

Paper and paper-based packaging	Assessment \$/kg
4805.92.4010	0.000386
4805.92.4030	0.000386
4805.93.4010	0.000386
4805.93.4030	0.000386
4805.93.4050	0.000386
4805.93.4060	0.000386
4807.00.9100	0.000386
4807.00.9400	0.000386
4810.13.1120	0.000386
4810.13.1140	0.000386
4810.13.1900	0.000386
4810.13.2010	0.000386
4810.13.2090	0.000386
4810.13.5000	0.000386
4810.13.6000	0.000386
4810.13.7020	0.000386
4810.13.7040	0.000386
4810.14.1120	0.000386
4810.14.1140	0.000386
4810.14.1900	0.000386
4810.14.2010	0.000386
4810.14.2090	0.000386
4810.14.5000	0.000386
4810.14.6000	0.000386
4810.14.7020	0.000386
4810.14.7040	0.000386
4810.19.1100	0.000386
4810.19.1900	0.000386
4810.19.2010	0.000386
4810.19.2090	0.000386
4810.22.1000	0.000386
4810.22.5044	0.000386
4810.22.5080	0.000386
4810.22.6000	0.000386
4810.22.7020	0.000386
4810.22.7040	0.000386
4810.29.1025	0.000386
4810.29.1035	0.000386
4810.29.5000	0.000386
4810.29.6000	0.000386
4810.29.7020	0.000386
4810.29.7025	0.000386
4810.29.7035	0.000386
4810.31.1020	0.000386
4810.31.1040	0.000386
4810.31.3000	0.000386
4810.31.6500	0.000386
4810.32.1020	0.000386
4810.32.1040	0.000386
4810.32.1060	0.000386
4810.32.3000	0.000386
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4811.51.2010	0.000386
4811.51.2020	0.000386
4811.51.2030	0.000386
4811.59.4020	0.000386
4811.90.8030	0.000386

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**Erin Morris**,  
Associate Administrator, Agricultural Marketing Service.  
[FR Doc. 2022–24108 Filed 11–4–22; 8:45 am]

**BILLING CODE P**

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**SMALL BUSINESS ADMINISTRATION**

**13 CFR Part 120**

**RIN 3245–AH92**

**Small Business Lending Company (SBLC) Moratorium Rescission and Removal of the Requirement for a Loan Authorization**

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Proposed rule.

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**SUMMARY:** The U.S. Small Business Administration (SBA or Agency) is proposing to lift the moratorium on licensing new Small Business Lending Companies (SBLCs) and add a new type of entity called a Mission-Based SBLC. SBA is also proposing to remove the requirement for a Loan Authorization.

**DATES:** SBA must receive comments on this proposed rule on or before January 6, 2023.

**ADDRESSES:** You may submit comments, identified by RIN 3245–AH92, through the Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments. SBA will post all comments on <http://www.regulations.gov>. If you wish to submit confidential business information (CBI) as defined in the User Notice at <http://www.regulations.gov>, please submit the information via email to [Dianna.Seaborn@sba.gov](mailto:Dianna.Seaborn@sba.gov). Highlight the information that you consider to be CBI and explain why you believe SBA should hold this information as confidential. SBA will review the information and make the final determination whether it will publish the information.

**FOR FURTHER INFORMATION CONTACT:** Dianna Seaborn, Director, Office of Financial Assistance, Office of Capital Access, Small Business Administration, at (202) 205–3645 or [Dianna.Seaborn@sba.gov](mailto:Dianna.Seaborn@sba.gov). The phone number above may also be reached by individuals who are deaf or hard of hearing, or who have speech disabilities, through the Federal Communications Commission’s TTY-Based Telecommunications Relay Service teletype service at 711.

**SUPPLEMENTARY INFORMATION:**

**I. Background Information**

The mission of SBA is to “aid, counsel, assist, and protect . . . the interests of small business concerns in order to preserve free competitive enterprise . . . and to maintain and strengthen the overall economy of our nation.” 15 U.S.C. 631(a). SBA accomplishes this mission, in part, through programs that bridge the financing gap in the private market. One such program is the 7(a) Loan Program authorized by section 7(a) of the Small Business Act (15 U.S.C. 636(a)), which supports our nation’s economy by providing SBA-guaranteed loans to small businesses that lack adequate access to capital on reasonable terms and conditions.

Section 7(a)(17) of the Small Business Act states that SBA shall authorize lending institutions and other entities, in addition to banks, to make 7(a) loans. To this end, SBA has authorized Small Business Lending Companies (SBLCs) as defined in 13 CFR 120.10 to participate in the 7(a) Loan Program. SBLCs are non-depository lending institutions authorized by SBA only to make loans pursuant to section 7(a) of the Small Business Act and loans to Intermediaries in SBA’s Microloan program. Under current regulations, SBLCs may not be affiliated with another SBA Lender, including 7(a) Lenders or Certified Development Companies (CDCs) that participate in SBA’s CDC/504 Loan Program. SBLCs are subject to all regulations pertaining to 7(a) loans and Loan Program Requirements (as defined in 13 CFR 120.10) regarding origination, servicing, and liquidation. Unlike the majority of 7(a) Lenders, which are Federally-regulated depository institutions, SBLCs are regulated, supervised, and examined solely by SBA. As SBA-regulated entities, SBLCs are subject to specific regulations regarding formation, capitalization, and enforcement actions.

On August 17, 1981, SBA published a Proposed Rule (46 FR 41523) to, among other things, impose a moratorium on licensing new SBLCs, because the Agency did not have adequate resources to effectively service and supervise additional SBLCs. Subsequently, on January 4, 1982, SBA published a Final Rule (47 FR 9) repealing its authority to approve additional SBLCs as participating lenders. Since then, the number of SBLC Licenses has remained unchanged at 14. To become an SBLC under current regulations, an entity must acquire one of the existing 14 SBLC Licenses from an entity that is willing to sell its SBLC License and exit the 7(a) Loan Program.

On February 18, 2011, SBA created the Community Advantage (CA) Pilot Program to provide 7(a) loans in underserved markets through mission-oriented lenders focused on economic development (76 FR 9626). SBA waived the moratorium on the licensing of new SBLCs to allow organizations that met the definition of an SBLC but that did not have an SBLC License to participate in the CA Pilot Program as CA Lenders. The CA Pilot Program was recently extended until September 30, 2024 (87 FR 19165).

SBA is also proposing to remove the requirement for a Loan Authorization. Both the 7(a) Loan Program and the 504 Loan Program currently require a Loan Authorization providing the terms and conditions under which SBA will make or guarantee business loans. Currently, under delegated processing methods, 7(a) Lenders and CDCs (SBA Lenders) must review a lengthy template that covers every potential loan requirement and lending scenario to select the requirements that pertain to the individual loan application. The SBA Lender then creates the Authorization, signs it, and uploads it into SBA's electronic transmission (E-Tran) system as a digital record. Under non-delegated processing methods, SBA's loan guaranty processing centers (SBA Centers) prepare the Authorization for the SBA Lender to sign and upload into E-Tran. Separately, the terms and conditions of each loan are also submitted into E-Tran by the SBA Lender through the submission of the loan application data and conditions. This dual entry of information is a duplication of effort and creates an opportunity for a mismatch of information between the two sources of the loan terms and conditions. SBA Lenders have provided feedback that the current process to capture the loan terms and conditions through the use of the Authorization is cumbersome, outdated, and is not necessary because the information can be captured through the submission of the terms and conditions into E-Tran through the normal course of submitting the loan application data and conditions. SBA proposes to eliminate the requirement to create a separate Authorization and to instead rely on the use of the terms and conditions of the loan application as submitted by the SBA Lender into E-Tran. These terms and conditions will reflect the agreement between the SBA and the SBA Lender providing the terms and conditions under which SBA will guarantee a business loan, subject to the Lender's compliance with all applicable Loan Program Requirements. SBA

obligates funds to support the guaranty at the time SBA issues the SBA Loan Number. Currently, the Authorization is the written agreement that spells out the terms and conditions, which the SBA Lender is required to sign. The proposed change incorporates the terms and conditions in the E-Tran system, and SBA will continue to obligate funds to support the guaranty based on the terms and conditions in E-Tran. SBA's guaranty is conditioned upon the SBA Lender complying with Loan Program Requirements.

## II. Section-by-Section Analysis

### *SBLC Moratorium Recission*

#### Section 120.10—Definitions

SBA has determined that certain markets where there are capital market gaps continue to struggle to obtain financing on non-predatory terms. Therefore, SBA is proposing to lift the moratorium on licensing new Small Business Lending Companies (SBLC) and create a new type of Mission-Based SBLC to help bridge this financing gap.

SBA is proposing to add a new definition for Mission-Based SBLC. SBA proposes to define a Mission-Based SBLC as a specific type of SBLC that is a nonprofit organization whose purpose is to fill an identified capital market gap. Similar to regular SBLCs, SBA will license these Mission-Based SBLCs for the sole purpose of making 7(a) loans.

Mission-Based SBLCs will allow SBA to better meet the needs of underserved communities. Mission-Based SBLCs will increase opportunities for access to capital in precisely targeted capital market gaps as described more fully below in proposed revisions to section 120.470. SBA is proposing for Mission-Based SBLCs to be nonprofit entities because nonprofit lending organizations often specifically target the capital market gaps SBA intends to fill, yet nonprofits may be unable to meet SBA's current requirements for SBLCs, which are typically for-profit. Adding Mission-Based SBLCs to the possible types of 7(a) Lenders will also allow CA Lenders an opportunity to apply to permanently participate in the 7(a) Loan Program as a Mission-Based SBLC while continuing to meet the needs of underserved communities. When SBA authorizes an additional Mission-Based SBLC License to a CA Lender, the CA Lender will transition from making 7(a) loans in a temporary pilot program to instead making 7(a) loans under a permanent license in the permanent 7(a) loan program.

Within this definition, SBA proposes to state that it will accept applications for new Mission-Based SBLCs from time

to time as published in the **Federal Register**. SBA plans to issue **Federal Register** Notices when application periods for new Mission-Based SBLC Licenses will open, with information regarding the number of applications that will be accepted, the time period applications will be open, and/or the number of Licenses that will be issued. As with current SBLC Licenses and the CA Pilot Program, SBA's ability to accept new program participants is tied to market conditions and SBA's capacity to supervise and oversee additional lenders. Rather than authorizing a certain number of lenders at the outset and then imposing a moratorium and foreclosing opportunities for new lenders, SBA intends to build in the flexibility for SBA to issue **Federal Register** Notices to open and close application periods. This will allow SBA to respond more quickly to needs in underserved markets based on its oversight capacity and provide notice to the public so potential lenders may begin to prepare applications.

To accomplish the goal of expanding capital opportunities for underserved businesses and allowing Mission-Based SBLCs and regular SBLCs to increase the availability of 7(a) loans to small businesses, SBA must remove the moratorium on licensing new SBLCs. Current section 120.10 definition of Small Business Lending Company (SBLC) states that SBA has imposed a moratorium on licensing new SBLCs since January 1982, and the number of licensed SBLCs has remained at 14 ever since. SBA proposes revising this definition to remove the statement that SBA has imposed a moratorium on licensing new SBLCs. Not only will this allow SBA to license Mission-Based SBLCs, but it will allow SBA to increase the number of regular SBLCs as well. As with SBA's proposed definition of Mission-Based SBLCs above, SBA proposes to accept applications for SBLC Licenses from time to time as published in the **Federal Register**. For the same reasons described above, this will allow SBA the flexibility to respond to market conditions and oversight capacity while providing the public notice to allow interested parties to prepare applications. Based on current oversight capacity, and as described in the cost-benefit analysis below, SBA anticipates that it has the ability to license and supervise three new additional SBLCs. SBA anticipates that current CA Lenders in good standing may apply and will be immediately approved as Mission-Based SBLCs, which will not increase the number of

entities supervised and overseen by SBA.

#### Section 120.466—SBA Supervised Lender Application

Current section 120.466, paragraph (a)(6), states that in connection with any application to become an SBLC, the applicant must include a letter agreement from the existing SBLC stating that the SBLC is seeking to transfer its lending authority. SBA is proposing to revise this section because the lifting of the moratorium on new SBLC Licenses will no longer require that an applicant show that an existing lender is transferring its authority. However, as SBA is proposing to accept applications for new SBLCs from time to time in section 120.10, there may be periods when new SBLC Licenses are not being issued and existing Licenses will be acquired and transferred. Therefore, SBA is proposing to revise this section to state that an applicant to become an SBLC must show a letter agreement from an existing SBLC if it is acquiring an existing License.

#### Section 120.470—What are SBA's additional requirements for SBLCs?

SBA is proposing to revise section 120.470 to reference and include additional requirements for its proposed new type of SBLC, Mission-Based SBLCs. As a type of SBLC, except where otherwise explicitly mentioned in regulations, all requirements imposed on SBLCs and SBA Supervised Lenders will apply to Mission-Based SBLCs as well.

For the reasons discussed above, Mission-Based SBLCs must be nonprofit organizations. SBA is proposing to revise paragraph (b) to reflect this requirement for a Mission-Based SBLC's business structure. Regular SBLCs may continue to be for-profit or nonprofit corporations, limited liability companies, or limited partnerships.

To ensure that Mission-Based SBLCs fill identified capital market gaps and provide targeted financial assistance to underserved communities, SBA has determined that it is necessary to impose additional restrictions on Mission-Based SBLCs. To this end, SBA is proposing to add a new paragraph (h) to describe the requirements Mission-Based SBLCs must meet.

Proposed subparagraph (h)(1) discusses the requirements for a Mission-Based SBLC related to the identified capital market gap the lender will fill. SBA proposes to require that a Mission-Based SBLC must make a certain percentage of the total number of loans in its identified capital market gap. This is similar to the requirement

in the existing CA Pilot Program, where CA Lenders must make at least 60% of their total loans to certain communities or businesses. To ensure that the needs of the identified capital market gap are being met while keeping in mind each Mission-Based SBLC's individual risk tolerance, SBA has determined that it will not impose a specific percentage-based requirement on all Mission-Based SBLCs in regulation. Instead, the minimum acceptable percentage of loans made to an identified capital market gap will be individualized based on the Mission-Based SBLC's target market, risk tolerance, financing needs, or other factors identified by the lender in their proposed business plan upon application.

The proposed regulation states that when an entity applies to become a Mission-Based SBLC, it will include in its business plan an identified capital market gap that it proposes to fill and the percentage of its total loans that it proposes to make in this market. An identified capital market gap may include a geographic area, startup businesses, business sector (such as certain NAICS codes), demographic (such as veteran-owned businesses), or other underserved market as described in the business plan. SBA will determine, in its sole discretion, whether the proposed capital market gap is acceptable and the percentage of loans made in that market on the basis of whether SBA agrees there is a need in the target market. For example, SBA may determine that 7(a) loans are widely available in a large metropolitan area by examining historical loan data and the number of active lenders in the area and be less likely to approve an applicant to become a Mission-Based SBLC without a strong showing that there is a capital market gap and a thorough business plan to meet that gap. In another example, SBA's historical data indicates that there are comparatively fewer 7(a) Lenders and 7(a) loans made in certain rural areas, and an applicant to become a Mission-Based SBLC may be more likely to show that such areas have a capital market gap that can be filled by the lender.

Proposed subparagraph (h)(2) states that SBA will determine in its sole discretion a Mission-Based SBLC's minimum acceptable percentage of total loans that it must make in its identified capital market gap, maximum loan size, geographic area of operation, and capitalization. SBA will make this determination on the basis of the applicant's proposed identified capital market gap, proposed capitalization, business plan, experience of staff, or lending history, among other things

included in the application. SBA believes that such determinations are necessary when authorizing Mission-Based SBLCs to ensure that the needs of identified capital market gaps are addressed, allow flexibility for individualization of lenders' operations, and ensure limits on SBA's risk exposure. For example, an experienced and well-capitalized applicant to become a Mission-Based SBLC may propose an identified capital market gap in a comparatively expensive business sector, therefore, SBA may accept a larger than average maximum loan size. Alternatively, a Lender with comparatively little experience may propose to operate in a relatively inexpensive geographic area of operation, and SBA may determine that a lower maximum loan size is necessary. Additionally, a nonprofit organization that is not as well capitalized but that targets a highly underserved area may be licensed as a Mission-Based SBLC but SBA may determine that a lower maximum loan size is necessary. SBA intends to allow Mission-Based SBLCs to request higher loan amounts and expansions to geographic areas as their lending history, capitalization, and other factors indicate the risk is acceptable. Allowing individualization for Mission-Based SBLCs will allow SBA and lenders flexibility to more precisely target underserved communities.

#### Section 120.471—What are the minimum capital requirements for SBLCs?

Current section 120.471, subparagraph (a)(1) addresses minimum capital requirements for SBLCs and states that beginning on January 4, 2024, each SBLC that makes or acquires a 7(a) loan must maintain, at a minimum, unencumbered paid-in capital and paid-in surplus of at least \$5,000,000, or 10 percent of the aggregate of its share of all outstanding loans, whichever is greater. SBA proposes to revise this paragraph by adding a new subparagraph (4) that will state that, a Mission-Based SBLC must maintain a minimum amount of capital at the discretion of the Administrator in consultation with SBA's Associate Administrator for SBA's Office of Capital Access (AA/OCA), to ensure sufficient risk protection for SBA and lenders while not burdening smaller lenders with large capital requirements. This proposal will allow SBA to license Mission-Based SBLCs that are nonprofit mission-oriented lenders that target capital market gaps identified by SBA when these entities would otherwise not

be able to meet SBA's minimum capital requirements.

#### Section 120.820—CDC Affiliation

Current section 120.820 limits the entities with which CDCs may be affiliated. SBA proposes to add a new subparagraph (g), which states notwithstanding subparagraphs (b), (c), and (e), a CDC may be affiliated with a Mission-Based SBLC. This revision will allow CDCs to form the required entity whose sole purpose is to make 7(a) loans as a Mission-Based SBLC that targets capital market gaps identified by SBA. This revision is consistent with the CA Pilot Program, which allows CDCs to be affiliated with CA Lenders, and allows such CA Lenders to apply to become permanent participants in the 7(a) Loan Program as Mission-Based SBLCs.

#### *Removal of Requirement for Loan Authorization*

#### Section 120.10—Definitions

SBA is proposing to remove the definition for Authorization. For the reasons stated above, SBA will continue to rely on the SBA Form 750, which is a written agreement executed by all participating lenders requiring that those same lenders comply with all statutes and regulations. For loan accounting purposes, lenders will continue, as they do today, to electronically submit their request for a loan guaranty authorization from the Agency's loan accounting system of record—E-Tran.

SBA is proposing to amend the definition of Loan Instruments to remove the word Authorization. The amended definition will state that Loan Instruments are the note, instruments of hypothecation, and all other agreements and documents related to a loan.

SBA is proposing to amend the definition of Loan Program Requirements or SBA Loan Program Requirements to remove the word Authorization. The amended definition will state that Loan Program Requirements or SBA Loan Program Requirements are requirements imposed upon Lenders, CDCs, or Intermediaries by statute; SBA and applicable government-wide regulations; any agreement the Lender, CDC, or Intermediary has executed with SBA or to which the Lender or CDC is subject; SBA Standard Operating Procedures (SOPs); **Federal Register** notices; and official SBA notices and forms applicable to the 7(a) Loan Program, 504 Loan Program or Microloan Program; as such requirements are issued and revised by SBA from time to time. For

CDCs, this term also includes requirements imposed by Debentures, as that term is defined in § 120.802. For Intermediaries, this term also includes requirements imposed by promissory notes, collateral documents, and grant agreements.

#### Section 120.120—What are eligible uses of proceeds?

Current section 120.120 states that a small business must use an SBA business loan for sound business purposes, and the uses of proceeds are prescribed in each loan's Authorization. The section goes on to describe the various ways in which a borrower may use SBA loan proceeds. SBA proposes to amend this section to remove the sentence that states "The uses of proceeds are prescribed in each loan's Authorization." SBA already captures the uses of proceeds of the SBA-guaranteed loan through the loan application data and conditions the SBA Lender enters into ETRAN; therefore, it is not necessary to include the information in a separate Authorization.

#### Section 120.192—Approval or Denial

Current section 120.192 states that Applicants receive notice of approval or denial by the Lender, CDC, Intermediary, or SBA, as appropriate. Notice of denial will include the reasons. If a loan is approved, an Authorization will be issued. SBA proposes to amend section 120.192 to remove the sentence that states "If a loan is approved, an Authorization will be issued." SBA's current practice is to review an Authorization and issue an SBA Loan Number when the Authorization is considered satisfactory to SBA. SBA considers the issuance of the loan number to indicate loan approval by SBA. The proposed rule to no longer require an Authorization will only slightly modify the current process. Under the proposed rule, SBA will indicate loan approval by issuing a loan number.

#### Section 120.220—Fees That Lender Pays SBA

Section 120.220 states the requirements for the fees that 7(a) Loan Program Lenders pay SBA. The preamble of section 120.220 states in part "Acceptance of the guaranty fee by SBA does not waive any right of SBA arising from a Lender's negligence, misconduct or violation of any provision of these regulations, the guaranty agreement, or the loan authorization." For the reasons stated above, SBA proposes to remove the reference to the loan Authorization so that the sentence states "Acceptance of

the guaranty fee by SBA does not waive any right of SBA arising from a Lender's negligence, misconduct or violation of any provision of these regulations, or the guaranty agreement."

Current section 120.220(e) states in part "Acceptance of the guaranty fee by SBA shall not waive any right of SBA arising from the [7(a)] Lender's misconduct or violation of any provision of this part, the guaranty agreement, the Authorization, or other loan documents." For the reasons stated above, SBA proposes to remove the reference to the loan Authorization so that the revised section 120.220(e) will state "Acceptance of the guaranty fee by SBA shall not waive any right of SBA arising from the [7(a)] Lender's misconduct or violation of any provision of this part, the guaranty agreement, or other loan documents."

#### Section 120.801—How a 504 Project Is Financed

Current section 120.801(a) applies to the 504 Loan Program and states "One or more small businesses may apply for 504 financing through a CDC serving the area where the 504 Project is located. SBA issues an Authorization if it agrees to guaranty part of the funding for a Project." For the reasons stated above, SBA proposes to remove the sentence that references the Authorization.

#### Section 120.842—ALP Express Loans

Current section 120.842(b)(4) states the requirements for submission of loan documents for 504 Loan Program ALP Express loans and states in part "If approved, SBA will notify the ALP CDC of the loan number assigned to the loan and provide the CDC with a signed copy of the Loan Authorization." SBA's current practice is to review an Authorization and issue a loan number when the Authorization is considered satisfactory to SBA. Under the proposed rule, SBA will indicate loan approval by issuing a loan number. Therefore, SBA proposes to remove the reference to the Loan Authorization so the sentence will state "If approved, SBA will notify the ALP CDC of the loan number assigned to the loan."

Current section 120.842(b)(5) states the requirements for loan and debenture closing for 504 Loan Program ALP Express loans and states "After receiving notification of the loan number and a signed copy of the Loan Authorization from SBA, the ALP CDC is responsible for properly undertaking all actions necessary to close the ALP Express Loan and Debenture in accordance with the expedited loan closing procedures applicable to a Priority CDC and with § 120.960." For

the reasons stated above, SBA proposes to remove the reference to the loan Authorization so that section 120.842(b)(5) will state “After receiving notification of the loan number, the ALP CDC is responsible for properly undertaking all actions necessary to close the ALP Express Loan and Debenture in accordance with the expedited loan closing procedures applicable to a Priority CDC and with § 120.960.”

#### Section 120.921—Terms of Third Party Loans

Current section 120.921(a) states the requirements for the loan maturity of the 504 Loan Program Third Party Lender loan. Section 120.921(a) states “A Third Party Loan must have a term of at least 7 years when the 504 loan is for a term of 10 years and 10 years when the 504 loan is for 20 years. If there is more than one Third Party Loan, an overall loan maturity must be calculated, taking into account the maturities and amounts of each loan. If there is a balloon payment, it must be justified in the loan report and clearly identified in the Loan Authorization.” For the reasons stated above, SBA proposes to remove the last sentence in section 120.921(a) in its entirety so that it states “A Third Party Loan must have a term of at least 7 years when the 504 loan is for a term of 10 years and 10 years when the 504 loan is for 20 years. If there is more than one Third Party Loan, an overall loan maturity must be calculated, taking into account the maturities and amounts of each loan.”

#### Section 120.960—Responsibility for Closing

Current section 120.960(c)(1) states that SBA may, within its sole discretion, decline to close a 504 Loan Program Debenture; direct the transfer of the 504 loan to another CDC; or cancel its guarantee of the Debenture, prior to sale, if the CDC has failed to comply materially with any requirement imposed by statute, regulation, SOP, policy and procedural notice, any agreement the CDC has executed with SBA, or the terms of a Debenture or loan authorization. For the reasons stated above, SBA proposes to remove the reference to the loan Authorization.

#### Section 120.971—Allowable Fees Paid by Borrower

Section 120.971 states the requirements for the allowable fees that a 504 Loan Program Certified Development Company (CDC) may charge the Borrower in connection with a 504 loan and Debenture. Section 120.971(a)(1) describes the Processing

fee and states “The CDC may charge up to 1.5 percent of the net Debenture proceeds to process the financing. Two-thirds of this fee will be considered earned and may be collected by the CDC when the Authorization for the Debenture is issued by SBA. The portion of the processing fee paid by the Borrower may be reimbursed from the Debenture proceeds;” For the reasons stated above, SBA proposes to remove the reference to the Authorization for the Debenture and to instead refer to the issuance of the loan number so that the amended section 120.971(a)(1) will state “The CDC may charge up to 1.5 percent of the net Debenture proceeds to process the financing. Two-thirds of this fee will be considered earned and may be collected by the CDC when the loan number is issued by SBA. The portion of the processing fee paid by the Borrower may be reimbursed from the Debenture proceeds;”

#### Compliance With Executive Orders 12866, 12988, 13132, and 13563, the Paperwork Reduction Act (44 U.S.C., Ch. 35), the Congressional Review Act (5 U.S.C. 801–808), and the Regulatory Flexibility Act (5 U.S.C. 601–612)

##### Executive Order 12866

The Office of Management and Budget anticipates that this rule will be a “significant regulatory action” under Executive Order 12866. SBA has drafted a Regulatory Impact Analysis for the public’s information in the next section. Each section begins with a core question.

#### A. Regulatory Objective of the Proposal

Is there a need for this regulatory action?

##### 1. SBLC Moratorium Recission

Access to capital is one of the primary factors indicating whether a small business will startup, grow, and survive. However, many small businesses experience significant challenges securing the financing they need to sustain their businesses. In a 2019 report on minority-owned firms, financial challenges due to lack of credit availability was cited by 51% of Black-owned businesses, 40% of Hispanic-owned businesses, 36% of Asian-owned businesses, and 30% of White-owned businesses.<sup>1</sup> Further, according to a 2020 report on small business employer firms, nearly half of recent credit

<sup>1</sup> Federal Reserve Bank of Atlanta, “Small Business Credit Survey Report on Minority-Owned Firms,” December 2019, page 3 at 20191211-ced-minority-owned-firms-report.pdf ([fedsmallbusiness.org](https://www.fedsmallbusiness.org)).

applicants experienced funding gaps,<sup>2</sup> and only 51% of applicants received the full amount of financing sought.<sup>3</sup>

SBA’s existing loan programs serve an important role in credit markets for small businesses by providing financing to businesses that do not have credit available elsewhere from conventional sources on reasonable terms. However, there are still gaps in capital for underserved communities that require policies targeted to meeting their needs. The proposed revisions will increase lending activity in identified capital market gaps, resulting in the expansion of business opportunities and the creation of more jobs in underserved communities.

SBA’s CA Pilot Program, which currently expires September 30, 2024, was specifically created to increase access to capital to small businesses located in underserved markets. SBA has learned that CA Lenders are able to routinely make at least 60 percent of their loans to small businesses located in underserved markets; therefore, SBA is onboarding more lenders to participate in 7(a) lending to increase the number of mission-based lenders that use the program. Licensing new SBLCs and Mission-Based SBLCs will provide a path for successful CA Lenders to become participants in the 7(a) Loan Program long-term. In addition, many non-traditional lenders participated in SBA’s Paycheck Protection Program (PPP), which provided billions of dollars to small businesses during the economic upheaval caused by the COVID–19 pandemic. Based on the success of the PPP, removing the moratorium on licensing new SBLCs and Mission-Based SBLCs opens opportunities for more non-traditional lenders to participate in the 7(a) Loan Program, providing additional sources of capital to America’s small businesses and targeting gaps in the credit market.

##### 2. Removal of the Requirement for a Loan Authorization

SBA’s current policy of requiring a separate Loan Authorization document that contains the loan terms and conditions in addition to the loan terms and conditions that the SBA Lender also submits to SBA with its guaranty application is cumbersome, outdated, and duplicative. SBA is proposing to revise its regulations to eliminate the

<sup>2</sup> Federal Reserve Banks of Atlanta, Boston, Chicago, Cleveland, Dallas, Kansas City, Minneapolis, New York, Philadelphia, St. Louis, San Francisco “Small Business Credit Survey 2020 Report on Employer Firms,” page ii at 2020-sbcs-employer-firms-report ([fedsmallbusiness.org](https://www.fedsmallbusiness.org)).

<sup>3</sup> *Ibid*, page ii.

duplication of effort and opportunity for a mismatch of information between the two sources of the loan terms and conditions.

#### B. Benefits and Costs of the Rule

What are the potential benefits and costs of this regulatory action?

##### 1. SBLC Moratorium Rescission

SBA anticipates minor additional costs or impact on the subsidy to operate the 7(a) Loan Program in the first 5 years under these proposed regulations resulting from an anticipated modest increase in 7(a) loan activity due to additional SBLCs, as newly established SBLCs take up to five years to reach the current lending activity sustained by established SBLC license holders. SBA has confirmed that there will be no subsidy impact in FY 2024.

The existing 14 licensed SBLCs each approve an average of 125 loans per year. SBA anticipates new SBLCs will require a ramp-up period over the course of their first several years after they are licensed to reach this level of 7(a) lending activity. Over the course of the past four fiscal years, the majority of new 7(a) lenders have made between 1 and 26 7(a) loans in their first year of activity, with the average number of loans from each new 7(a) lender of less than three loans in their first year of 7(a) loan activity. Over the fiscal years 2018 through 2021, there were three new SBLC's that acquired SBLC Licenses, and those new SBLCs approved a total of 40 7(a) loans in their first years of operation, for an average of approximately 13 7(a) loans for each SBLC in their first year. Based on loan volume for other new 7(a) lenders between FY 2018 and FY 2021, SBA anticipates new SBLCs, including Mission-Based SBLCs, to make approximately eight 7(a) loans in their first year after they become fully operational because of the targeted markets of Mission-based SBLCs. The three new SBLCs have the potential to increase 7(a) lending by the approximately 425 loans per year over the next four years.<sup>4</sup>

The rate and capacity at which SBA will authorize new SBLC Licenses is dependent on SBA having adequate staffing and funding to conduct oversight activities and initial screening of applications. Based on current staffing levels, SBA has the capacity to authorize three new SBLC Licenses in

total, which does not include the conversion of existing CA Lenders to Mission-Based SBLCs. SBA's Office of Credit Risk Management (OCRM), which supervises and examines SBA Lenders, will require one new GS-13/14 Risk Management Analyst full-time equivalent employee for every seven new SBLC Licenses issued. For purposes of the cost estimates, the costs associated with each Risk Management Analyst position is based on the Federal wage scale for the Washington, DC area for a GS 14, Step 10, at \$164,102 per year, with an additional cost of 100 percent (an additional \$164,102 per year) added for overhead and benefits costs to yield an annual risk management staffing cost to the Agency of approximately \$328,204 for every seven new SBLC Licenses issued.

SBA anticipates that all CA Lenders in good standing participating in the CA Pilot Program may apply to become Mission-Based SBLCs. When SBA authorizes an additional Mission-Based SBLC License to a CA Lender, the CA Lender will transition from making 7(a) loans in a temporary pilot program to instead making 7(a) loans under a permanent license in the regular 7(a) program. This means a CA Lender transitioning to a Mission-Based SBLC will not increase the total number of entities overseen and supervised by SBA or the cost to SBA.

