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Small Business Administration 7(a) Loan Guaranty Program

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Summary

The Small Business Administration (SBA) administers several programs to support small businesses, including loan guaranty programs designed to encourage lenders to provide loans to small businesses "that might not otherwise obtain financing on reasonable terms and conditions." The SBA's 7(a) loan guaranty program is the agency's flagship loan program. It derives its name from Section 7(a) of the Small Business Act of 1953 (P.L. 83-163, as amended), which authorizes the SBA to provide business loans and loan guaranties to American small businesses.

In FY2021, the SBA approved 51,856 7(a) loans totaling $36.5 billion. The average approved 7(a) loan amount was $704,581.

This report discusses the 7(a) program's borrower and lender eligibility standards and program requirements; and program statistics, including loan volume, loss rates, use of proceeds, borrower satisfaction, and borrower demographics. It also examines issues raised concerning the SBA's administration of the 7(a) program, including oversight of 7(a) lenders and the program's lack of outcome-based performance measures.

This report also examines congressional and SBA actions to enhance small businesses' access to capital, including actions taken to address the Coronavirus Disease 2019 (COVID-19) pandemic's adverse economic impact on the national economy. For example

- P.L. 116-136, the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), among other provisions, created the Paycheck Protection Program (PPP) and appropriated $17 billion for six-month payment relief for existing 7(a), 504/CDC, or Microloan borrowers. Loans fully disbursed up until six months after enactment (until September 27, 2020) were also eligible for six months of loan payments. The act also temporarily increased the SBAExpress loan limit from $350,000 to $1 million through December 31, 2020, and eliminated the zero subsidy requirement to waive SBAExpress loan fees for veterans.
- P.L. 116-260, the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act (Division N, Title III of the Consolidated Appropriations Act, 2021), enacted on December 27, 2020, among other provisions, appropriated $3.5 billion to resume monthly payment relief for 7(a), 504/CDC, and Microloan borrowers, capped at $9,000 per month per borrower, and waived SBA's 7(a) and 504/CDC fees for the remainder of FY2021. The act also extended, through the end of FY2021:
    - the temporary increase in the SBAExpress loan limit from $350,000 to $1 million (reset at $500,000 on October 1, 2021);
    - the temporary increase in the SBAExpress guaranty rate for loans of $350,000 or less from 50% to 75%; and
    - the temporary increase in the 7(a) program's loan guaranty rate from 85% for loans of $150,000 or less and 75% for loans greater than $150,000 (up to a maximum guaranty of $3.75 million—75% of $5 million) to 90%.

Appendix A provides a brief description of the 7(a) program's SBAExpress and Community Advantage programs. **Appendix B** provides required 7(a) application forms and documentation materials. **Appendix C** provides a summary of the CARES Act's key provisions, including legislative and regulatory changes to those provisions.

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Small Business Administration Loan Guaranty Programs

The Small Business Administration (SBA) administers programs to support small businesses, including loan guaranty programs to encourage lenders to provide loans to small businesses "that might not otherwise obtain financing on reasonable terms and conditions."[1] The SBA's 7(a) loan guaranty program is the agency's flagship loan program.[2] It derives its name from Section 7(a) of the Small Business Act of 1953 (P.L. 83-163, as amended), which authorizes the SBA to provide and guarantee business loans to American small businesses.

The SBA also administers several 7(a) subprograms that offer streamlined and expedited loan procedures for particular groups of borrowers, including the SBAExpress and Community Advantage Pilot programs (see the **Appendix A** for additional details). Although these subprograms have their own distinguishing eligibility requirements, terms, and benefits, they operate under the 7(a) program's authorization.[3]

In FY2021, the SBA approved 51,856 7(a) loans totaling $36.5 billion. The average approved 7(a) loan amount was $704,581.[4]

Congress has always shown a great interest in the 7(a) loan program because of concerns that small businesses might be prevented from accessing sufficient capital to enable them to grow and create jobs. That interest has grown especially acute in the wake of the Coronavirus Disease 2019 (COVID-19) pandemic's adverse economic impact on the national economy. For example

- P.L. 116-136, the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), among other provisions, created the Paycheck Protection Program (PPP) and appropriated $17 billion for six-month payment relief for existing 7(a), 504/CDC, or Microloan borrowers. Loans fully disbursed (i.e., in a regular servicing status) up until six months after enactment (until September 27, 2020) were eligible for six months of loan payments.[5] The act also temporarily increased the SBAExpress loan limit from $350,000 to $1 million through December 31, 2020, and eliminated the zero subsidy requirement to waive SBAExpress loan fees for veterans.

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[1] U.S. Small Business Administration (SBA), *Fiscal Year 2010 Congressional Budget Justification*, p. 30, at https://www.sba.gov/sites/default/files/aboutsbaarticle/Congressional_Budget_Justification_2010.pdf.

[2] U.S. Congress, House Committee on Small Business, Subcommittee on Finance and Tax, *Subcommittee Hearing on Improving the SBA's Access to Capital Programs for Our Nation's Small Business*, 110th Cong., 2nd sess., March 5, 2008, H.Hrg. 110-76 (Washington: GPO, 2008), p. 2.

[3] SBA, "Types of 7(a) Loans," at https://www.sba.gov/partners/lenders/7a-loan-program/types-7a-loans.

[4] SBA, "SBA Lending Statistics for Major Programs (as of 9/30/2021)," at https://www.sba.gov/document/report-2021-weekly-lending-reports (hereinafter SBA, "SBA Lending Statistics for Major Programs (as of 9/30/2021)"). The number of 7(a) loans approved annually is typically about 10% to 20% higher than the number of loans disbursed (e.g., some borrowers decide not to accept the loan or there is a change in business ownership). The amount of 7(a) loans approved annually is typically about 10% to 15% higher than the amount disbursed.

[5] Community Advantage Recovery Loans fully disbursed up until October 1, 2020, were eligible for six months of loan payments. See SBA, "Guidance on the Implementation of the Extension of the Section 1112 Debt Relief Program for the 7(a) and 504 Loan Programs, as Authorized by Section 325 of the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act," Procedural Notice 5000-20079, January 19, 2021, at https://www.sba.gov/document/procedural-notice-5000-20079-guidance-implementation-extension-section-1112-debt-relief-program-7a-504-loan-programs-authorized.

- P.L. 116-260, the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act (Division N, Title III of the Consolidated Appropriations Act, 2021), enacted on December 27, 2020, among other provisions, appropriated $3.5 billion to resume SBA's monthly debt relief payments, capped at $9,000 per month per borrower. The SBA was authorized to provide up to an additional eight monthly payments. However, due to high demand, the SBA paid two, three, or five additional monthly payments, depending on when the loan was approved or disbursed, the type of loan received, and the business's industry.[6] The act also waived SBA's 7(a) and 504/CDC fees for the remainder of FY2021 and extended, through the end of FY2021:
    - the temporary increase in the SBAExpress loan limit from $350,000 to $1 million (reset at $500,000 on October 1, 2021);
    - the temporary increase in the SBAExpress guaranty rate for loans of $350,000 or less from 50% to 75%; and
    - the temporary increase in the 7(a) program's loan guaranty rate from 85% for loans of $150,000 or less and 75% for loans greater than $150,000 (up to a maximum guaranty of $3.75 million—75% of $5 million) to 90%.

The small business relief legislation enacted during the 116th Congress included several provisions (e.g., fee waivers, increased loan limits, and increased loan guarantee percentages) that were enacted during the 111th Congress to address the economic slowdown during and immediately following the Great Recession (2007-2009). Back then, many Members of Congress argued that the SBA should be provided additional resources to assist small businesses in acquiring capital necessary to start, continue, or expand operations with the expectation that in so doing small businesses would retain and create jobs. Others worried about the long-term adverse economic effects of spending programs that increase the federal deficit. They advocated business tax reduction, reform of financial credit market regulation, and federal fiscal restraint as the best means to help small businesses further economic growth and job creation.

A major difference was that given COVID-19's widespread adverse economic impact, resulting primarily from physical distancing and the resulting decrease in consumer spending, there was an added emphasis on SBA loan deferrals, loan forgiveness, and expanded eligibility, including, for

[6] P.L. 116-260 authorized a second round of monthly payments for covered loans approved on or before September 27, 2020, even if the loan was not fully disbursed on or before September 27, 2020.

Existing 7(a) and 504/CDC loans that were previously deemed ineligible for monthly payments because they had not been fully disbursed on or before September 27, 2020 (referred to as newly eligible first round loans), received three monthly payments (instead of six as authorized under the CARES Act).

Existing 7(a) and 504/CDC loans (except for Community Advantage Pilot Program loans) approved before March 27, 2020, received two additional monthly payments. Businesses in specified economically hard-hit industries (food service and accommodation; arts, entertainment and recreation; education; and laundry and personal care services) received an additional three monthly payments (a total of five additional monthly payments). Existing Community Advantage loans and Microloans approved before March 27, 2020, received five (instead of eight) additional monthly payments.

New 7(a), 504/CDC, and Microloans approved from February 1, 2021, through September 30, 2021, received three (instead of six) additional monthly payments. No second round payments were provided to covered loans approved from March 28, 2020, through September 26, 2020. These loans were eligible for either three or six monthly payments under round one, depending on their disbursement date. See SBA, "Adjustment to Number of Months of Section 1112 Payments in the 7(a), 504 and Microloan Programs Due to Insufficiency of Funds," SBA Procedural Notice, 5000-20095, February 16, 2021, at https://www.sba.gov/document/procedural-notice-5000-20095-adjustment-number-months-section-1112-payments-7a-504-microloan-programs-due-insufficiency-funds.

the first time, specified types of nonprofit organizations. There was also less concern about fiscal restraint than during the 111th Congress.

This report examines the 7(a) program's borrower and lender eligibility standards and program requirements; and program statistics, including loan volume, loss rates, use of the proceeds, borrower satisfaction, and borrower demographics. It also examines issues raised concerning the SBA's administration of the 7(a) program, including the oversight of 7(a) lenders and the program's lack of outcome-based performance measures.

In addition, recent congressional and SBA actions to enhance small businesses' access to capital are examined, including actions taken to address the COVID-19 pandemic's adverse economic impact on the national economy.

Borrower Eligibility Standards and Program Requirements

The following eligibility standards and program requirements apply to the 7(a) program. The CARES Act created separate eligibility standards and program requirements for the Payment Protection Program (PPP), including, for the first time, eligibility for nonprofit organizations (see **Appendix C** for the CARES Act's major provisions).[7]

Borrower Eligibility Standards

To be eligible for an SBA business loan, a small business applicant must

- be located in the United States;
- be a for-profit operating business (except for loans to eligible passive companies and businesses engaged in specified industries, such as insurance companies and financial institutions primarily engaged in lending);[8]
- qualify as small under the SBA's size requirements;[9]
- demonstrate a need for the desired credit; and
- be certified by a lender that the desired credit is unavailable to the applicant on reasonable terms and conditions from nonfederal sources without SBA assistance.[10]

To qualify for an SBA 7(a) loan, applicants must be creditworthy and able to reasonably assure repayment. SBA requires lenders to consider the strength of the business and the applicant's

- character, reputation, and credit history;
- experience and depth of management;

[7] For additional information and analysis of recent small business relief acts see CRS Report R46284, *COVID-19 Relief Assistance to Small Businesses: Issues and Policy Options*, by Robert Jay Dilger and Bruce R. Lindsay.

[8] A list of ineligible businesses is contained in 13 C.F.R. §120.110. In 2017, the SBA removed consumer and marketing cooperatives from the list of ineligible businesses. See SBA, "Miscellaneous Amendments to Business Loan Programs and Surety Bond Guarantee Program," 82 *Federal Register* 39492, August 21, 2017.

[9] For further analysis, see CRS Report R40860, *Small Business Size Standards: A Historical Analysis of Contemporary Issues*, by Robert Jay Dilger.

[10] 13 C.F.R. §120.100; and 13 C.F.R. §120.101.

- past earnings, projected cash flow, and future prospects;
- ability to repay the loan with earnings from the business;
- sufficient invested equity to operate on a sound financial basis;
- potential for long-term success;
- nature and value of collateral (although inadequate collateral will not be the sole reason for denial of a loan request); and
- affiliates' effect on the applicant's repayment ability.[11]

Borrower Program Requirements

Use of Proceeds

Borrowers may use 7(a) loan proceeds to establish a new business or to assist in the operation, acquisition, or expansion of an existing business. 7(a) loan proceeds may be used to

- acquire land (by purchase or lease);
- improve a site (e.g., grading, streets, parking lots, landscaping), including up to 5% for community improvements such as curbs and sidewalks;
- purchase one or more existing buildings;
- convert, expand, or renovate one or more existing buildings;
- construct one or more new buildings;
- acquire (by purchase or lease) and install fixed assets;
- purchase inventory, supplies, and raw materials;
- finance working capital; and
- refinance certain outstanding debts.[12]

Borrowers are prohibited from using 7(a) loan proceeds to

- refinance existing debt where the lender is in a position to sustain a loss and the SBA would take over that loss through refinancing;
- effect a partial change of business ownership or a change that will not benefit the business;
- permit the reimbursement of funds owed to any owner, including any equity injection or injection of capital for the business's continuance until the loan supported by the SBA is disbursed;
- repay delinquent state or federal withholding taxes or other funds that should be held in trust or escrow; or
- pay for a nonsound business purpose.[13]

[11] 13 C.F.R. §120.150.

[12] 13 C.F.R. §120.120.

[13] 13 C.F.R. §120.130.

Loan Amounts

P.L. 111-240, the Small Business Jobs Act of 2010, increased the 7(a) program's maximum gross loan amount for any one 7(a) loan from $2 million to $5 million (up to $3.75 million maximum guaranty). In FY2021, the average approved 7(a) loan amount was $704,581, and about 10% of all 7(a) loans exceeded $2 million.[14]

Loan Terms, Interest Rate, and Collateral

Loan Terms

A 7(a) loan is required to have the shortest appropriate term, depending upon the borrower's ability to repay. The maximum term is 10 years, unless the loan finances or refinances real estate or equipment with a useful life exceeding 10 years. In that case, the loan term can be up to 25 years, including extensions.[15]

Interest Rate

Lenders are allowed to charge borrowers "a reasonable fixed interest rate" or, with the SBA's approval, a variable interest rate.[16] The SBA uses a multistep formula to determine the maximum allowable fixed interest rate for all 7(a) loans (with the exception of the Export Working Capital Program and Community Advantage loans) and periodically publishes that rate and the maximum allowable variable interest rate in the *Federal Register*.[17]

The maximum allowable fixed interest rates in March 2022 are 11.25% for 7(a) loans of $25,000 or less; 10.25% for loans over $25,000 but not exceeding $50,000; 9.25% for loans over $50,000 up to and including $250,000; and 8.25% for loans greater than $250,000.[18]

The 7(a) program's maximum allowable variable interest rate is determined by a formula that starts with the lender selecting a base rate from among the following: the lowest prime rate (3.25% in March 2022), the 30-day LIBOR rate plus 300 basis points (3.23% in March 2022), or the SBA optional peg rate (1.75% in the second quarter of FY2022).[19] The optional peg rate is a

[14] SBA, "SBA Lending Statistics for Major Programs (as of 9/30/2021)." 4,975 7(a) loans totaling at least $2 million were approved in FY2021.

[15] 13 C.F.R. §120.212. A portion of a 7(a) loan used to acquire or improve real property may have a term of 25 years plus an additional period needed to complete the construction or improvements.

[16] 13 C.F.R. §120.213.

[17] For fixed interest rates, the SBA, effective November 6, 2018, uses the prime rate (see 13 C.F.R. §120.214(c)) in effect on the first business day of the month as the base rate and increases the maximum allowable interest rate spread as follows: for fixed rate loans of $25,000 or less, prime plus 600 basis points, plus the 200 basis points permitted by 13 C.F.R. §120.215; for fixed rate loans over $25,000 but not exceeding $50,000, prime plus 600 basis points, plus the 100 basis points permitted by 13 C.F.R. §120.215; for fixed rate loans greater than $50,000 but not exceeding $250,000, prime plus 600 basis points; and for fixed rate loans over $250,000, prime plus 500 basis points. SBA, "Maximum Allowable 7(a) Fixed Interest Rates," 83 *Federal Register* 55478, November 6, 2018. For the previously used fixed interest rates formula, see SBA, "Business Loan Program Maximum Allowable Fixed Rate," 74 *Federal Register* 50263-50264, September 30, 2009.

[18] SBA, "FTA Wiki: Downloads and Resources, Reporting," at https://catran.sba.gov/ftadistapps/ftawiki/downloadsandresources.cfm (hereinafter SBA, "FTA Wiki").

[19] SBA, "FTA Wiki."

weighted average of rates the federal government pays for loans with maturities similar to the average SBA loan.[20]

The lender may charge the borrower a variable rate that is pegged to the base rate and varies depending on the loan's amount and maturity.[21] The maximum variable interest rate allowed applies only to the initial rate on the date SBA received the loan application.

Collateral

For 7(a) loans of $25,000 or less, the SBA does not require lenders to take collateral. For 7(a) loans exceeding $25,000 to $350,000, the lender must follow the collateral policies and procedures that it has established and implemented for its similarly sized non-SBA-guaranteed commercial loans. However, the lender must, at a minimum, obtain a first lien on assets financed with loan proceeds, and a lien on all of the applicant's fixed assets, including real estate, up to the point that the loan is fully secured. For 7(a) loans exceeding $350,000, the SBA requires lenders to collateralize the loan to the maximum extent possible up to the loan amount.[22] If business assets do not fully secure the loan, the lender may place a lien against the principal's personal real estate (residential and investment) to the extent necessary to ensure that the loan is fully secured.[23]

7(a) loans are considered "fully secured" if the lender has taken security interests in all available fixed assets with a combined "net book value" up to the loan amount.[24] The SBA directs lenders to not decline a loan solely on the basis of inadequate collateral because "one of the primary reasons lenders use the SBA-guaranteed program is for those Applicants that demonstrate repayment ability but lack adequate collateral to repay the loan in full in the event of a default."[25]

[20] SBA, "7(a) Loan Program: Terms, Conditions, and Eligibility," at https://www.sba.gov/partners/lenders/7a-loan-program/terms-conditions-eligibility.

[21] The maximum variable interest rates allowed for 7(a) loans with a maturity less than seven years are the base rate plus 4.25% for loans less than $25,000; the base rate plus 3.25% for loans of $25,000-$50,000; and the base rate plus 2.25% for loans over $50,000. The maximum variable interest rates allowed for 7(a) loans with a maturity of seven years or longer are the base rate plus 4.75% for loans less than $25,000; the base rate plus 3.75% for loans of $25,000-$50,000; and the base rate plus 2.75% for loans over $50,000. See 13 C.F.R. §120.214 and 13 C.F.R. §120.215.

[22] SBA, "SOP 50 10 6: Lender and Development Company Loan Programs," (effective October 1, 2020), pp. 257, 258, at https://www.sba.gov/document/sop-50-10-lender-development-company-loan-programs-0 (hereinafter SBA, "SOP 50 10 6").

[23] SBA, "SOP 50 10 6," p. 259.

[24] SBA, "SOP 50 10 6," p. 257. "Net book value" is defined as an asset's original price minus depreciation and amortization. New machinery and equipment may be valued at no more than 75% of price minus any prior liens for the calculation of "fully secured." Used or existing machinery and equipment (excluding furniture and fixtures) may be valued at no more than 50% of Net Book Value or 80% with an Orderly Liquidation Appraisal minus any prior liens for the calculation of "fully-secured." Improved real estate can be valued at 85% and unimproved real estate can be valued at 50% of the market value for the calculation of "fully-secured." Furniture and fixtures may be valued at no more than 10% of Net Book Value or appraised value.

[25] SBA, "SOP 50 10 6," pp. 256, 257.

Lender Eligibility Standards and Program Requirements

Lender Eligibility Standards

Lenders must have a continuing ability to evaluate, process, close, disburse, service, and liquidate small business loans; be open to the public for the making of such loans (and not be a financing subsidiary, engaged primarily in financing the operations of an affiliate); have continuing good character and reputation; and be supervised and examined by a state or federal regulatory authority, satisfactory to the SBA. They must also maintain satisfactory performance, as determined by the SBA through on-site review/examination assessments, historical performance measures (such as default rate, purchase rate, and loss rate), and loan volume to the extent that it affects performance measures.[26] In FY2021, 1,738 lenders provided 7(a) loans.[27]

PLP Lenders

The SBA started the Preferred Lenders Program (PLP) on March 1, 1983, initially on a pilot basis.[28] It is designed to streamline the procedures necessary to provide financial assistance to small businesses by delegating the final credit decision and most servicing and liquidation authority and responsibility to carefully selected PLP lenders.[29] PLP loan approvals are subject only to a brief eligibility review and the assignment of a loan number by SBA.[30] PLP lenders draft the SBA Authorization (of loan guaranty approval) without the SBA's review, and execute it on behalf of the SBA. In FY2021, PLP lenders approved 28,875 7(a) loans (55.6% of all 7(a) loans), amounting to $29.4 billion (80.6% of the total amount approved).[31]

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[26] 13 C.F.R. §120.410.

[27] SBA, *FY2023 Congressional Justification FY2021 Annual Performance Report*, p. 32, at https://www.sba.gov/document/report-congressional-budget-justification-annual-performance-report (hereinafter SBA, *FY2023 Congressional Justification FY2021 Annual Performance Report*). There were 2,476 active 7(a) lenders in FY2012, 2,345 in FY2013, 2,244 in FY2014, 2,163 in FY2015, 2,045 in FY2016, 1,978 in FY2017, 1,810 in FY2018, 1,708 in FY2019, and 1,673 in FY2020.

[28] GAO, *SBA's Certified Lenders Program Falls Short of Expectations*, RCED-83-99, June 7, 1983, p. 3, at http://www.gao.gov/assets/150/140126.pdf.

The SBA established a Certified Lenders Program on February 26, 1979, but removed CLP authority from the *Code of Federal Regulations* (13 C.F.R. §120.440-120.441) effective January 1, 2018. The CLP program was designed to provide expeditious service on 7(a) loan applications received from lenders who have a successful SBA lending track record and a thorough understanding of SBA policies and procedures. In recent years, CLP lenders approved less than 1.0% of the number of 7(a) loans approved each year and less than 2.0% of the amount of 7(a) loans approved each year. For further information concerning the CLP program see U.S. Congress, Senate Select Committee on Small Business, *SBA Loan Oversight*, hearing on SBA loan oversight, 96th Cong., 1st sess., September 18, 1997 (Washington: GPO, 1997), p. 31; GAO, *SBA's Pilot Programs to Improve Guaranty Loan Procedures Need Further Development*, CED-81-25, February 2, 1981, p. 7, at http://www.gao.gov/assets/140/131789.pdf; and GAO, *SBA's Certified Lenders Program Falls Short of Expectations*, RCED-83-99, June 7, 1983, p. 1, at http://www.gao.gov/assets/150/140126.pdf.

[29] GAO, *Small Business: Analysis of SBA's Preferred Lenders Program*, GAO/RCED-92-124, May 15, 1992, pp. 1-4, http://www.gao.gov/assets/220/216229.pdf.

[30] SBA, "SOP 50 10 6," p. 32.

[31] PLP lenders approved 17,233 7(a) loans totaling $15.6 billion in FY2016, 25,023 7(a) loans totaling $18.2 billion in FY2017, 26,482 loans totaling $18.8 billion in FY2018, 23,884 loans totaling $17.6 billion in FY2019, and 19,592 loans totaling $17.0 billion in FY2020. See SBA, "SBA Lending Statistics for Major Programs (as of 9/30/2021)."

PLP lenders must comply with all of the SBA's business loan eligibility requirements, credit policies, and procedures. The PLP lender is required to stay informed on, and apply, all of the SBA's loan program requirements. They must also complete and retain in the lender's file all forms and documents required of standard 7(a) loan packages.[32] The SBA uses an automated system to assess PLP lender performance quarterly using a composite risk rating system. PLP lenders with an outstanding SBA balance of $10 million or more may also be subject to more in-depth reviews.[33]

Lender Program Requirements

The Application Process

Borrowers submit applications for a 7(a) business loan to private lenders. The lender reviews the application and decides if it merits a loan on its own or if it has some weaknesses which, in the lender's opinion, do not meet standard, conventional underwriting guidelines and require additional support in the form of an SBA guaranty. The SBA guaranty assures the lender that if the borrower does not repay the loan and the lender has adhered to all applicable regulations concerning the loan, the SBA will reimburse the lender for its loss, up to the percentage of the SBA's guaranty. The small business borrowing the money remains obligated for the full amount due.

If the lender determines that it is willing to provide the loan, but only with an SBA guaranty, it submits the application for approval to the SBA's Loan Guaranty Processing Center (LGPC) through the SBA's E-Tran (Electronic Loan Processing/Servicing) website (which is available through SBA One, the SBA's automated lending platform) or, if attachments to the application are too large for E-Tran, by secured electronic file transfer.

The LGPC has two physical locations: Citrus Heights, CA, and Hazard, KY.[34] This center processes 7(a) loan guaranty applications for lenders who do not have delegated authority to make 7(a) loans without the SBA's final approval.

PLP and express lenders are authorized to make credit decisions without SBA review prior to loan approval. However, the PLP and express lender's analysis is subject to the SBA's review and determination of adequacy when the lender requests the SBA to purchase its guaranty and when the SBA is conducting a review of the lender.[35]

As an additional safeguard against the potential for loan defaults, the SBA now requires all non-express 7(a) loans of $350,000 or less to be SBA credit scored through E-Tran prior to submission/approval.[36]

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[32] SBA, "SOP 50 10 6," p. 39.

[33] SBA, "SOP 50 10 6," p. 31.

[34] SBA, "7a Loan Guaranty Processing Center (Citrus Heights, CA & Hazard, KY)," at https://www.sba.gov/CitrusHeightsLGPC.

[35] SBA, "SOP 50 10 6," p. 247.

[36] The SBA's credit scoring requirement was initially required of Small Loan Advantage loans, effective June 1, 2012. See SBA, "SBA Information Notice: Revised and Expanded Small Loan Advantage—Changes Incorporated into SOP 50 10 5(E)," May 25, 2012, at https://www.sba.gov/sites/default/files/files/5000-1240_0.pdf. The SBA's credit scoring requirement was expanded to all non-express 7(a) loans of $350,000 or less on January 1, 2014. See SBA, "SOP 50 10 5(F): Lender and Development Company Loan Programs," (effective January 1, 2014), p. 161, at https://www.sba.gov/sites/default/files/Clean%20FINAL%20SOP%2050%2010%205%20%28F%29.pdf. The SBA calculates the credit score based on a combination of consumer credit bureau data, business bureau data, borrower financials, and

- If the credit score is below the minimum set by the SBA (currently a Small Business Scoring Service score of 155 for 7(a) loans of $350,000 or less), the loan must be submitted to the SBA for approval with a full credit write-up for consideration. The loan cannot be processed under delegated authority.[37]
- If the credit score is acceptable to the SBA, the lender is a PLP lender, and the loan is eligible to be processed under the PLP lender's delegated authority, the lender will receive an SBA loan number indicating that the loan is approved.[38] The PLP lender's documentation, including underwriting, closing, and servicing, must be maintained in their files, and can be reviewed by the SBA at any time.
- If the lender is not a PLP lender or if the loan is not eligible to be submitted under the PLP lender's delegated authority, the lender must refer the loan to the LGPC for review.

The application materials required for a SBA guaranty vary depending on the size of the loan ($350,000 or less versus exceeding $350,000) and the method of processing used by the lender (standard versus expedited/express). SBA's required application forms and documentation materials are provided in **Appendix B**.

SBA Guaranty and Servicing Fees

To offset its costs, the SBA is authorized to charge lenders an up-front, one-time guaranty fee and an annual, ongoing service fee for each 7(a) loan approved and disbursed.[39] The guaranty fee is a percentage of the SBA guaranteed portion of the loan. As mentioned, these fees were waived in FY2021.[40]

The SBA's fees vary depending on loan amount and maturity (see **Table 1** for FY2022 fees). The maximum guaranty fee for 7(a) loans with maturities exceeding 12 months is set by statute and varies depending on the loan amount.[41] On short-term loans (maturities of less than 12 months), the lender must pay the guaranty fee to the SBA electronically through http://www.pay.gov within 10 days from the date the SBA loan number is assigned. If the fee is not received within the specified time frame, the SBA will cancel the guaranty. On loans with maturities in excess of 12

application data. The minimum acceptable credit score is based on the lower end of the risk profile of the current SBA portfolio and may be adjusted up or down from time to time.

[37] SBA, "SOP 50 10 6," p. 252.

[38] If the PLP lender indicates that the loan is eligible to be processed under the PLP lender's delegated authority, the lender is also certifying that SBA Form 1920 has been completed, signed, dated, and filed in the loan file.

[39] P.L. 93-386, the Small Business Amendments of 1974, provided the SBA authorization to charge fees to "cover administrative expenses and probable losses" on its loan guaranty programs.

[40] P.L. 116-260, the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act (Division N, Title III of the Consolidated Appropriations Act, 2021).

[41] P.L. 108-447, the Consolidated Appropriations Act, 2005 (Division K–Small Business, Section 102. Loan Guaranty Fees) established the SBA's current maximum up-front guaranty fees as: up to 2% of the SBA guaranteed portion of 7(a) loans of $150,000 or less, up to 3% of the SBA guaranteed portion of 7(a) loans exceeding $150,000 but not more than $700,000, and up to 3.5% of the SBA guaranteed portion of 7(a) loans exceeding $700,000. In addition, 7(a) loans with an SBA guaranteed portion in excess of $1 million can be charged an additional 0.25% guaranty fee on the guaranteed amount in excess of $1 million. See 15 U.S.C. §636(a)(18)(a); and SBA, "Small Business Jobs Act: Implementation of Conforming and Technical Amendments," 76 *Federal Register* 63544-63545, October 13, 2011.

months, the lender must pay the guaranty fee to the SBA within 90 days of the date of loan approval. Otherwise, the guarantee will be cancelled.[42]

For short-term loans (maturities of 12 months or less), the lender may charge the guaranty fee to the borrower only after the lender has paid the guaranty fee. For loans with maturities in excess of 12 months, the lender may charge the guaranty fee to the borrower after initial disbursement.[43] Lenders are permitted to retain 25% of the guaranty fee on loans with a gross amount of $150,000 or less.[44]

The annual service fee cannot exceed 0.55% of the outstanding balance of the SBA's share of the loan and is required to be no more than the "rate necessary to reduce to zero the cost to the Administration" of making guaranties.[45] The lender's annual service fee to the SBA cannot be charged to the borrower.[46]

FY2021 was not the first time that SBA fees were waived. For example, in an effort to assist veteran-owned small businesses, the SBA waived its up-front, one-time guaranty fee for all veteran loans under the 7(a) SBAExpress program (up to $350,000) from January 1, 2014, through the end of FY2015. P.L. 114-38, the Veterans Entrepreneurship Act of 2015, made this fee waiver permanent, except during any upcoming fiscal year for which the President's budget, submitted to Congress, includes a cost for the 7(a) program, in its entirety, that is above zero (which occurred in FY2020). The CARES Act permanently eliminated the zero subsidy requirement.[47]

[42] SBA, "SOP 50 10 6," pp. 160, 161.

[43] SBA, "SOP 50 10 6," p. 161.

[44] SBA, "SOP 50 10 6," p. 160.

[45] 15 U.S.C. §636(a)(23)(a).

[46] 15 U.S.C. §636(a)(23)(b).

[47] The SBA also waived 50% of the up-front, one-time guaranty fee on all non-SBAExpress 7(a) loans of $150,001 to $5 million for veterans in FY2015 and FY2016; 50% of the up-front, one-time guaranty fee on all non-SBAExpress 7(a) loans of $150,001 to $500,000 for veterans in FY2017; and 50% of the up-front, one-time guaranty fee on all non-SBAExpress 7(a) loans of $125,001 to $350,000 for veterans in FY2018.

In addition, the SBA waived its annual service fee for all 7(a) loans of $150,000 or less approved from FY2014 through FY2016 (the annual service fee for other small businesses was 0.52% in FY2014, 0.519% in FY2015, and 0.473% in FY2016); waived the annual service fee for 7(a) loans of $150,000 or less made to small businesses located in a rural area or a HUBZone in FY2019 (the annual service fee for other small businesses was 0.55% in FY2019); waived the up-front, one-time guaranty fee for all 7(a) loans of $150,000 or less approved from FY2014 through FY2017; waived the up-front, one-time guaranty fee for all 7(a) loans of $125,000 or less approved in FY2018; and reduced the up-front, one-time guaranty fee for loans made to small businesses located in a rural area or a HUBZone from 2% to 0.6667% of the guaranteed portion of the loan in FY2019.

Table 1. 7(a) Upfront Loan Guaranty and Annual Service Fees, FY2022

Maturity and Gross Loan Amount	Upfront Loan Guaranty Fee (% of the SBA guaranteed portion of the loan)	Gross Loan Amount	Annual Service Fee (% of the outstanding loan balance)
12 months or less and $350,000 or less	0.00%	$350,000 or less	0.00%
12 months or less and more than $350,000	0.25%	$350,001-$1 million	0.49%
Exceeding 12 months and $350,000 or less	0.00%	over $1 million	0.55%
Exceeding 12 months and $350,001-$700,000	2.77%		
Exceeding 12 months and $700,001-$1 million	3.27%		
Exceeding 12 months and $1,000,001-$5 million	3.5% of the guaranteed portion up to $1 million plus 3.75% of the guaranteed portion over $1 million		

Source: U.S. Small Business Administration, "SBA Information Notice: 7(a) Fees Effective October 1, 2021," at https://www.sba.gov/document/information-notice-5000-818641-7a-fees-effective-october-1-2021.

Notes: If two or more SBA guaranteed loans are approved within 90 days of each other, the guaranty fee is determined based on the aggregate amount of the loans. Lenders are not permitted to split loans for the purpose of avoiding fees.

Lender Packaging, Servicing, and Other Fees

The lender may charge an applicant "reasonable fees" customary for similar lenders in the geographic area where the loan is being made for packaging and other services. The lender must advise the applicant in writing that the applicant is not required to obtain or pay for unwanted services. These fees are subject to SBA review at any time, and the lender must refund any such fee considered unreasonable by the SBA.[48]

The lender may also charge an applicant an additional fee if, subject to prior written SBA approval, all or part of a loan will have extraordinary servicing needs. The additional fee cannot exceed 2% per year on the outstanding balance of the part requiring special servicing (e.g., field inspections for construction projects). The lender may also collect from the applicant necessary out-of-pocket expenses, including filing or recording fees, photocopying, delivery charges, collateral appraisals, environmental impact reports that are obtained in compliance with SBA policy, and other direct charges related to loan closing.[49] The lender is prohibited from requiring the borrower to pay any fees for goods and services, including insurance, as a condition for obtaining an SBA guaranteed loan, and from imposing on SBA loan applicants processing fees,

[48] 13 C.F.R. §120.221. Effective October 1, 2020, lender fees will be limited to $3,000 for a loan up to $350,000 and no more than $5,000 for a loan over $350,000. The lender may continue to charge an applicant an additional fee if, subject to prior written SBA approval, all or part of a loan will have extraordinary servicing needs. See SBA, "Express Loan Programs; Affiliation Standards," 85 *Federal Register* 7626, February 10, 2020.

[49] 13 C.F.R. §120.221.

origination fees, application fees, points, brokerage fees, bonus points, and referral or similar fees.[50]

The lender is also allowed to charge the borrower a late payment fee not to exceed 5% of the regular loan payment when the borrower is more than 10 days delinquent on its regularly scheduled payment. The lender may not charge a fee for full or partial prepayment of a loan.[51]

For loans with a maturity of 15 years or longer, the borrower must pay to the SBA a subsidy recoupment fee when the borrower voluntarily prepays 25% or more of its loan in any one year during the first three years after first disbursement. The fee is 5% of the prepayment amount during the first year, 3% in the second year, and 1% in the third year.[52]

Program Statistics

Loan Volume

As shown in **Table 2**, the total number and amount of SBA 7(a) loans approved (before and after cancellations and modifications) declined in FY2008 and FY2009, primarily due to reduced demand for small business loans during the Great Recession (2007-2009). Since then, the total number and amount of 7(a) loans approved has varied somewhat, generally increasing during good economic times and declining when economic conditions weakened.

The number and amount of 7(a) loans approved annually is higher than the number and amount of loans disbursed because some borrowers did not accept the loan for several reasons, such as financing was secured elsewhere, funds were no longer needed, or a change in business ownership.

Table 2 also provides the 7(a) program's unpaid principal balance by fiscal year. Precise measurements of the small business credit market are not available. However, the SBA has estimated that the small business credit market (outstanding bank loans of $1 million or less, plus credit extended by finance companies and other sources) is roughly $1.4 trillion.[53] The 7(a) program's unpaid principal balance of $103.89 billion as of September 30, 2021, was about 7.4% of that amount.

[50] 13 C.F.R. §120.222. A commitment fee may be charged for a loan made under the Export Working Capital Loan Program.

[51] 13 C.F.R. §120.221.

[52] 13 C.F.R. §120.223.

[53] SBA, Office of Advocacy, "Small Business Finance FAQ," February 2022, at https://cdn.advocacy.sba.gov/wp-content/uploads/2022/02/15122206/FinanceFAQ-Final-Feb2022.pdf.

Table 2. 7(a) Loan Guaranty Program, Loan Volume, FY2007-FY2021

FY	Number of Loans Approved	Number of Loans Approved After Cancellations	Amount Approved ($ in billions)	Amount Approved After Cancellations and Modifications ($ in billions)	Total Unpaid Principal Balance ($ in billions)
2007	99,607	88,267	$14.29	$12.57	$46.08
2008	69,437	61,633	$12.67	$11.07	$47.69
2009	41,274	36,624	$9.18	$8.08	$48.56
2010	46,921	39,850	$12.32	$10.01	$50.85
2011	53,692	45,616	$19.62	$16.14	$56.44
2012	44,357	38,894	$15.13	$13.35	$60.08
2013	46,386	40,479	$17.86	$15.58	$63.67
2014	52,044	46,110	$19.19	$17.00	$68.19
2015	63,461	55,733	$23.58	$20.50	$73.02
2016	64,074	57,993	$24.13	$21.78	$78.79
2017	62,430	57,160	$25.45	$23.28	$86.19
2018	60,354	55,474	$25.37	$23.07	$92.42
2019	51,907	47,724	$23.18	$21.27	$95.10
2020	42,298	NA	$22.55	NA	$97.25
2021	51,856	NA	$36.54	NA	$103.89

Sources: U.S. Small Business Administration, correspondence with the author, December 18, 2018 and October 18, 2019; U.S. Small Business Administration, "SBA Lending Statistics for Major Programs (as of 9/30/2021)," at https://www.sba.gov/document/report-2021-weekly-lending-reports; and U.S. Small Business Administration, "Small Business Administration Loan Program Performance: Table 1—Unpaid Principal Balance By Program," at https://www.sba.gov/document/report-small-business-administration-loan-program-performance.

Notes: The 7(a) program's authorization limit on disbursements was $17.5 billion in FY2007-FY2013 (P.L. 109-289, P.L. 110-161, P.L. 111-8, P.L. 111-117, P.L. 112-10, P.L. 112-74, and P.L. 112-175); initially $17.5 billion and later increased to $18.5 billion in FY2014 (P.L. 113-164); initially $18.75 billion (P.L. 113-235) and later increased to $23.5 billion in FY2015 (P.L. 114-38); $26.5 billion in FY2016 (P.L. 114-113), $27.5 billion in FY2017 (P.L. 115-31), $29.0 billion in FY2018 (P.L. 115-141), $30 billion in FY2019 and FY2020 (P.L. 116-6, P.L. 116-93, and P.L. 116-147); $105 billion in FY2021 (P.L. 116-260; $30 billion in the Consolidated Appropriations Act, 2021 and $75 billion in the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act (Division N, Title III of the Consolidated Appropriations Act, 2021)), and $30 billion in FY2022 (P.L. 117-103).

Appropriations for Loan Subsidy Costs

One of the SBA's goals is to achieve a zero subsidy rate for its loan guaranty programs. A zero subsidy rate occurs when the SBA's loan guaranty programs generate sufficient revenue through fee collections and recoveries of collateral on purchased (defaulted) loans to not require appropriations to issue new loan guarantees.

As indicated in **Table 3**, the SBA needed additional appropriations to achieve a zero subsidy rate for the 7(a) program in FY2010, FY2011-FY2013, FY2020, and FY2021. The 504/CDC loan guaranty program received additional appropriations to achieve a zero subsidy rate in FY2012-FY2015.

Table 3. Business Loan Credit Subsidies, 7(a) and 504/CDC Loan Guaranty Programs, FY2007-FY2022

($ in millions)

FY	7(a)	504/CDC	Total Subsidy
2007	$0.0	$0.0	$0.0
2008	$0.0	$0.0	$0.0
2009	$0.0	$0.0	$0.0
2010	$80.0	$0.0	$80.0
2011	$80.0	$0.0	$80.0
2012	$139.4	$67.7	$207.1
2013	$213.8	$102.5	$316.3
2014	$0.0	$107.0	$107.0
2015	$0.0	$45.0	$45.0
2016	$0.0	$0.0	$0.0
2017	$0.0	$0.0	$0.0
2018	$0.0	$0.0	$0.0
2019	$0.0	$0.0	$0.0
2020	$99.0	$0.0	$99.0
2021	$15.0	$0.0	$15.0
2022	$0.0	$0.0	$0.0

Sources: U.S. Small Business Administration, FY2011 Congressional Budget Justification and FY2009 Annual Performance Report, p. 19; U.S. Small Business Administration, FY2012 Congressional Budget Justification and FY2010 Annual Performance Report, p. 22; U.S. Small Business Administration, FY2013 Congressional Budget Justification and FY2011 Annual Performance Report, p. 19; U.S. Small Business Administration, FY2014 Congressional Budget Justification and FY2012 Annual Performance Report, p. 25; U.S. Small Business Administration, FY2015 Congressional Budget Justification and FY2013 Annual Performance Report, p. 24; P.L. 113-235, the Consolidation and Further Continuing Appropriations Act, 2015; U.S. Small Business Administration, FY2016 Congressional Budget Justification and FY2014 Annual Performance Report, p. 16; U.S. Small Business Administration, FY2017 Congressional Budget Justification and FY2015 Annual Performance Report, p. 14; P.L. 115-141, the Consolidated Appropriations Act, 2018; P.L. 116-6, the Consolidated Appropriations Act, 2019; P.L. 116-93, the Consolidated Appropriations Act, 2020; P.L. 116-260, the Consolidated Appropriations Act, 2021; and P.L. 117-103, the Consolidated Appropriations Act, 2022.

Notes: The Microloan program also receives an appropriation for credit subsidy, primarily for providing below market interest rates to Microloan intermediaries. The subsidies were $1.3 million in FY2007, $2.0 million in FY2008, $2.5 million in FY2009, $3.0 million in FY2010 and FY2011, $3.678 million in FY2012, $3.498 million (after sequestration) in FY2013, $4.6 million in FY2014, $2.5 million in FY2015, $3.338 million in FY2016, $4.338 million in FY2017, $3.438 million in FY2018, $4.0 million in FY2019, $5 million in FY2020, $12 million in FY2021, and $6 million in FY2022.

In addition, as mentioned, P.L. 116-136, the CARES Act, appropriated $17 billion, and P.L. 116-260, the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act, appropriated $3.5 billion to resume monthly debt relief payments to 7(a), 504/CDC, and Microloan borrowers, capped at $9,000 per month per borrower.[54] Payments are dependent on the availability of funds, when the loan was disbursed, the type of loan received, and the business's industry.

[54] SBA, "SBA Extends Crucial Lifeline to Borrowers Impacted by COVID-19 with Debt Relief," January 10, 2021, at https://www.sba.gov/article/2021/jan/10/sba-extends-crucial-lifeline-borrowers-impacted-covid-19-debt-relief.

P.L. 116-260 also appropriated $1.918 billion for 7(a) and 504/CDC loan credit subsidies related to temporarily increasing the 7(a) loan guarantee to 90%, temporarily increasing the SBAExpress program's maximum loan amount to $1 million, temporarily increasing the SBAExpress program's loan guarantee from 50% to 75% for loans of $350,000 and less, and waiving 7(a) and 504/CDC fees.

Administrative Expenses

In FY2021, the SBA spent $58.5 million on the 7(a) program for administrative expenses and debt relief, including $26.2 million for loan making, $3.0 million for loan servicing, $16.4 million for loan liquidation, and $12.9 million for debt relief. Also, the SBA spent $29.0 million on lender oversight, including oversight of 7(a) lenders. The SBA anticipates that 7(a) program administrative expenses and debt relief will be about $73.7 million in FY2022 and $91.7 million in FY2023. In addition, the SBA anticipates that it will spend about $38.1 million in FY2022 and $52.0 million in FY2023 for lender oversight of the SBA's various lending programs.[55]

Use of Proceeds and Borrower Satisfaction

In FY2017, borrowers used 7(a) loan proceeds to

- purchase land or make land improvements (26.62%);
- purchase a business (17.06%);
- finance working capital (15.59%);
- pay off loans, accounts payable or notes payable (13.23%);
- construct new buildings (6.06%);
- purchase equipment (5.76%);
- make leasehold improvements (3.25%);
- expand or renovate current buildings (2.39%);
- refinance existing debt (1.40%); and
- cover other expenses (8.64%).[56]

In 2008, the Urban Institute released the results of an SBA-commissioned study of the SBA's loan guaranty programs. As part of its analysis, the Urban Institute surveyed a random sample of SBA loan guaranty borrowers. The survey indicated that most of the 7(a) borrowers responding to the survey rated their overall satisfaction with their 7(a) loan and loan terms as either excellent (18%) or good (50%). One out of every five 7(a) borrowers (20%) rated their overall satisfaction with their 7(a) loan and loan terms as fair, and 6% rated their overall satisfaction with their 7(a) loan and loan terms as poor (7% reported don't know or did not respond).[57] In addition, 90% of the survey's respondents reported that the 7(a) loan was either very important (62%) or somewhat

[55] SBA, *FY2023 Congressional Justification FY2021 Annual Performance Report*, p. 20.

[56] SBA, Office of Congressional and Legislative Affairs, correspondence with the author, January 10, 2018.

[57] Christopher Hayes, *An Assessment of Small Business Administration Loan and Investment Performance: Survey of Assisted Businesses* (Washington, DC: The Urban Institute, 2008), p. 5, at http://www.urban.org/UploadedPDF/411599_assisted_business_survey.pdf (hereinafter Christopher Hayes, *An Assessment of Small Business Administration Loan and Investment Performance: Survey of Assisted Businesses*).

important (28%) to their business success (2% reported somewhat unimportant, 3% reported very unimportant, and 4% reported don't know or did not respond).[58]

Borrower Demographics

The Urban Institute found that about 9.9% of conventional small business loans are issued to minority-owned small businesses, and about 16% of conventional small business loans are issued to women-owned businesses.[59] In FY2021, 30.1% of 7(a) loan approvals ($10.98 billion of $36.54 billion) were to minority-owned businesses (20.8% Asian, 6.0% Hispanic, 2.6% African-American, and 0.7% American Indian) and 13.7% ($5.01 billion of $36.54 billion) were to women-owned businesses.[60] From its comparative analysis of conventional small business loans and the SBA's loan guaranty programs, the Urban Institute concluded the following:

> SBA's loan programs are designed to enable private lenders to make loans to creditworthy borrowers who would otherwise not be able to qualify for a loan. As a result, there should be differences in the types of borrowers and loan terms associated with SBA-guaranteed and conventional small business loans.
>
> Our comparative analysis shows such differences. Overall, loans under the 7(a) and 504 programs were more likely to be made to minority-owned, women-owned, and start-up businesses (firms that have historically faced capital gaps) as compared to conventional small business loans. Moreover, the average amounts for loans made under the 7(a) and 504 programs to these types of firms were substantially greater than conventional small business loans to such firms. These findings suggest that the 7(a) and 504 programs are being used by lenders in a manner that is consistent with SBA's objective of making credit available to firms that face a capital opportunity gap.[61]

Congressional Issues

Access to Capital

Congress has always shown a great interest in the 7(a) loan program because of concerns that small businesses might be prevented from accessing sufficient capital to enable them to grow and create jobs. That interest has grown especially acute in the wake of the COVID-19 pandemic's adverse impact on the national economy. For example, the SBA, which typically receives an appropriation of about $1 billion annually, received $760.982 billion in supplemental funding in FY2020 ($761.980 billion including regular appropriations) and $324.975 billion in supplemental funding in FY2021 ($325.897 billion including regular appropriations) to assist small businesses adversely affected by the COVID-19 pandemic.[62] Most of these funds ($813.7 billion) were provided to support the Paycheck Protection Program (PPP).

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[58] Christopher Hayes, *An Assessment of Small Business Administration Loan and Investment Performance: Survey of Assisted Businesses*, p. 5.

[59] Kenneth Temkin, Brett Theodos, with Kerstin Gentsch, *Competitive and Special Competitive Opportunity Gap Analysis of the 7(A) and 504 Programs* (Washington, DC: The Urban Institute, 2008), p. 13, at http://www.urban.org/UploadedPDF/411596_504_gap_analysis.pdf.

[60] SBA, "SBA Lending Statistics for Major Programs (as of 9/30/2021)."

[61] Kenneth Temkin, Brett Theodos, with Kerstin Gentsch, *Competitive and Special Competitive Opportunity Gap Analysis of the 7(A) and 504 Programs* (Washington, DC: The Urban Institute, 2008), p. 21, at http://www.urban.org/UploadedPDF/411596_504_gap_analysis.pdf.

[62] See P.L. 116-123, the Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020; P.L. 116-

As of May 31, 2021, the date on which the SBA stopped accepting PPP loan applications, the SBA had approved, after cancellations, 11.8 million PPP loans, totaling nearly $800 billion. For comparative purposes, that loan approval amount is more than the amount the SBA had approved in all of its loan programs, including disaster loans, during the previous 29 years (from October 1, 1991, through December 31, 2019; $509.9 billion).[63]

Program Administration

Over the years, the SBA's Office of Inspector General (OIG) and the U.S. Government Accountability Office (GAO) have independently reviewed the SBA's administration of the SBA's loan guaranty programs. Although improvements have been noted, both agencies have reported deficiencies in the SBA's administration of its loan guaranty programs that they argue need to be addressed, including issues involving the oversight of 7(a) lenders and the lack of outcome-based performance measures.

Oversight of 7(a) High-Risk Lenders

On December 1, 2000, the OIG released its FY2001 list of the most serious management challenges facing the SBA and included, for the first time, the oversight of SBA lenders.[64] The OIG determined that the SBA had traditionally focused on loan approval volume and loss (default) rates to evaluate overall program performance and relied on lenders to focus on risk management. As a result, the OIG concluded that the SBA "continued to guarantee loans to high-risk franchises and industries without monitoring risks, and where necessary, implementing controls to mitigate those risks."[65] Since then, the OIG has determined that the SBA has made significant progress in improving its oversight of SBA lenders.[66] For example, since 2016, the SBA's Office of Credit Risk Management (OCRM) has "established performance measures and risk mitigation goals applicable to each loan program and the entire lending portfolio" and "conducted portfolio analyses of problem lenders with heavy concentrations in SBA 7(a) lending and sales on the secondary market."[67]

However, an OIG FY2020 audit of the SBA's oversight of high-risk lenders identified by OCRM using a composite risk rating methodology introduced in FY2015 indicated that OCRM completed only 30% of planned high-risk lender reviews for FY2015-FY2017, did not recommend adequate and consistent risk mitigations actions for 28 of the 33 lenders the OIG assessed, and reviewers did not communicate loan deficiencies that were noted during the high-

136, the CARES Act; P.L. 116-139, the Paycheck Protection Program and Health Care Enhancement Act; and P.L. 116-260, the Consolidated Appropriations Act, 2021.

[63] SBA, "WDS Lending Data File," October 18, 2019; and SBA, "Small Business Administration loan program performance: Table 2 - Gross Approval Amount by Program, December 31, 2019," at https://www.sba.gov/document/report-small-business-administration-loan-program-performance.

[64] SBA, Office of Inspector General (OIG), "FY2001 Agency Management Challenges," December 1, 2000, pp. 15-17.

[65] SBA, OIG, "Report on the Most Series Management and Performance Challenges Facing the Small Business Administration in Fiscal Year 2020," October 11, 2000, p. 9, at https://www.sba.gov/document/report—report-most-serious-management-performance-challenges-office-inspector-general (hereinafter SBA, OIG, "Report on the Most Series Management and Performance Challenges Facing the Small Business Administration in Fiscal Year 2020").

[66] SBA, OIG, "Report on the Most Series Management and Performance Challenges Facing the Small Business Administration in Fiscal Year 2021," October 16, 2001, p. 14, at https://www.sba.gov/document/report—report-most-serious-management-performance-challenges-office-inspector-general.

[67] SBA, OIG, "Report on the Most Series Management and Performance Challenges Facing the Small Business Administration in Fiscal Year 2020," p. 9.

risk lender reviews to SBA approval and purchase loan centers.[68] The OIG provided six recommendations to improve the SBA's internal controls and communication and to mitigate losses on loans with material deficiencies. The SBA agreed with the report's findings and indicated that it would implement the OIG's recommendations to improve its oversight of high-risk lenders.[69]

Outcome-Oriented Performance Measures

GAO has argued that the 7(a) program's performance measures (e.g., number of loans approved, loans funded, and firms assisted across the subgroups of small businesses) provide limited information about the impact of the loans on participating small businesses:

> The program's performance measures focus on indicators that are primarily output measures–for instance, they report on the number of loans approved and funded. But none of the measures looks at how well firms do after receiving 7(a) loans, so no information is available on outcomes. As a result, the current measures do not indicate how well the agency is meeting its strategic goal of helping small businesses succeed.[70]

The SBA's OIG has made a similar argument concerning the SBA's Microloan program's performance measures. Because the SBA uses similar program performance measures for its Microloan and 7(a) programs, the OIG's recommendations could also be applied to the SBA's 7(a) program.

Specifically, as part of its audit of the SBA Microloan program's use of ARRA funds, the OIG found that the SBA's performance measures for the Microloan program are based on the number of microloans funded, the number of small businesses assisted, and program's loan loss rate. It argued that these "performance metrics ... do not ensure the ultimate program beneficiaries, the microloan borrowers, are truly assisted by the program" and "without appropriate metrics, SBA cannot ensure the Microloan program is meeting policy goals."[71] It noted that the SBA does not track the number of microloan borrowers who remain in business after receiving a microloan to measure the extent to which the loans contributed to the success of borrowers and does not determine the effect that technical training assistance may have on the success of microloan borrowers and their ability to repay loans.[72] It recommended that the SBA "develop additional performance metrics to measure the program's achievement in assisting microloan borrowers in establishing and maintaining successful small businesses."[73]

In its response to GAO's recommendation to develop additional performance measures for the 7(a) program, the SBA formed, in July 2014, an impact evaluation working group to develop a

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[68] SBA, OIG, "Audit of SBA's Oversight of High-Risk Lenders," Report Number 20-03, November 12, 2019, pp. i, 4, at https://www.sba.gov/document/report-20-03-audit-sbas-oversight-high-risk-lenders (hereinafter SBA, OIG, "Audit of SBA's Oversight of High-Risk Lenders").

The SBA's composite risk rating methodology includes an assessment of the lender's portfolio management, asset management, regulatory compliance, risk management, and special items. Additional factors, such as the lender's portfolio and SBA concentration rates, are also used to assess the lender's level of risk.

[69] SBA, OIG, "Audit of SBA's Oversight of High-Risk Lenders," pp. i, 4, 9, 10.

[70] GAO, *Small Business Administration: 7(a) Loan Program Needs Additional Performance Measures*, GAO-08-226T, November 1, 2007, p. 2, at http://www.gao.gov/new.items/d08226t.pdf.

[71] SBA, OIG, *SBA's Administration of the Microloan Program under the Recovery Act*, December 28, 2009, p. 6, at https://www.sba.gov/sites/default/files/om10-10.pdf (hereinafter SBA, OIG, *SBA's Administration of the Microloan Program under the Recovery Act*).

[72] SBA, OIG, *SBA's Administration of the Microloan Program under the Recovery Act*, p. 6.

[73] SBA, OIG, *SBA's Administration of the Microloan Program under the Recovery Act*, p. 7.

methodology for conducting impact evaluations of the agency's programs using administrative data sources residing at the SBA and in other federal agencies, such as the U.S. Census Bureau and the Bureau of Labor Statistics.[74] Numerous SBA program offices participated in this working group and each office developed its own program evaluation methodology or established program evaluation frameworks.[75]

More recently, the SBA indicated in its FY2017 congressional budget justification document that although it "continues to face barriers gathering outcome rich evaluation data with current restrictions in collecting personal identification information (PII) and business identification information (BII)" it "plans to further develop its analytical capabilities, enhance collaboration across its programs, provide evaluation-specific trainings, and broaden use of impact evaluations to support senior leaders and institutionalize the evidence-based process across programs."[76] To encourage evidence-based evaluations across its programs, the SBA has created an annual Enterprise Learning Agenda designed to "help program managers continue to build and use evidence and to foster an environment of continuous learning."[77] As part of this agenda building process, the SBA identifies programs for evidence-based evaluation and undertakes both internal evaluations using available data or contracts with third parties to conduct the evaluations.[78]

Legislative and Executive Activity During the 113th-115th Congresses

During the 113th Congress, the Obama Administration waived the up-front, one-time loan guaranty fee for veteran loans under the SBAExpress program (then limited to $350,000) from January 1, 2014, through the end of FY2015 (called the Veterans Advantage Program). P.L. 113-235, the Consolidated and Further Continuing Appropriations Act, 2015, provided statutory authorization for this waiver in FY2015.

During the 114th Congress, P.L. 114-38, the Veterans Entrepreneurship Act of 2015, authorized and made permanent the waiver of the up-front, one-time loan guaranty fee for veterans (and their spouse) in the SBAExpress program beginning on or after October 1, 2015, except during any upcoming fiscal year for which the President's budget, submitted to Congress, includes a cost for the 7(a) program, in its entirety, that is above zero.[79] The act also increased the 7(a) program's authorization limit from $18.75 billion in FY2015 to $23.5 billion.[80]

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[74] U.S. Congress, House Committee on Small Business, *Attention Needed: Mismanagement at the SBA - The Administrator Responds*, 114th Cong., 2nd sess., January 7, 2016, H.Hrg. 114-035 (Washington: GPO, 2016), p. 38 (hereinafter U.S. Congress, House Committee on Small Business, *Attention Needed: Mismanagement at the SBA - The Administrator Responds*).

[75] U.S. Congress, House Committee on Small Business, *Attention Needed: Mismanagement at the SBA - The Administrator Responds*, p. 38.

[76] SBA, *FY 2017 Congressional Budget Justification and FY 2015 Annual Performance Report*, p. 28, at https://www.sba.gov/sites/default/files/FY17-CBJ_FY15-APR.pdf.

[77] SBA, "Request for Comments on Small Business Administration Enterprise Learning Agenda," 83 *Federal Register* 52608, October 17, 2018.

[78] SBA, "FY 2018 Enterprise Learning Agenda," February 12, 2018, at https://www.sba.gov/sites/default/files/aboutsbaarticle/FY_2018_Enterprise_Learning_Agenda_OMB_SBA_Final_2_08_2018-Final_1.pdf.

[79] U.S. Congress, House Committee on Small Business, *Veterans Entrepreneurship Act of 2015*, report to accompany H.R. 2499, 114th Cong., 1st sess., June 25, 2015, H.Rept. 114-187 (Washington: GPO, 2015), p. 9.

[80] Several bills were introduced during the 114th Congress to increase the 7(a) program's authorization limit (on disbursements). For example, S. 1001, the Small Business Lending Reauthorization Act of 2015, would increase the

On June 25, 2015, the SBA informed Congress that the 7(a) program "is on track to hit its authorization ceiling of $18.75 billion well before the end of FY2015."[81] If that were to occur, and in the absence of statutory authority to do otherwise, the SBA reported that it would have to suspend 7(a) loan making for the remainder of the fiscal year. The SBA requested an increase in the 7(a) loan program's authorization limit to $22.5 billion in FY2015.[82]

On July 23, 2015, citing "unprecedented demand," the SBA suspended 7(a) program lending. The SBA continued to process loan applications "up to the point of approval" and then placed approved loans "into a queue awaiting the availability of program authority."[83]

The SBA resumed 7(a) lending on July 28, 2015, following P.L. 114-38's enactment.[84] In addition to increasing the 7(a) program's authorization limit for FY2015, the act added requirements designed to ensure that SBA loans do not displace private sector loans (e.g., the SBA Administrator may not guarantee a 7(a) loan if the lender determines that the borrower is unable to obtain credit elsewhere solely because the liquidity of the lender depends upon the guaranteed portion of the loan being sold on the secondary market, or if the sole purpose for requesting the guarantee is to allow the lender to exceed the lender's legal lending limit), and requires the SBA to report, on a quarterly basis, specified 7(a) program statistics to the House and Senate Committees on Appropriations and Small Business. These required statistics are designed to inform the committees of the SBA's pace of 7(a) lending, provide estimates concerning the date on which the program's authorization limit may be reached, and present information concerning early defaults and actions taken by the SBA to combat early defaults.

P.L. 114-113, the Consolidated Appropriations Act, 2016, increased the 7(a) program's authorization limit from $23.5 billion in FY2015 to $26.5 billion for FY2016. In addition, P.L. 114-223, the Continuing Appropriations and Military Construction, Veterans Affairs, and Related Agencies Appropriations Act, 2017, authorized the SBA to use funds from its business loan program account "to accommodate increased demand for commitments for [7(a)] general business loans" for the duration of the continuing resolution (initially December 9, 2016, later extended by P.L. 114-254, the Further Continuing and Security Assistance Appropriations Act, 2017, to April 28, 2017).

Legislation was also introduced (S. 2125, the Small Business Lending and Economic Inequality Reduction Act of 2015) to provide permanent, statutory authorization for the Community Advantage Pilot program (see **Appendix A**). On December 28, 2015, the SBA extended the Community Advantage Pilot program through March 31, 2020 (it had been set to expire on March

7(a) program's authorization limit from $18.75 billion in FY2015 to $20.5 billion in FY2015 and $23.5 billion in FY2016. H.R. 3132, to increase the amount of funding available for FY2015 for certain general business loans authorized under the Small Business Act, would increase the 7(a) program's authorization limit from $18.75 billion in FY2015 to $23.5 billion.

[81] Letter from Maria Contreras-Sweet, SBA Administrator, to The Honorable John Boozman, Chair, Subcommittee on Financial Services and General Government, House Committee on Appropriations, June 25, 2015, at https://www.sba.gov/sites/default/files/7a-authotization-cap-letter-Chairman_Boozman.pdf (hereinafter Letter from Maria Contreras-Sweet, SBA Administrator, to The Honorable John Boozman, Chair, Subcommittee on Financial Services and General Government, House Committee on Appropriations).

[82] Letter from Maria Contreras-Sweet, SBA Administrator, to The Honorable John Boozman, Chair, Subcommittee on Financial Services and General Government, House Committee on Appropriations.

[83] SBA, "SBA Information Notice: 7(a) Loan Program Authorization Level," July 22, 2015, at https://www.sba.gov/sites/default/files/lender_notices/5000-1344.pdf (hereinafter SBA, "SBA Information Notice: 7(a) Loan Program Authorization Level," July 22, 2015).

[84] SBA, "SBA Information Notice: 7(a) Loan Program Authorization Level," July 28, 2015, at https://www.sba.gov/sites/default/files/lender_notices/5000-1346.pdf.

15, 2017). On September 12, 2018, the SBA extended the program through September 30, 2022 and, on April 1, 2022, extended it through September 30, 2024.[85]

During the 115th Congress, P.L. 115-31, the Consolidated Appropriations Act, 2017, increased the 7(a) program's authorization limit to $27.5 billion in FY2017 from $26.5 billion in FY2016. Congress also approved legislation (P.L. 115-141, the Consolidated Appropriations Act, 2018) that increased the 7(a) program's authorization limit to $29.0 billion in FY2018.

In addition, P.L. 115-189, the Small Business 7(a) Lending Oversight Reform Act of 2018, among other provisions, codified the SBA's Office of Credit Risk Management; required that office to annually undertake and report the findings of a risk analysis of the 7(a) program's loan portfolio; created a lender oversight committee within the SBA; authorized the Director of the Office of Credit Risk Management to undertake informal and formal enforcement actions against 7(a) lenders under specified conditions; redefined the credit elsewhere requirement;[86] and authorized the SBA Administrator to increase the amount of 7(a) loans not more than once during any fiscal year to not more than 115% of the 7(a) program's authorization limit. The SBA is required to provide at least 30 days' notice of its intent to exceed the 7(a) loan program's authorization limit to the House and Senate Committees on Small Business and the House and Senate Committees on Appropriations' Subcommittees on Financial Services and General Government and may exercise this option only once per fiscal year.

Also, P.L. 115-232, the John S. McCain National Defense Authorization Act for Fiscal Year 2019, included provisions to make 7(a) loans more accessible to employee-owned small businesses (ESOPs) and cooperatives.[87]

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[85] SBA, "Community Advantage Pilot Program," 80 *Federal Register* 80873, December 28, 2015; SBA, "Community Advantage Pilot Program," 83 *Federal Register* 46238, September 12, 2018; and SBA, "Community Advantage Pilot Program," 87 *Federal Register* 19165, April 1, 2022.

[86] Under the act, "The term 'credit elsewhere' means (1) for the purposes of this Act (except as used in section 7(b)), the availability of credit on reasonable terms and conditions to the individual loan applicant from non-Federal, non-State, or non-local government sources, considering factors associated with conventional lending practices, including—(A) the business industry in which the loan applicant operates; (B) whether the loan applicant is an enterprise that has been in operation for a period of not more than 2 years; (C) the adequacy of the collateral available to secure the requested loan; (D) the loan term necessary to reasonably assure the ability of the loan applicant to repay the debt from the actual or projected cash flow of the business; and (E) any other factor relating to the particular credit application, as documented in detail by the lender, that cannot be overcome except through obtaining a Federal loan guarantee under prudent lending standards; and (2) for the purposes of section 7(b), the availability of credit on reasonable terms and conditions from non-Federal sources taking into consideration the prevailing rates and terms in the community in or near where the applicant business concern transacts business, or the applicant homeowner resides, for similar purposes and periods of time; and (2) in section 7(a)(1)(A)(i) (15 U.S.C. §636(a)(1)(A)(i)), by inserting 'The Administrator has the authority to direct, and conduct oversight for, the methods by which lenders determine whether a borrower is able to obtain credit elsewhere' before 'No financial assistance.'"

[87] The act authorizes the SBA to make "back-to-back" loans to ESOPs to better align with industry practices (the loan proceeds must only be used to make a loan to a qualified employee trust); clarifies that 7(a) loans to ESOPs may be made under the Preferred Lenders Program; allows the seller to remain involved as an officer, director, or key employee when the ESOP or cooperative has acquired 100% ownership of the small business; and authorizes the SBA to finance transition costs to employee ownership and waive any mandatory equity injection by the ESOP or cooperative to help finance the change of ownership. The act also directs the SBA to create outreach programs with Small Business Investment Companies and Microloan intermediaries to make their lending programs more accessible to all eligible ESOPs and cooperatives, an interagency working group to promote lending to ESOPs and cooperatives, and a Small Business Employee Ownership and Cooperatives Promotion Program, administered by Small Business Development Centers, to offer technical assistance and training to small businesses on the transition to employee ownership through cooperatives and ESOPs. These provisions were originally in H.R. 5236, the Main Street Employee Ownership Act of 2018.

The Trump Administration's FY2019 budget request included a proposal to "introduce counter-cyclical policies in SBA's business guaranty loan programs and update certain fees structures to offset $155 million in business loan administration."[88] The proposal included raising $93 million in additional revenue by

- allowing the SBA to set the 7(a) program's annual servicing fee at rates below zero credit subsidy;
- increasing the 7(a) loan program's FY2019 annual servicing fee's cap from 0.55% to 0.625%; and
- increasing the FY2019 upfront loan guarantee fee on 7(a) loans over $1 million by 0.25%.

Congress did not act on this proposal.

The Trump Administration also requested that the 7(a) loan program's authorization limit be increased to $30 million in FY2019; that the SBA be allowed to further increase the 7(a) loan program's authorization amount in FY2019 by 15% under specified circumstances "to better equip the SBA to meet peaks in demand while continuing to operate at zero subsidies;" that the SBA be allowed to impose an annual fee, not to exceed 0.05% per year, of the outstanding balance on 7(a) secondary market trust certificates to help offset administrative costs; and that the SBAExpress program's loan limit be increased from $350,000 to $1 million.[89]

Legislative and Executive Activity During the 116th Congress

Both the House Committee on Small Business and the Senate Committee on Small Business and Entrepreneurship held numerous hearings on SBA programs and activities *during the 116th Congress*. For example, during the first session of the 116th Congress, the Senate Committee held a series of hearings related to the reauthorization of the Small Business Act, including hearings focusing on the SBA's access to capital programs. Among the many topics discussed were the 7(a) program's authorization level; providing statutory authorization for the 7(a) Community Advantage Program; increasing the SBAExpress program's lending limit, fee waivers, and credit subsidy determinations; and providing assistance for small manufacturing firms.

Both committees also reported bills for floor action and several bills were passed by the House, including bills on cybersecurity, SBA disaster assistance, small business investment companies, small business contracting, the Small Business Innovation Research and Small Business Technology Transfer programs, and small business size standards. None of these engrossed bills would directly affect the 7(a) program.

The following laws, enacted during the first session of the 116th Congress, affected the 7(a) program:

[88] SBA, *FY2019 Congressional Budget Justification and FY2017 Annual Performance Report*, p. 32.

[89] The specified circumstances are "if program demand were to exhaust the appropriated limit" and providing written notice, at least 15 days in advance, to the House and Senate Committees on Appropriations and Small Business. See SBA, *FY2019 Congressional Budget Justification and FY2017 Annual Performance Report*, p. 32; and OMB, *Budget of the United States Government, FY2019; Appendix—Small Business Administration*, p. 1113, at https://www.whitehouse.gov/wp-content/uploads/2018/02/sba-fy2019.pdf.

- P.L. 116-6, the Consolidated Appropriations Act, 2019, provided the SBA $715.370 million for FY2019 and, among other provisions, increased the 7(a) program's authorization limit to $30 billion.
- Following the enactment of two continuing appropriations acts (P.L. 116-59, the Continuing Appropriations Act, 2020, and P.L. 116-69, the Further Continuing Appropriations Act, 2020), P.L. 116-93, the Consolidated Appropriations Act, 2020, provided the SBA $998.463 million in appropriations for FY2020, including $99 million for 7(a) loan guaranty credit subsidies.[90] The act also continued the 7(a) program's authorization limit at $30 billion.

The House Committee on Small Business and the Senate Committee on Small Business and Entrepreneurship focused much of their attention during the second session of the 116th Congress on legislative proposals, many originating from the Biden Administration, to assist small businesses adversely affected by the COVID-19 pandemic. The following laws, enacted during the second session of the 116th Congress, affected the 7(a) program:

- P.L. 116-136, the CARES Act, among other provisions, increased the 7(a) loan authorization limit (including the PPP) from $30 billion to $349 billion and appropriated $17 billion for six-month payment relief for existing 7(a), 504/CDC, or Microloan borrowers. Loans made up until six months after enactment (until September 27, 2020) also receive six months of loan payments. The act also temporarily increased the SBAExpress loan limit from $350,000 to $1 million through December 31, 2020, and permanently eliminated the zero subsidy requirement to waive SBAExpress loan fees for veterans.
- P.L. 116-139, the Paycheck Protection Program and Health Care Enhancement Act, among other provisions, increased the 7(a) loan authorization limit (including the PPP) from $349 billion to $659 billion and appropriated an additional $2.1 billion for the SBA's salaries and expenses account (to remain available until September 30, 2021).
- P.L. 116-147, to extend the authority for commitments for the paycheck protection program, among other provisions, provided separate authorization limits of $659 billion for PPP and $30 billion for 7(a) loan commitments.
- P.L. 116-260, the Consolidated Appropriations Act, 2021, appropriated $921.733 million for the SBA for FY2021, including $15 million for 7(a) loan guaranty credit subsidies, and continued the 7(a) loan authorization limit at $30 billion. In addition, the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act (Division N, Title III of the Consolidated Appropriations Act, 2021), among other provisions, appropriated an additional $324.975 billion for the SBA (for a total of $325.897 billion), authorized an additional $75 billion for 7(a) loan commitments (for a total of $105 billion), and appropriated $3.5 billion to resume monthly payment relief for 7(a), 504/CDC, and Microloan borrowers, capped at $9,000 per month per borrower. Payments are dependent on the availability of funds, when the loan was disbursed, the type of loan received, and the business's industry.[91] The act also waived SBA's 7(a) and 504/CDC fees for the remainder of FY2021 and extended, through the end of FY2021:

[90] P.L. 116-123, the Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020, subsequently provided the SBA an additional $20 million for disaster loan administrative expenses.

[91] For example, the SBA will pay at least three additional monthly payments on loans that were in repayment before

- the temporary increase in the SBAExpress loan limit from $350,000 to $1 million (reset at $500,000 on October 1, 2021);
- the temporary increase in the SBAExpress guaranty rate for loans of $350,000 or less from 50% to 75%; and
- the temporary increase in the 7(a) program's loan guaranty rate from 85% for loans of $150,000 or less and 75% for loans greater than $150,000 (up to a maximum guaranty of $3.75 million—75% of $5 million) to 90%.

Legislative Activity During the 117th Congress

Congress approved four continuing FY2022 appropriations acts for federal agencies, including the SBA, *during the 117th Congress*:

- P.L. 117-43, the Extending Government Funding and Delivering Emergency Assistance Act (through December 3, 2021). This act also provided a $1.1891 billion supplemental appropriation—to remain available until expended—for SBA disaster loan assistance. Up to $620 million of that amount may be transferred to and merged with the SBA's salaries and expenses account for administrative expenses to carry out the disaster loan program.
- P.L. 117-70, the Further Extending Government Funding Act (through February 18, 2022).
- P.L. 117-86, the Further Additional Extending Government Funding Act (through March 11, 2022).
- P.L. 117-95, the Extension of Continuing Appropriations Act, 2022 (through March 15, 2022).

P.L. 117-103, the Consolidated Appropriations Act, 2022, provided the SBA $1.061 billion in appropriations for FY2022 ($2.219 billion including the $1.1891 billion in supplemental funding). The act also continued the 7(a) program's authorization limit at $30 billion.

In a related development, P.L. 117-58, the Infrastructure Investment and Jobs Act, rescinded $36.929 billion in SBA unobligated balances:

- $17.578 billion from funds provided by P.L. 116-260 for the Targeted EIDL Advance grant program;
- $13.5 billion from funds provided by P.L. 116-139 for the Disaster Loans Program Account (for EIDL loan credit subsidies);
- $4.684 billion from funds provided by P.L. 116-136 (as amended by P.L. 116-139 and P.L. 116-260) for the Paycheck Protection Program;
- $992 million from funds provided by P.L. 116-260 for 7(a) loan guaranty program loan modifications, 7(a) and 504/CDC loan program fee reductions, and for 504/CDC loan program low-interest refinancing; and
- $175 million from funds provided by P.L. 116-136 (as amended by P.L. 116-139 and P.L. 116-260) for the SBA's salaries and expenses account.

March 27, 2020, starting with the next payment due on or after February 1, 2021. After the first three monthly payments are provided, businesses with an SBA Community Advantage loan, Microloan, or operating in specified economically hard-hit industries will receive an additional five monthly payments. Also, loans approved from February 1, 2021, through September 30, 2021, will receive six monthly payments beginning with the first payment due.

Concluding Observations

The small business relief legislation enacted during the 116th Congress included several provisions that were enacted during the 111th Congress to address the Great Recession, such as fee waivers, increased loan limits, and increased loan guarantee percentages.[92] However, the legislation enacted during the 116th Congress is fundamentally different from the legislation enacted during the 111th Congress. First, it is much larger in scale ($1.086 trillion in supplemental appropriations) than the legislation enacted during the 111th Congress ($1.693 billion in supplemental appropriations). Second, expectations about repayment are much different, as the small business relief legislation enacted during the 116th Congress includes PPP loan forgiveness and monthly debt relief payments for 7(a), 504/CDC, and Microloan borrowers. Third, the legislation enacted during the 116th greatly expanded program eligibility, including, for the first time, eligibility for specific types of nonprofit organizations.

In terms of recent program changes, efforts to increase the 7(a) program's loan limit, provide fee subsidies, increase the maximum loan guaranty percentage, and expand 7(a) eligibility criteria were (and are) designed to create and retain jobs by increasing the ability of 7(a) borrowers to access credit at affordable rates.

Initially, the focus was on providing relief as quickly as possible to prevent small business failures and job loss, processing PPP loan and forgiveness applications as expeditiously as possible, and ensuring that underserved populations were able to access the relief. In the coming months, congressional oversight is likely to focus increased attention on the SBA's administration of these programs, especially the SBA's efforts to deter fraud, and the impact these programs have on small business survival and job creation and retention.

Among the lessons learned from the 111th Congress are the potential benefits that can be derived from providing additional funding for the SBA's Office of Inspector General (OIG) and the Government Accountability Office (GAO). GAO and the SBA's OIG can provide Congress information that could prove useful as Congress engages in congressional oversight of the SBA's administration of these programs, provide an early warning if unforeseen administrative problems should arise, and, through investigations and audits, serve as a deterrent to fraud.

Requiring the SBA to report regularly on its implementation of these programs could also promote transparency and assist Congress in performing its oversight responsibilities. In addition, requiring output and outcome performance measures and requiring the SBA to report this information directly to both Congress and the public by posting that information on the SBA's website could enhance both congressional oversight and public confidence in the SBA's efforts to assist small businesses.

[92] See P.L. 111-5, the American Recovery and Reinvestment Act of 2009; and P.L. 111-240, the Small Business Jobs Act of 2010.

Appendix A. 7(a) Specialized Programs

The 7(a) program has several specialized programs that offer streamlined and expedited loan procedures for particular groups of borrowers, including the SBAExpress and Community Advantage programs. Lenders must be approved by the SBA for participation in these programs.

SBAExpress Program

The SBAExpress program was established as a pilot program by the SBA on February 27, 1995, and made permanent through legislation, subject to reauthorization, in 2004 (P.L. 108-447, the Consolidated Appropriations Act, 2005).[93] The program is designed to increase the availability of credit to small businesses by permitting lenders to use their existing documentation and procedures in return for receiving a reduced SBA guaranty on loans.[94] It provides a 50% loan guaranty on loan amounts up to $350,000.

As mentioned, the CARES Act temporarily increased the SBAExpress loan limit from $350,000 to $1 million (reverting to $350,000 on January 1, 2021). P.L. 116-260, the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act (Division N, Title III of the Consolidated Appropriations Act, 2021), among other provisions, extended the temporary increase in the SBAExpress loan limit from $350,000 to $1 million (reverting to $500,000 on October 1, 2021) and increased the SBAExpress guaranty rate for loans of $350,000 or less from 50% to 75% in FY2021.

As shown in **Table A-1**, the SBA approved 18,064 SBAExpress loans (34.8% of total 7(a) program loan approvals), totaling $2.3 billion (6.3% of total 7(a) program amount approvals) in FY2021. The program's higher loan amount in FY2011 was due, at least in part, to a provision in P.L. 111-240, the Small Business Jobs Act of 2010, which temporarily increased the SBAExpress program's loan limit to $1 million for one year following enactment (through September 27, 2011).

Table A-1. SBAExpress Loan Approvals, FY2011-FY2021

Fiscal Year	# of Loan Approvals	Amount of Loan Approvals ($ in billions)
2011	26,563	$2.84
2012	22,974	$1.75
2013	21,612	$1.65
2014	26,556	$1.91
2015	32,272	$2.20
2016	32,582	$2.16
2017	29,466	$2.11
2018	27,809	$1.98

[93] The SBAExpress program was initially called FA$TRAK and offered a 50% loan guaranty on loans of up to $100,000. FA$TRAK's program guidance was issued on March 6, 1995. See SBA, "FA$TRAK," 60 *Federal Register* 12271-12275, March 6, 1995. A brief history of the SBAExpress program is provided in SBA, "SBAExpress Program Guide," (effective October 1, 2002), p. 3, at https://www.sba.gov/sites/default/files/files/sba_elending_clc_sbaexpress.pdf.

[94] SBA, "The SBA Express Pilot Program: Inspection Report," June 1998, p. 3.

Fiscal Year	# of Loan Approvals	Amount of Loan Approvals ($ in billions)
2019	22,774	$1.74
2020	18,098	$1.67
2021	18,064	$2.30

Sources: U.S. Small Business Administration, "SBA Lending Statistics for Major Programs (as of 9/30/2016)," at https://www.sba.gov/sites/default/files/aboutsbaarticle/SBA_Lending_Statistics_for_Major_Programs_as_of_09-30-2016.pdf; and "SBA Lending Statistics for Major Programs (as of 9/30/2021)," at https://www.sba.gov/document/report-2021-weekly-lending-reports.

During the 112th Congress, H.R. 2936, the Small Business Administration Express Loan Extension Act of 2011, would have extended the SBAExpress program's higher loan limit for an additional year (through September 27, 2012). Also, as mentioned previously, the Trump Administration has requested that the SBAExpress loan limit be increased to $1 million.

SBAExpress loan proceeds can be used for the same purposes as those of the 7(a) program (expansion, renovation, new construction, the purchase of land or buildings, the purchase of equipment, fixtures, and lease-hold improvements, working capital, to refinance debt for compelling reasons, seasonal line of credit, and inventory); except that participant debt restructure cannot exceed 50% of the project and may be used for revolving credit. The program's loan terms are the same as those of the 7(a) program (the loan maturity for working capital, machinery, and equipment (not to exceed the life of the equipment) is typically 5 years to 10 years; and the loan maturity for real estate is up to 25 years, except that the term for a revolving line of credit cannot exceed 7 years.

The SBAExpress loan program's maximum allowable fixed interest rates and fees are the same as those for regular 7(a) loans.[95] SBAExpress lenders may charge borrowers somewhat higher variable interest rates than those allowed for regular 7(a) loans.[96]

To account for the program's lower guaranty rate of 50%, lenders are allowed to perform their own loan analysis and procedures and receive SBA approval with a targeted 36-hour maximum turnaround time.[97] Also, collateral is not required for loans of $25,000 or less. Lenders are allowed to use their own established collateral policy for loans over $25,000.

As mentioned, the SBA waived the up-front, one-time loan guaranty fee for 7(a) loans of $125,000 or less approved in FY2018. The SBA also waived 50% of the up-front, one-time loan guaranty fee on all non-SBAExpress 7(a) loans to veterans of $125,001 to $350,000 in FY2018.

In addition, P.L. 114-38, the Veterans Entrepreneurship Act of 2015, provided statutory authorization and made permanent the veteran's fee waiver in the SBAExpress program, except

[95] SBA, "Express Loan Programs; Affiliation Standards," 85 *Federal Register* 7622-7633, February 10, 2020.

[96] SBAExpress lenders may charge up to 4.5% over the prime rate on loans over $50,000 and up to 6.5% over the prime rate for loans of $50,000 or less, regardless of the maturity of the loan. See SBA, "Express Loan Programs; Affiliation Standards," 85 *Federal Register* 7625, February 10, 2020.

The maximum interest rates allowed for 7(a) variable rate loans with a maturity less than seven years are the base rate (choice of prime, LIBOR, or SBA optional peg rate) plus 4.25% for loans less than $25,000; the base rate plus 3.25% for loans of $25,000-$50,000; and the base rate plus 2.25% for loans over $50,000. The maximum interest rates allowed for 7(a) variable rate loans with a maturity of seven years or longer are the base rate plus 4.75% for loans less than $25,000; the base rate plus 3.75% for loans of $25,000-$50,000; and the base rate plus 2.75% for loans over $50,000. See 13 C.F.R. §120.214 and 13 C.F.R. §120.215.

[97] SBA, "SBAExpress," at https://www.sba.gov/partners/lenders/7a-loan-program/types-7a-loans#section-header-4.

during any upcoming fiscal year for which the President's budget, submitted to Congress, includes a cost for the 7(a) program, in its entirety, which is above zero. The SBA waived this fee in FY2016-FY2019. As mentioned, the CARES Act permanently eliminated the zero subsidy requirement.

The SBA indicated that its fee waivers for veterans are part "of SBA's broader efforts to make sure that veterans have the tools they need to start and grow a business."[98]

In a related development, the SBA discontinued the Patriot Express Pilot Program on December 31, 2013. It provided loans of up to $500,000 (with a guaranty of up to 85% of loans of $150,000 or less and up to 75% of loans exceeding $150,000) to veterans and their spouses.[99] It had been in operation since 2007, and, like the SBAExpress program, featured streamlined documentation requirements and expedited loan processing. Over its history, the Patriot Express Pilot Program disbursed 9,414 loans amounting to more than $791 million.[100]

Community Advantage 7(a) Loan Initiative

The SBA's Community Advantage (CA) 7(a) loan initiative became operational on February 15, 2011.[101] Originally announced as a three-year pilot program (through March 15, 2014), it subsequently was extended through March 15, 2017; March 31, 2020; September 30, 2022; and September 30, 2024.[102]

The CA loan initiative is designed to meet the credit, management, and technical assistance needs of small businesses located in underserved low- and moderate-income communities. It, along with the now-discontinued Small Loan Advantage program,[103] replaced the Community Express Pilot Program, which also was designed to increase lending to underserved communities.[104]

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[98] SBA, "SBA Announces New Measures to Help Get Small Business Loans Into the Hands of Veterans," November 8, 2013, at https://www.sba.gov/content/sba-announces-new-measures-help-get-small-business-loans-hands-veterans.

[99] Eligible businesses were required to be owned and controlled (51% or more) by one or more of the following groups: veteran, active duty military participating in the military's Transition Assistance Program, reservist or national guard member or a spouse of any of these groups, a widowed spouse of a servicemember who died while in service, or a widowed spouse of a veteran who died of a service-connected disability. See SBA, "SOP 50 10 5(E): Lender and Development Company Loan Programs," (effective June 1, 2012), pp. 83, 127, at https://www.sba.gov/sites/default/files/SOP%2050%2010%205%28E%29%20%285-16-2012%29%20clean.pdf.

[100] SBA, Office of Congressional and Legislative Affairs, correspondence with the author, February 21, 2014.

[101] SBA, "Community Advantage Pilot Program," 76 *Federal Register* 9627, February 18, 2011; and SBA, "SBA Announces New Initiatives Aimed at Increasing Lending in Underserved Communities," December 15, 2010, at https://www.sba.gov/content/sba-announces-new-initiatives-aimed-increasing-lending-underserved-communities.

[102] SBA, "Community Advantage Pilot Program," 77 *Federal Register* 67433, November 9, 2012; SBA, "Community Advantage Pilot Program," 80 *Federal Register* 80873, December 28, 2015; SBA, "Community Advantage Pilot Program," 83 *Federal Register* 46238, September 12, 2018; and SBA, "Community Advantage Pilot Program," 87 *Federal Register* 19165, April 1, 2022.

[103] The SBA's Small Loan Advantage (SLA) program also became operational on February 15, 2011. It provided a streamlined application process for 7(a) loans of up to $350,000 (initially $250,000) if the loan received an acceptable credit score from the SBA prior to the loan being submitted for processing. The program provided the same loan guaranty rate as that of the 7(a) program on loan amounts up to $350,000 (85% for loans up to $150,000 and 75% for those greater than $150,000) and loan proceeds could be used for the same purposes as those of the 7(a) program. The borrower's interest rate was negotiable with the lender, subject to the same maximum rate limitations as those of the 7(a) program. Initially, the SLA program was restricted to PLP lenders. The program was expanded to all SBA lenders on June 1, 2012. The SBA adopted the SLA application process as the model for processing all non-express 7(a) loans of $350,000 or less, effective January 1, 2014.

[104] U.S. Congress, House Committee on Small Business, *Small Business Financing and Investment Act Of 2009*, report to accompany H.R. 3854, 111th Cong., 2nd sess., October 26, 2009, H.Rept. 111-315 (Washington: GPO, 2009), p. 7.

The CA loan initiative provides the same loan terms, guaranty fees, and guaranty as that of the 7(a) program on loan amounts up to $250,000 (85% for loans up to $150,000 and 75% for those greater than $150,000). Loan proceeds can be used for the same purposes as those of the 7(a) program.[105] The loan's maximum interest rate is prime, plus 6%.[106]

On March 30, 2022, the SBA announced through a press release that it was increasing the CA loan cap from $250,000 to $350,000.[107] The SBA press release did not indicate when the higher loan cap would be implemented, but other changes to the program that were announced in the *Federal Register* on April 1, 2022, were effective that day. The SBA is expected to announce when the higher loan cap will be effective through a notice in the *Federal Register* in the near future.[108]

The CA initiative is designed to increase access to capital for small businesses located in underserved communities by allowing nontraditional, mission-oriented lenders that are focused on economic development to participate in the 7(a) program; and by providing management and technical assistance to small businesses located in underserved communities on an as needed basis.[109] These mission-focused financial institutions include

- nonfederally regulated Community Development Financial Institutions certified by the U.S. Department of the Treasury;
- SBA's Certified Development Companies;
- SBA's nonprofit Microloan program intermediaries, and, added in December 2015; and
- SBA's Intermediary Lending Pilot Program intermediaries.[110]

CA lenders are required to maintain at least 60% of their SBA loan portfolio in underserved markets, including loans to small businesses in, or that have more than 50% of their full-time workforce residing in, low-to-moderate income (LMI) communities; Empowerment Zones and Enterprise Communities; HUBZones; start-ups (firms in business less than two years); businesses

The SBA indicated that the Community Express Pilot Program, which was created in May 1999 and ended on April 30, 2011, provided loans "to new businesses, minority businesses and other underserved sectors" but with "significantly higher default rates (almost 40% of loans defaulted in certain cohorts) compared with other similarly sized 7(a) loans." See SBA, "Community Express Pilot Program," 75 *Federal Register* 80562, December 22, 2010.

[105] SBA, "Community Advantage Participant Guide," effective June 15, 2020, pp. 6, 7, at https://www.sba.gov/document/support-community-advantage-participant-guide (hereinafter SBA, "Community Advantage Participant Guide").

[106] SBA, "Community Advantage Participant Guide," p. 8; and SBA, "Community Advantage Pilot Program," 77 *Federal Register* 6619, February 8, 2012.

[107] SBA, "Biden-Harris Administration Expands SBA Pilot Program Targeting Access to Capital for Underserved Entrepreneurs," March 30, 2022, at https://www.sba.gov/article/2022/mar/30/biden-harris-administration-expands-sba-pilot-program-targeting-access-capital-underserved.

[108] SBA, "Community Advantage Pilot Program," 87 *Federal Register* 19165, April 1, 2022; and National Association of Government Guaranteed Lenders, "Immediate and Upcoming Changes to the Community Advantage Pilot Program," April 1, 2022, at https://www.naggl.org/news/600997/Immediate-and-Upcoming-Changes-to-the-Community-Advantage-Pilot-Program.htm.

[109] SBA, "Community Advantage Participant Guide," p. 5.

[110] SBA, "Community Advantage Participant Guide," p. 5; and SBA, "Community Advantage Pilot Program," 80 *Federal Register* 80873, December 28, 2015.

eligible for the SBA's Veterans Advantage program; Promise Zones (added in December 2015); and Opportunity Zones and Rural Areas (added in October 2018).[111]

The SBA placed a moratorium, effective October 1, 2018, on accepting new CA lender applications, primarily as a means to mitigate the risk of future loan defaults.[112] The SBA also

- increased the minimum acceptable credit score for CA loans "that satisfies the need to consider several required underwriting criteria" from 120 to 140;[113]
- increased the wait time for CA lenders ineligible for delegated lender status at the time of approval as a CA lender from 6 months to 12 months and increased the number of CA loans that must be initially dispersed before a CA lender may process applications under delegated authority from five to seven loans;[114]
- increased the loan loss reserve requirement for CA loans sold in the secondary market from 3% to 5% of the outstanding amount of the guaranteed portion of each loan;[115]
- modified requirements related to the refinancing of debts with a CA loan;[116]
- limited fees that can be charged by a CA lender for assistance in obtaining a CA loan to no more than $2,500, with the exception of necessary out-of-pocket costs such as filing or recording fees;[117] and
- as mentioned previously, added Opportunity Zones and Rural Areas to the list of economically distressed communities that are eligible for a CA loan.[118]

On March 2, 2020, the SBA announced in the *Federal Register* that it would accept new applications from lenders interested in participating in the Community Advantage program to

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[111] The Obama Administration's Promise Zone initiative "seeks to partner with local communities and businesses to create jobs, increase economic security, expand educational opportunities, increase access to quality, affordable housing and improve public safety." The first five Zones are located in San Antonio, Philadelphia, Los Angeles, Southeastern Kentucky, and the Choctaw Nation of Oklahoma. See The White House, Office of the Press Secretary, "Fact Sheet: President Obama's Promise Zones Initiative," at https://www.whitehouse.gov/the-press-office/2014/01/08/fact-sheet-president-obama-s-promise-zones-initiative. Also, see SBA, "Community Advantage Participant Guide," p. 6; SBA, "Community Advantage Pilot Program," 80 *Federal Register* 80874, December 28, 2015; and SBA, "Community Advantage Pilot Program," 83 *Federal Register* 46239, September 12, 2018.

[112] The SBA indicated that "Given the increased risk of CA loans as compared to other 7(a) loans, the need for more resource-intensive oversight of CA Lenders, and the fact that the CA Pilot Program already includes a sufficient number of geographically dispersed CA Lenders, SBA has decided to place a moratorium on acceptance of new CA Lender applications. Effective October 1, 2018, SBA will no longer accept CA Lender Applications (SBA Form 2301)." See SBA, "Community Advantage Pilot Program," 83 *Federal Register* 46239, September 12, 2018.

[113] SBA, "Community Advantage Pilot Program," 83 *Federal Register* 46240, September 12, 2018.

[114] SBA, "Community Advantage Pilot Program," 83 *Federal Register* 46239-46240, September 12, 2018.

[115] The Community Advantage loan initiative also has a loan loss reserve requirement for CA loans not sold in the secondary market. That requirement is 5% of the outstanding amount of the guaranteed portion of each loan. See SBA, "Community Advantage Pilot Program," 83 *Federal Register* 46240, September 12, 2018.

[116] "Also, the SBA is modifying the requirements for refinancing non-SBA guaranteed, same institution debt to require a transcript showing the due dates and when payments were received for the most recent 12 month period, rather than 6 months. If there are any late payments in the most recent 12 month period, the debt may not be refinanced with a CA loan. In addition, debts on the CA Lender's books for less than 12 months may not be refinanced with a CA loan." See SBA, "Community Advantage Pilot Program," 83 *Federal Register* 46239, September 12, 2018.

[117] Previously, CA lenders could charge an applicant reasonable fees (customary for similar lenders in the geographic area where the loan is being made) for packaging and other services. See SBA, "Community Advantage Pilot Program," 83 *Federal Register* 46240, September 12, 2018.

[118] SBA, "Community Advantage Pilot Program," 83 *Federal Register* 46239, September 12, 2018.

replace lenders that voluntarily withdraw from the program, are not renewed, or are otherwise removed from the program.[119] The SBA also modified requirements related to refinancing non-SBA guaranteed, same institution debt, and increased the number of Community Advantage loans necessary for a lender to be provided delegated authority from 7 to 10.[120]

On July 15, 2020, the SBA announced that it was creating a temporary Community Advantage Recovery Loan program to assist small businesses located in underserved markets that have experienced economic hardship due to the COVID-19 pandemic. All Community Advantage Recovery Loans had to be approved by September 27, 2020, be fully disbursed by October 1, 2020, and have at least a five-year loan term. All other Community Advantage loan terms and conditions apply, other than lenders are authorized to charge an "extraordinary servicing fee" of up to $2,500 or 9% of the loan amount, whichever is greater, to provide at least 15 hours of technical and management assistance to the borrower.[121]

On April 1, 2022, the SBA announced that, in addition to extending the CA program to September 30, 2024, it was removing the temporary moratorium on the acceptance of new CA lender applications. The SBA will begin accepting new CA lender applications on May 2, 2022.

As shown in **Table A-2**, the SBA approved 565 CA loans totaling $82.81 million in FY2021 and 6,956 CA loans totaling $936.57 million from the time the program became operational in FY2011 to the end of FY2021. Additionally, of the 108 CA-approved lenders, 96 had outstanding CA loans in their portfolio at the end of FY2021.[122]

Table A-2. Community Advantage Loan Approvals, FY2011-FY2021

Fiscal Year	# of Loan Approvals	Amount of Loan Approvals ($ in millions)
2011	15	$2.14
2012	188	$25.24
2013	273	$38.20
2014	453	$56.47
2015	828	$103.52
2016	988	$123.02
2017	1,043	$137.60
2018	1,118	$157.53
2019	947	$133.81
2020	538	$76.21
2021	565	$82.83
Total	6,956	$936.57

Source: U.S. Small Business Administration, Office of Legislative and Congressional Affairs, correspondence with the author, November 1, 2017 and October 26, 2018; and U.S. Small Business Administration, "SBA Lending

[119] SBA, "Community Advantage Pilot Program," 85 *Federal Register* 12369-12370, March 2, 2020.

[120] SBA, "Community Advantage Pilot Program," 85 *Federal Register* 12370, March 2, 2020.

[121] SBA, "Community Advantage Pilot Program Temporary Changes-Community Advantage Recovery Loans," 85 *Federal Register* 42965, July 15, 2020. For a list of Community Advantage Recovery Loan lenders, see SBA, "CARL Lenders by State," at https://www.sba.gov/document/support-carl-lenders-state.

[122] SBA, "Community Advantage Pilot Program," 87 *Federal Register* 19166, April 1, 2022.

Statistics for Major Programs (as of 9/30/2021)," at https://www.sba.gov/document/report-2021-weekly-lending-reports.

As mentioned, legislation was introduced during the 114th Congress (S. 2125, the Small Business Lending and Economic Inequality Reduction Act of 2015) and the 116th Congress (S. 2361, the Closing the Credit Gap Act) to provide the Community Advantage Pilot program permanent, statutory authorization.

Appendix B. SBA 7(a) Required Application Forms and Documentation Materials

The following SBA application forms and documentation materials are required for all 7(a) standard loans of $350,000 or less:

- *Form 1919: Borrower Information Form*. SBA form 1919 provides information about the borrower (name, name of business, social security number, date and place of birth, gender, race, veteran, etc.); the loan request; any indebtedness; the principals and affiliates; current or previous government financing; the applicant's eligibility (e.g., criminal information, citizenship status); the loan's eligibility for delegated or expedited processing (e.g., the borrower is not more than 60 days delinquent in child support payments, not proposed or presently excluded from participation in this transaction by any federal department or agency, has no potential for a conflict of interest due to an owner being a current or former SBA employee, a Member of Congress, or a SCORE volunteer); and, among other disclosures, the firm's existing number of employees, the number of jobs to be created as a result of the loan, and the number of jobs that will be retained as a result of the loan that would have otherwise been lost.[123]
- *Form 912: Statement of Personal History*. SBA form 912 is required if the borrower reports on Form 1919 an arrest in the past six months for a criminal offense or had ever been convicted, plead guilty, plead nolo contendere, been placed on pretrial diversion, or been placed on any form of parole or probation (including probation before judgment) of any criminal offense.[124] Form 912 requires the borrower to furnish details concerning his or her offense(s) and authorizes the SBA's Office of Inspector General to request criminal record information about the applicant from criminal justice agencies for determining program eligibility. It must be dated within 90 days of the application's submission to the SBA.
- *Form 159: Fee Disclosure and Compensation Agreement.* SBA form 159 is required if the borrower reports on Form 1919 that he or she used (or intends to use) a packager, broker, accountant, lawyer, etc. to assist in preparing the loan application or any related materials.[125] SBA form 159 is also required if the lender retains the services of a packager, broker, accountant, lawyer, etc. to assist in preparing the loan application or any related materials. Form 159 provides identifying information about the packager, broker, accountant, lawyer, etc. and the fees paid to any such person.

[123] SBA, "SBA Form 1919: Borrower Information Form for use with all 7(a) Programs," at https://www.sba.gov/sites/default/files/forms/SBA%201919_SSN_1.PDF.

[124] SBA, "SBA Form 912: Statement of Personal History," at https://www.sba.gov/sites/default/files/forms/SBA%20%20Form%20912%20%202-13.pdf. The lender is required to process a background check and character determination if the borrower has been arrested in the past six months for any criminal offense or if the borrower has ever been convicted, plead guilty, plead nolo contendere, been placed on pretrial diversion, or been placed on any form of parole or probation (including probation before judgment) of any criminal offense.

[125] SBA, "SBA Form 159: Fee Disclosure and Compensation Agreement," at https://www.sba.gov/sites/default/files/forms/SBA_159_7a.pdf.

- *Form 601: Agreement of Compliance* (prohibiting discrimination). SBA form 601 is required if the borrower reports on Form 1919 that more than $10,000 of the loan proceeds will be used for construction.[126] Form 601 certifies that the borrower will cooperate actively in obtaining compliance with Executive Order 11246, which prohibits discrimination on the basis of race, color, religion, sex, or national origin and requires affirmative action to ensure equality of opportunity in all aspects of employment related to federally assisted construction projects in excess of $10,000.
- *Form 1920: Lenders Application for Guaranty for all 7(a) Programs*.[127] SBA form 1920 provides identifying information about the lender; the loan type (standard, SBAExpress, Export Express, etc.); loan terms; use of proceeds; the business's size and information about affiliates, if any; the applicant's character; if credit is reasonably available elsewhere; the type of business; potential conflicts of interest; and other information such the number of jobs created or retained. PLP lenders complete the form and retain it in the loan file. Other lenders must submit this form electronically to the LGPC.
- *Verification of Alien Status*. Documentation of the U.S. Citizenship and Immigration Services (USCIS) status of each alien is required prior to submission of the application to the SBA.
- *Lender's Credit Memorandum*. For loans up to and including $350,000, the Lender's Credit Memorandum includes a brief description of the history of the business and its management; the debt service coverage ratio (net operating income compared to total debt service must be at least 1:1); statement that the lender has reconciled financial data (including seller's financial data) against IRS transcripts; an owner/guarantor analysis (including personal financial condition); lender's discussion of life insurance requirements; explanation and justification for any refinancing; analysis of credit, including lender's rationale for recommending approval; for a change of ownership, discussion/analysis of business valuation and how the change benefits the business; discussion of any liens, judgments, or bankruptcy filings; and discussion of any other relevant information. For loans exceeding $350,000, the Lender's Credit Memorandum must also include an analysis of collateral and a financial analysis which includes an analysis of the historical financial statements; defining assumptions supporting projected cash flow; and, when used, spread of pro forma balance sheet, ratio calculations, and working capital analysis.[128]
- *Cash Flow Projections*. A projection of the borrower's cash flow, month-by-month for one year, is required for all new businesses, and when otherwise applicable.

[126] SBA, "SBA Form 601: Agreement of Compliance," at https://www.sba.gov/sites/default/files/forms/SBA%20601.pdf.

[127] SBA, "SBA Form 1920: Lender's Application for Guaranty for all 7(a) Programs," at https://www.sba.gov/sites/default/files/articles/SBA_1920_0.pdf.

[128] SBA, "Standard 7(a) LGPC 10-Tab Submission Instructions," at https://www.sba.gov/sites/default/files/files/LGPC%2010-Tab%20Template_20140313.pdf.

In addition, the following SBA application forms and documentation materials are required for 7(a) standard loans exceeding $350,000:

- *Form 413: Personal Financial Statement*. SBA form 413 provides detailed information concerning the applicant's assets and liabilities and must be dated within 90 days of submission to the SBA, on all owners of 20% or more (including the assets of the owner's spouse and any minor children), and proposed guarantors. Lenders may substitute their own Personal Financial Statement form.
- *Form 1846: Statement Regarding Lobbying*. SBA Form 1846 must be signed and dated by lender.[129] It indicates that if any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an officer or employee of a Member of Congress in connection with this commitment, the lender will complete and submit a Standard Form LLL "Disclosure of Lobbying Activities."[130]
- A copy of *Internal Revenue Service (IRS) Form 4506-T, Request for Copy of Tax Return*. Lenders must identify the date IRS Form 4506-T was sent to the IRS. For nondelegated lenders, verification of IRS Form 4506-T is required prior to submission of the application to the SBA. For PLP and express lenders, verification of IRS Form 4506-T is required prior the first disbursement.
- *Business Financial Statements* or tax returns dated within 180 days of the application's submission to the SBA, consisting of (1) year-end balance sheets for the last three years, (2) year-end profit and loss statements for the last three years, (3) reconciliation of net worth, (4) interim balance sheet, and (5) interim profit and loss statements.
- *Affiliate and Subsidiary Financial Statements* or tax returns dated within 180 days of the application's submission to the SBA, consisting of (1) year-end balance sheets for the last three years, (2) year-end profit and loss statements for the last three years, (3) reconciliation of net worth, (4) interim balance sheet, and (5) interim profit and loss statements.
- A copy of the *Lease Agreement*, if applicable.
- A detailed *Schedule of Collateral*.[131]
- A detailed *List of M&E* (machinery and equipment) being purchased with SBA loan proceeds, including cost quotes.
- If real estate is to be purchased with the loan proceeds, a *Real Estate Appraisal*, *Environmental Investigation Report* questionnaire, a cost breakdown, and copy of any *Real Estate Purchase Agreements*.
- If purchasing an existing business with loan proceeds, a (1) copy of buy-sell agreement, (2) copy of business valuation, (3) pro forma balance sheet for the business being purchased as of the date of transfer, (4) copy of the seller's

[129] SBA, "SBA Form 1846: Statement Regarding Lobbying," at https://www.sba.gov/sites/default/files/forms/bank_sba1846.pdf.

[130] U.S. Office of Management and Budget, "Standard Form LLL: Disclosure of Lobbying Activities," at https://www.gsa.gov/Forms/TrackForm/33144.

[131] For loans of up to $350,000, if a schedule of collateral is not included, the lender must provide collateral and lienholder information to the Standard 7(a) Loan Guaranty Processing Center to complete the loan authorization.

financial statements for the last three complete fiscal years or for the number of years in business if less than three years, (5) interim statements no older than 180 days from date of submission to the SBA, and (6) if the seller's financial statements are not available, the seller must provide an alternate source of verifying revenues.

- An explanation of the type and source of applicant's equity injection. Proper evidence of a borrower's equity injection may include the copy of a check or wire transfer together with proof that the check or wire transfer was processed, or a copy of an escrow settlement sheet with a bank account statement showing the injection into the business prior to disbursement. A promissory note, "gift letter," or financial statement is generally not sufficient evidence.[132]

[132] SBA, "SOP 50 10 6," p. 234. The SBA requires borrowers to provide an equity injection under specified circumstances. For example, start-up businesses (those in operation for up to one year) are required to provide at least 10% of total project costs to indicate that the business can operate on a sound financial basis.

Appendix C. Key Provisions in the CARES Act (P.L. 116-136)

- Established a $349 billon Paycheck Protection Program (PPP) to provide forgivable "covered loans" through June 30, 2020, with a 100% SBA loan guarantee, a maximum term of 10 years, and an interest rate not to exceed 4% to assist small businesses and other specified organizations adversely affected by COVID-19. The SBA announced that the loans will have a two-year term at a 1.0% interest rate. The PPP's authorization level was increased to $659 billion by P.L. 116-139, the Paycheck Protection Program and Health Care Enhancement Act, and to $806.45 billion by the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act (Division N, Title III of the Consolidated Appropriations Act, 2021). The availability of PPP loans was extended to August 8, 2020, by P.L. 116-147, to extend the authority for commitments for the paycheck protection program, and to March 31, 2021, by the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act (Division N, Title III of the Consolidated Appropriations Act, 2021). P.L. 116-142, the Paycheck Protection Program Flexibility Act, increased the minimum loan maturity to five years for loans made on or after the date of enactment (June 5, 2020).
- Waived the up-front loan guarantee fee and annual servicing fee, the no credit elsewhere requirement, and the requirements for collateral and a personal guarantee for a covered loan.
- Provided PPP eligibility to 7(a) eligible businesses and any business, 501(c)(3) nonprofit organization, 501(c)(19) veteran's organization, or Tribal business that has 500 or fewer employees or, if applicable, the SBA's size standard in number of employees for the industry in which they operate. Sole proprietors, independent contractors, and eligible self-employed individuals are also eligible. The term employee includes individuals employed on a full-time, part-time, or other basis.
- Set the maximum PPP loan amount as the lesser of (1) 2.5 times the average total monthly payments by the applicant for payroll costs incurred during the one-year period before the date on which the loan is made plus the outstanding balance of any pre-existing Economic Injury Disaster Loan made on or after January 31, 2020 that is refinanced into the PPP loan, or (2) $10 million.
- Allows PPP loans to be used for all allowable 7(a) loan uses, but, to receive full loan forgiveness, borrowers must use the loan proceeds for payroll costs, costs related to the continuation of group health care benefits during periods of paid sick, medical, or family leave, and insurance premiums, employee salaries, commissions, or similar compensations, mortgage interest payments, rent, utilities, and interest on any other debt obligations that were incurred before the covered period. Due to anticipated high subscription, the SBA required borrowers to spend at least 75% of their loan amount on payroll. P.L. 116-142 lowered the SBA's 75% payroll threshold to 60%.
- Expanded lender delegated loan approval authority for making PPP loans to all 7(a) lenders and requires borrowers to, among other acknowledgements, make a good faith certification that the loan is needed because of the uncertainty of current economic conditions and to support ongoing operations.

- Authorized complete payment deferment relief on PPP loans (principal, interest, and fees) for not less than six months and not more than one year if the borrower was in operation on February 15, 2020. The SBA announced that because the interest rate is modest (1%) and the loan may be forgiven, PPP loan deferment will be for six months and that principal and interest will accrue and, if not forgiven, will need to be repaid.
- Appropriated $17 billion to pay the principal, interest, and any associated fees that are owed on an existing 7(a), 504/CDC, or Microloan for a six-month period starting on the next payment due. Loans made up until six months after enactment (until September 27, 2020) also receive six months of loan payments. The Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act (Division N, Title III of the Consolidated Appropriations Act, 2021) appropriated $3.5 billion to resume monthly payment relief for 7(a), 504/CDC, and Microloan borrowers, capped at $9,000 per month per borrower. Payments are dependent on the availability of funds, when the loan was disbursed, the type of loan received, and the business's industry.
- Provides for the forgiveness of PPP loan amounts equal to the amount the borrower spent during an eight-week period after the loan's origination date on payroll costs, interest payment on any mortgage incurred prior to February 15, 2020, payment of rent on any lease in force prior to February 15, 2020, and payment on any utility for which service began before February 15, 2020. P.L. 116-142, the Paycheck Protection Program Flexibility Act, extended the PPP loan forgiveness period from 8 weeks after the loan's origination date to the earlier of 24 weeks or December 31, 2020. PPP borrowers that received a loan prior to enactment (June 5, 2020) may elect to remain under the eight-week period. The forgiveness cannot exceed the loan's principal amount. The Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act (Division N, Title III of the Consolidated Appropriations Act, 2021) allows PPP borrowers to elect to remain under the eight-week period regardless of when they received the loan.
- Reduced the loan forgiveness proportionally by formulas related to the borrower's retention of full-time equivalent employees and by the amount of any reduction in pay of any employee beyond 25% of their salary or wages during the most recent full quarter before the covered period. Borrowers that re-hire workers previously laid off are not penalized for having a reduced payroll at the beginning of the period. Cancelled debt resulting from loan forgiveness is not included in the borrower's taxable federal income.
- Temporarily increased the SBAExpress loan limit from $350,000 to $1 million through December 31, 2020. The Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act (Division N, Title III of the Consolidated Appropriations Act, 2021), enacted on December 27, 2020, extended the temporary increase in the SBAExpress loan limit from $350,000 to $1 million (reset at $500,000 on October 1, 2021) and increased the SBAExpress guaranty rate for loans of $350,000 or less from 50% to 75% for the remainder of FY2021.
- Eliminated the zero subsidy requirement to waive SBAExpress loan fees for veterans.

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