

**American Recovery and Reinvestment Act:
STIMULUS BILL'S EFFECT ON SBA PROGRAMS**

The American Recovery and Reinvestment Act of 2009 ("Act") includes provisions that reduce loan fees, raise guarantees, establish new SBA programs and create secondary market incentives intended to restore the nation's economy by unfreezing credit markets and providing financing opportunities for small business owners.

The bill provides about \$730 million to Small Business Administration ("SBA") programs. The funding is allocated as follows:

- \$375 million to temporarily waive or reduce fees in the 7(a) and 504 loan programs and to allow SBA to temporarily raise its guarantee to as much as 90% for certain loans;
- \$255 million to assist small businesses meet existing debt payments;
- \$30 million to expand SBA's Microloan program;
- \$20 million to improve, streamline, and automate information technology systems related to SBA's lending and oversight processes;
- \$15 million to expand SBA's Surety Bond Guarantee program;
- \$25 million to increase staff and meet demands for new programs; and
- \$10 million to the Office of Inspector General.

Here are some of the highlights:

FEES

Temporary fee reductions and/or waivers will be effective for new 7(a) loans approved on or after the date of enactment. The bill allows SBA to waive lender and borrower fees or reduce lender and borrower fees to the maximum extent possible until September 30, 2010 or until appropriated dollars are exhausted. As for new 504 loans approved on or after the date of enactment, the bill allows SBA to waive bank participation fees and a Certified Development Company ("CDC") to waive its processing fee from the borrower.

LOAN GUARANTEES

Under the bill, SBA is permitted to raise its loan guarantee from the current levels to as much as 90% for some loans. The bill qualifies any 7(a) loan to a small business except SBA Express loans. Currently, SBA can guarantee loans up to 85% on loans up to \$150,000, and up to 75% on loans greater than \$150,000.

SECONDARY MARKET

The bill authorizes SBA to establish a secondary market for pools of first lien 504 loans. The bill enables SBA to guarantee as much as \$3 billion of existing debts in the loan pools that are currently not guaranteed. The legislation, however, does not specify whether it is a 100% guarantee.

The bill also empowers SBA to make loans to qualified broker-dealers for the express purpose of financing the purchase and sale of 7(a) loan guaranteed portions. The legislation provides that there would be no limit to the frequency with which a borrower could borrow or the size of a loan it could

borrow unless SBA determines that frequent loans would create an undue risk of loss. Interest for these loans would be 25 basis points above the Federal target rate and the loans will be available for a period of two years from the date of enactment of the legislation.

REFINANCING

In order to provide support for small business expansion, SBA is authorized to utilize the 504 CDC program to refinance existing loans for fixed assets. The bill amends section 502 of the Small Business Investment Act to permit a limited amount of debt refinancing. If the project involves expansion of a small business concern, any amount of existing indebtedness that does not exceed 50 percent of the project cost of the expansion may be refinanced and added to the expansion if certain requirements listed in the bill are met. The bill also amends section 501 of that Act by increasing the amount of eligibility for regular financing to \$65,000 in debentures per job created or retained and makes a similar increase to \$65,000 in debentures for public policy loans if the CDC's loan portfolio average meets that test.

BRIDGE LOANS

The bill creates a new SBA loan program to provide 100% SBA guaranteed, small, short term loans to existing SBA borrowers in immediate financial hardship. Viable small businesses that need funds to make payments on an existing, qualifying loan are eligible for deferred-payment loans of up to \$35,000. Borrowers have 12 months to begin repaying the bridge loan. Loans will have interest fully subsidized for the period of repayment.

MICROLOANS

The bill expands SBA's Microloan program, which provides small loans and technical assistance to small businesses. The bill adds \$24 million in grants to provide technical assistance to borrowers and \$6 million for the cost of direct loans they make. These loans generally reach low-income individuals, women and minorities and has seen demand increase during the recession.

The bill, which was signed into law on February 17, 2009, requires the SBA to present Congress with an execution plan within 60 days of the enactment.

On March 16, 2009, President Obama announced at a White House meeting that the Treasury Department will commit up to \$15 billion to help unlock the frozen credit markets by purchasing small business loan securities currently frozen on the secondary market. Following this announcement, the SBA issued Policy Notices (5000-1097 and 5000-1098) that address implementation of some of the measures resulting from the Act. These include:

- The 7(a) program gets an increase in guaranty percentage on all loans (except SBA Express up to 90%). The increased guaranty applies to loans made on or after March 16, 2009.
- The 7(a) guarantee fee is eliminated for all loans approved by SBA on or after February 17, 2009. The SBA will refund the guaranty fee for loans that have already been approved on or after that date. If borrowers have already paid lenders for the fee on eligible loans, lenders must reimburse the borrowers from the SBA fund.

- For 504 loans, the Third Party Participation fee and the CDC processing fee are eliminated for all loans approved by SBA on or after February 17, 2009. If a borrower has already paid a CDC for the fee, the CDC must reimburse the lender from the SBA fund.
- These are temporary reserves which will stay in effect until the aggregate amount of 7(a) and 504 loans made under this authority exhausts the funds allocated for these purposes under the Act.

This article is only intended to summarize some of the more salient features of the new law. There may be other issues which are not mentioned above and require a more detailed and intensive examination. This article is not to be construed as legal advice. If you have any questions about anything you read in this article or any other SBA or banking related issues, please contact:

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