SBA is authorized<sup>5</sup> to charge a fee for conducting oversight activities, including safety and soundness examinations of SBA-Supervised Lenders. All entities applying to participate as an SBLC (including a Mission-Based SBLC) will undergo an initial safety and soundness examination at the time of application. SBA estimates the fee for completing the initial safety and soundness examination will be a minimum of \$10,000 per applicant. The fees charged by SBA for conducting oversight activities support the contractors necessary to work with SBA staff on the oversight and examination activities. Additional full-time employees will be necessary dependent upon the number of additional SBA-Supervised non-regulated entities onboarded.

The fees imposed on the new SBLCs, including Mission-Based SBLCs, will be consistent with the oversight fees for the 7(a) Loan Program published annually by OCRM.<sup>6</sup> SBA conducts safety and

soundness exams on SBLCs at least once every two years. Additionally, SBA conducts targeted reviews of loan files in between regularly scheduled safety and soundness exams. The total biennial cost of these risk-based reviews is currently \$50,000 to \$150,000 per institution, with review costs correlated to the size of the SBLC's loan portfolio. For FY 2022, the annual fee for monitoring and Other Lender Oversight Activities for SBA Supervised Lenders, which includes SBLCs, is \$161.16 for every \$1 million in 7(a) guaranteed dollars a 7(a) Lender has outstanding. For FY 2022, the additional fee for Delegated Authority Lenders is approximately \$13.11 for every \$1 million in 7(a) guaranteed dollars a delegated Lender has outstanding. This fee covers the costs of Delegated Authority Reviews and is assessed annually based on each delegated 7(a) Lender's portion of the total dollar amount of 7(a) guarantees in the SBA loan portfolio for all delegated 7(a) Lenders as of the end of the prior fiscal year. For this calculation, 7(a) guaranteed dollars does not include loans originated under PPP.

SBA also charges 7(a) Lenders fees for monitoring, including the quarterly off-site/monitoring reviews conducted through the Loan and Lender Monitoring System (L/LMS). SBA's oversight fees include costs related to Other Lender Oversight Activities (e.g., technical assistance and analytics, a portion of OCRM salaries for 7(a) Lender oversight activities, supervision and enforcement activities, and similar costs to support SBA's lender oversight program). These oversight fees are based on SBA's costs. The fees for monitoring (e.g., L/LMS and subscription services), Other Lender Oversight Activities, and Delegated Authority Reviews are assessed annually based on each 7(a) Lender's portion of the total dollar amount of 7(a) guarantees in SBA's portfolio or, as applicable, the relevant portfolio segment the activity covers. Oversight fees are assessed on a per-loan basis and range from \$161 to \$174 per loan based on whether the lender is a non-delegated or holds delegated lender authority.

Lifting the moratorium on licensing new SBLCs and authorizing Mission-Based SBLCs will benefit the approximately 51% of small employer firms that do not have their financing needs met,<sup>7</sup> either because they did not receive all the financing for which they applied, or because they did not apply

<sup>4</sup> This estimate is from the average number of 7(a) loans each year based on the 1,694 new 7(a) loans approved by all new SBA 7(a) Lenders in the four-year period of fiscal year 2018 through fiscal year 2022.

<sup>5</sup> See section 23(a) of the Small Business Act, 15 U.S.C. 650(a), 15 U.S.C. 634(b)(6), (7), (14), and 13 CFR 120.1070.

<sup>6</sup> SBA Information Notice 5000-828947, FY 2022 Updated Fee Schedule for SBA Oversight of 7(a) Lenders, March 3, 2022. (<https://www.sba.gov/>)

[document/information-notice-5000-828947-fy-2022-updated-fee-schedule-sba-oversight-7a-lenders](#)).

<sup>7</sup> Ibid, page 11.

due to a variety of reasons, including the belief they would be turned down.

The proposed revisions may have a negative impact to the 14 existing SBLCs by destabilizing the value of their licenses due to increased competition and issuance of new SBLC Licenses. The value of SBLC Licenses may periodically fluctuate based on whether SBA is or is not accepting applications for new SBLCs and entities interested in the program must acquire existing SBLC License.

C. What alternatives have been considered?

#### 1. SBLC Moratorium Rescission

SBA considered leaving the regulations unchanged and relying upon the CA Pilot Loan Program to address the needs of access to capital in underserved markets; however, the low historic loan volume and lack of any CA loan activity in some rural and underserved geographic areas makes this an unviable alternative.

SBA also considered requiring mission-based lenders to meet the \$5 million capitalization requirements currently in place for all SBLC license holders; however, SBA determined many of these lending entities would be unable to qualify for SBA's program based on such a requirement.

#### 2. Removal of the Requirement for a Loan Authorization

SBA considered leaving the requirements for the Loan Authorization intact. SBA does not have quantitative data on the effects of removing or retaining the requirements for the Loan Authorization. However, SBA Lenders struggle under the burden of the existing lengthy Loan Authorization requirement, and they have and continue to request relief from this requirement. In the interest of reducing duplicative effort and making better use of existing technology and processes, SBA determined it is in the interest of SBA and SBA Lenders to revise the requirement for a Loan Authorization as proposed.

SBA also considered facilitating electronic entry of the Loan Authorization for the subject SBA loans. However, electronic entry of the Loan Authorization form would not address the duplicative effort resulting from subsequent entry in E-Tran. This, therefore, would also not be a viable alternative.

#### *Executive Order 12988*

This action meets applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation,

eliminate ambiguity, and reduce burden. The action does not have preemptive effect or retroactive effect.

