

Congressional Testimony Prepared for SBA Associate Administrator Patrick Kelley
U.S. Senate Committee on Small Business and Entrepreneurship
Hearing on Oversight of SBA's Implementation of Final Rules to Expand Access to Capital
April 26, 2023

Chairman Cardin, Ranking Member Ernst, and distinguished members of the committee, thank you for the opportunity to appear before you today to discuss the SBA's Office of Capital Access.

Since March 2021, I have served as the Associate Administrator for the Office of Capital Access (OCA). Previously I served as Deputy Chief of Staff, Deputy Associate Administrator, and Senior Advisor for the SBA as well as a banker in the private sector.

In my current role, I am responsible for the Office of Capital Access's administration of SBA's 7(a) business loans, the Community Advantage Pilot program, the 504 Loan Program, the Surety Bond Program, the Microloan Program, and SBA disaster lending. Collectively, SBA's business loan programs connect creditworthy small business entrepreneurs who otherwise are unable to obtain conventional sources of capital with the necessary capital to start or grow small businesses.

Capital is the lifeblood of any business and critical to helping small businesses grow, hire, acquire, and innovate. In 2022, SBA approved more than \$43 billion across our capital programs. Specifically, that includes \$25.7 billion in 7(a) loans to 47,678 small businesses across the nation. Additionally, SBA approved \$9.2 billion in 504 loans last year – a \$1 billion increase year over year from 2021.

One of the persistent problems for small businesses has been the availability of small dollar lending. The number of SBA 7(a) loans under \$150,000 approved annually has fallen from 38,000 to 22,000. In FY22, the SBA increased the number of small 7(a) loans for the first time since 2016. However, there are still large gaps in the availability of loans under \$150,000.

When businesses cannot access capital, there are significant consequences and limited opportunities for underserved communities – including minority populations, women, veterans, and rural Americans.

Under Administrator Guzman's leadership, SBA is committed to addressing this market gap with improvements that streamline our programs in order to better deliver on our mission and reach underserved businesses.

For nearly two years, SBA has been engaged in rulemakings to improve access to capital.

In November 2022, SBA published proposed rules to revitalize the Small Business Lending Program and streamline the affiliation rules for SBA loans. Both of these rules were open to

public comment for 60 days and SBA has diligently worked through all of the public comments we have received.

After extensive engagement with this Committee and our stakeholders on Capitol Hill, a notice of these Final Rules was published this month.

SBLC Rule

The SBA is revitalizing the Small Business Lending Company (SBLC) program by removing the 1982 cap on the number of licenses for these non-depository institutions at just 14 licenses. Removing this outdated cap will create needed competition in the marketplace and provide additional options to small business borrowers.

Today, SBA is a modern, technology-forward agency that has the capacity to undertake these reforms by leveraging the talented agency staff along with private sector contracts to ensure appropriate oversight for all lenders.

By lifting the cap on regular SBLC licenses, SBA will be able to admit additional lenders aligned with the agency's mission. SBA will begin by issuing up to three additional SBLC licenses to lenders with demonstrated historical performance of safety and soundness, and a strong regard for borrower financial health and protection. Administrator Guzman has made clear that SBA's objective is to increase the number of lenders serving the hardest-to-reach small businesses, including women, minorities, veterans, and rural firms, at no cost to the taxpayer.

Importantly, this rule incorporates Congressional intent by providing permanence to the more than one hundred nonprofit, mission-oriented lenders in the Community Advantage Pilot Program. Community Advantage has been a powerful tool to increase capital in underserved communities but a lack of certainty has limited the program from reaching its full potential. SBA will transition pilot program lenders into Community Advantage SBLC licenses to add certainty to their participation and attract additional nonprofit lenders.

Affiliation Rule

Throughout my time at SBA, we have heard feedback from stakeholders – including Congress – that SBA's programs are overly complex and that red tape hinders some borrowers from accessing our programs. Last year, 20 lenders made half of all 7(a) loans. It doesn't have to be that way. With easier access and simpler rules, more community banks, credit unions, nonprofit and other lenders can participate more; that's what's best for small businesses.

SBA's rule to modernize the lending criteria and conditions for SBA's business loan programs will expand the number of creditworthy business owners who can access SBA loans, including women, minority entrepreneurs, employees purchasing a portion of a business from its owner(s), and startup small businesses. These enhancements align with existing lender best practices to make it simpler and easier for lenders to make SBA loans.

The new lending criteria will, for SBA's 7(a) Loan Program and 504 Loan Program, allow lenders to make SBA loan decisions based on their existing practices for similarly sized non-SBA loans under \$500,000, using credit score, business revenue, and any equity or collateral to approve or deny a loan application. This simplification will allow lenders to use the same process they currently use for SBA Express and for similarly sized, non-SBA commercial loans. The rule also provides additional flexibility for smaller loans (under \$150,000) to reduce the cost and complexity of smaller dollar lending.

Another area of complexity has been SBA's affiliation rules which determine if a business qualifies as a small business when taking into account all affiliated entities. SBA has used a complex test to determine control of an entity, and today we are proposing simplifying the affiliation test based upon feedback from small business lenders. Streamlining affiliation standards benefits small businesses by reducing the paperwork burden and ensuring that more businesses can access SBA financing. At the same time, they increase access for lenders and simplify the process for lenders to make an SBA loan to align with existing lender best practices they already use for similarly situated commercial loans.

Criminal History Records Rule

America is a nation that believes in second chances, particularly salient for the date of this hearing during Second Chance Month. Leaders on both sides of the aisle have identified stable employment as a key predictor of success during reentry, especially in terms of reducing the risk of recidivism. Not only does this strengthen our economy, but it also makes our communities safer. Employment also includes pathways to entrepreneurship for qualified justice-impacted individuals.

Although individuals who have been arrested for non-felony convictions are currently eligible for most SBA programs, asking questions about criminal history often creates a chilling effect that deters people from applying even if they would qualify. SBA is exploring potential options that would build on the momentum of the successful "ban the box" measures, and expand access to capital for qualified justice-impacted individuals.

Additionally, SBA believes that standardizing eligibility rules across all of our capital programs will provide that second chance that many Americans deserve and will help create opportunity to reintegrate into society by pursuing a small business career – investing in our communities and creating jobs. After all, if a lender's credit underwriting team finds that an entrepreneur satisfies their lending criteria, which often involves a detailed search of their criminal history, that qualified person should not be denied a loan due to past involvement with the justice system that may not reflect on the steps they have taken towards rehabilitation and redemption and who they are today.

Thank you for the opportunity to appear before you today. I appreciate your work on behalf of America's small businesses and I look forward to discussing the ways that SBA is working to increase access to capital for underserved borrowers across our nation.