010.

**ADDRESSES:** You may send comments by any of the following methods: