MBL Member Business Lending, LLC

MBL's Main Street Journal

November 2011

504 Final Rule Published

On October 12, 2011, SBA published the final rule for temporary debt refinancing authorized by the Small Business Jobs Act. The final rule makes several changes to the interim rule that was published in February. These changes make the program's benefits available to more small businesses. The rule is effective immediately.

The critical changes were in three areas: specifics for the eligibility of working capital expenses through the temporary program, the elimination of the requirement that the Third Party Loan equal 50 percent of the current fair market value, and modifications for the determination of eligibility for qualified debt to be refinanced.

The definition of "Qualified Debt" was simplified and broadened. The simplification deals with the level of documentation required to demonstrate that a loan used substantially all of the proceeds of the existing debt to acquire Eligible Fixed Assets and the remaining amount was incurred for the benefit of the small business seeking the refinancing. In short, if the original underlying loan met this standard and the loan to be refinanced is cast as a commercial loan, the loan will be deemed eligible. Borrower and Third Party Lender certification of the above is required and SBA retains the right to request further documentation. The broadening deals with the issue of loan modifications and allows loans current under pre-existing written modifications to be considered eligible for refinance. The first change removes a significant documentary hurdle to using the program and the second recognizes that a Borrower and Lender should not be penalized for pro-active approaches to working through the recent economic turmoil.

Instead of limiting the Refinancing Project to no more than the outstanding principal balance of the Qualified Debt, the portion of the Refinancing Project provided by the Third Party Loan and the 504 loan may be no more than 90 percent of the fair market value of the fixed assets securing the loans.

A Borrower may request the financing of eligible business expenses as part of its application for the Refinancing Project. "Eligible business expenses" means the business expenses of the Borrower, such as salaries, rent, utilities, inventory, or other obligations of the business that were incurred but not paid prior to the date of loan application or that will become due for payment within eighteen months after the date of loan application. Such financing will be available if the amount of cash funds that will be provided for the Refinancing Project exceeds the amount to be paid to the lender of the Qualified Debt.

Instead of requiring the Third Party Loan to contribute not less than 50 percent of the Refinancing Project amount, the Third Party Loan must total at least as much as the 504 loans. This removes the former requirement that the Third Party Loan equal 50 percent of the currently appraised fair market value. This removes a significant disincentive to use of the program by allowing lenders and borrowers to more fully utilize the long term low fixed rate financing offered by the 504.

SBA Base Rates November 2011

WSJ Prime	3.25%*
1-Month LIBOR Base Rate	3.25%*
SBA Fixed Base Rate	4.95%*
SBA Peg Rate	3.125%**

*Effective for the first business day of November 2011
**Effective for the period between October 1, 2011 and December 31, 2011

MBL Holiday Closures

Thanksgiving Day
November 24, 2011

Christmas Day Observed
December 26, 2011

New Years Day Observed
January 2, 2012

The MBL Mission:
"To aid, counsel, and assist our participating credit unions and the member businesses they serve"

Monthly Training Seminar

In November MBL will offer a seminar on the Working Capital CAPLines program. The seminar is part of MBL's free monthly seminar series, and is open to all credit union business lending staff. The Working Capital CAPLines program will be outlined as well as the features and eligibility requirements of the program.

Working Capital CAPLines
Wednesday, November 9th
2:00 – 3:00 p.m. (MDT)
Session number: 801 211 691
Session password: Wednesday1
A link to the training will be provided in a separate email.

For more information contact Sarah Hettinger at
(801) 545-7958 or SHettinger@mblllc.com.

SBA Reaches $30 Billion Milestone

Small business loans backed by the U.S. Small Business Administration in FY2011 reached the highest mark in the agency's history, supporting over $30 billion in lending. This record was spurred in part by unparalleled loan volume in the year's first quarter and continued the rebound begun in 2009, returning to healthy pre-recession levels in the final three quarters of the year.

During the fiscal year SBA loan approvals supported $30.5 billion (61,689 loans) in lending to small businesses and start-ups through its two largest loan programs, compared to $22.6 billion (60,771 loans) in FY 2010 and $17.9 billion (50,830 loans) in FY2009.

The FY2011 total is the highest volume fiscal year in SBA's history, surpassing the $28.5 billion mark established in FY2007. In the first quarter of the year over $12 billion in lending was supported making it the most active single quarter ever for SBA-backed loans, with more than four times the dollar volume of the same quarter in 2009 and more than double the volume of any quarter over the past four years. The unprecedented quarter was prompted by the enhancements provided under the Small Business Jobs Act, which were in effect.

SBA Proposes Size Standard Increases

A proposed rule published October 13 for comment in *The Federal Register* by the SBA would adjust the size definition of small businesses in 52 industries in two broad categories of businesses, ranging from travel agencies and movie production to waste management.

The proposed adjustments to size standards in 15 industries in Sector 51 of the NAICS, "Information," and in 37 industries in Sector 56, "Administrative and Support, Waste Management and Remediation Services," reflect changes in marketplace conditions in those sectors. In both sectors, the proposed increases are based on annual gross revenues. The standards delineate how large a business can be and still qualify as small for federal government programs. The dollar limits refer to annual revenues averaged over three years.

In 2007 the SBA began an ongoing comprehensive review of all size standards. The SBA evaluated all industries in these sectors that have revenue-based size standards to determine whether the existing size standards should be adjusted. Before 2007, the last overall review of size standards occurred more than 25 years ago. Under provisions in the Small Business Jobs Act of 2010, SBA will continue its comprehensive review of all size standards for several years.

The proposed changes take into account the structural characteristics within individual industries, including average firm size, degree of competition, and federal government contacting trends. This ensures that size definitions reflect current economic conditions within those industries.

The upward revisions would allow some small businesses that are close to exceeding their current size standards to retain small business eligibility under the proposed higher size standards, and give federal agencies a larger selection of small businesses to choose from for small business procurement opportunities. They would also allow more small businesses to qualify for SBA financial assistance. SBA estimates that up to 500 more firms in Sector 51 and 2,700 more companies in Sector 56 will qualify for SBA assistance and other federal programs if the proposed revisions are adopted.

Interested parties can submit comments on these proposed rules on or before December 12, 2011 at www.regulations.gov.

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