#### *Executive Order 13132*

This rule does not have federalism implications as defined in Executive Order 13132. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in the Executive Order. As such it does not warrant the preparation of a Federalism Assessment.

#### *Executive Order 13563*

A description of the need for this regulatory action and benefits and costs associated with this action, including possible distributional impacts that relate to Executive Order 13563, are included above in the Regulatory Impact Analysis under Executive Order 12866.

#### *Paperwork Reduction Act, 44 U.S.C. Ch. 35*

The portions of the proposed rule on the SBLC moratorium rescission would require SBA Form 2498, "SBA Supervised Lender Assessment Plan," to be revised to edit the requirement that an applicant to become an SBLC must include a letter from an existing SBLC evidencing intent to transfer lending authority to conform with revisions to 13 CFR 120.466. The portion of this rule on removing the requirement for a Loan Authorization is not subject to the Paperwork Reduction Act because the Loan Authorization is not an information collection. Removal of the Loan Authorization may require revision to OMB-approved forms, and such revisions will be submitted to OMB in accordance with the requirements of the PRA when the rule is finalized.

#### *Congressional Review Act, 5 U.S.C. Ch. 8*

Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996, also known as the Congressional Review Act or CRA, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. SBA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States. A major rule under the CRA cannot take effect until 60 days after it

is published in the **Federal Register**. The Office of Information and Regulatory Affairs anticipates that this rule is not a "major rule" as defined by 5 U.S.C. 804(2). Therefore, this rule is not subject to the 60-day restriction.

#### *Regulatory Flexibility Act, 5 U.S.C. 601-612*

When an agency issues a rulemaking proposal, the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612, requires the agency to "prepare and make available for public comment an initial regulatory analysis" which will "describe the impact of the proposed rule on small entities." SBA does not anticipate the rulemaking will have a significant impact to the approximately existing 2,897 7(a) Lenders participating in the 7(a) Loan Program.

Of the 182 new 7(a) Lenders onboarded since FY 2018, only four were new SBLCs that acquired an SBLC License after receiving SBA's approval for the SBLC License transfer. SBA does not require SBLCs to provide SBA with the financial statements of the SBLC parent company, if applicable, or affiliates; therefore, SBA is not able to determine whether the SBLCs are small businesses in accordance with SBA size standards. SBA anticipates approving three SBLCs, including Mission-Based SBLCs, in the full first year after this proposed rule becomes effective.

Because some SBLC applicants may be considered small businesses per size standards in 13 CFR 121.201,<sup>8</sup> SBA must address the cost of preparing and submitting an SBLC application to SBA. The 2021 annual revenues (including revenues of any Parent Company) for the 13 active SBLCs (one inactive SBLC is in the process of transferring their license and their 2021 revenues were not available) range from a low of \$5.1 million to a high of \$910.8 million, with average annual revenues of \$81.3 million. These revenues are well above the SBA small business size standard of \$41.5 million in annual revenues for the North American Industry Classification System (NAICS) industry 522298, "All Other Nondepository Credit Intermediation" average revenue threshold to be considered a "small business", which includes revenue from affiliates such as parent companies. SBA does not require an SBLC to be a small business in order to participate as a 7(a)

<sup>8</sup> Based on the Size Standard for NAICS Code 522298, All Other Nondepository Credit Intermediation, of \$41.5 million gross revenues averaged over the last five years—13 CFR 121.201 <https://www.ecfr.gov/current/title-13/chapter-I/part-121/subpart-A/subject-group-ECFRf12a11421b08a31/section-121.201>.

Lender, therefore SBA does not review the SBLC applicant for size when evaluating an SBLC application. SBA also does not collect financial information on any SBLC affiliates, which would be necessary to make a size determination for an SBLC; therefore, it is not feasible for SBA to determine if any of the SBLCs are small businesses.

Based on SBA’s experience with similar data collections, an organization applying to become an SBA Supervised Lender would typically employ the services of a financial manager, an accountant, an attorney, and an administrative assistant when preparing a complete application for submission to SBA. SBA also anticipates a minor increase of additional 7(a) loan approvals each year based on the approximately three new SBLC and Mission-Based SBLC lenders per year.

The cost estimate for an SBLC applicant to complete an SBA SBLC application is based on the estimated time to complete the application multiplied by the median hourly wage by job position wages published by the U.S. Department of Labor’s Bureau of Labor Statistics for 2021<sup>9</sup> and increased by 100% to account for overhead benefit costs. The cost breakdown is as follows: Financial Manager (30 hours times an hourly rate of \$63.32 plus overhead and benefit costs of \$63.32 per hour = \$3,799.20); plus Accountant (10 hours times an hourly rate of \$37.14, plus overhead and benefit costs of \$37.14 per hour = \$742.80); plus Lawyers (5 hours times an hourly rate of \$61.54, plus overhead and benefit costs of \$61.54 per hour = \$615.40); plus Administrative Assistant (5 hours times an hourly rate of \$19.08, plus overhead and benefit costs of \$19.08 per hour = \$190.80); for a total anticipated cost to complete the SBLC application for each SBLC applicant of \$5,348. As stated elsewhere, SBA estimates the fee for completing the initial safety and soundness examination will be a minimum of \$10,000 per applicant, which would increase the cost burden for each of the three SBLC applicants to \$15,348.

SBA believes the one-time estimated cost burden of \$15,348 does not represent a significant economic impact to a potential SBLC applicant in comparison to the average annual revenue of existing SBLCs of \$81.3 million per SBLC.

For the above reasons, SBA certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities.

SBA specifically requests comments on whether the number of hours estimated to prepare a complete application is appropriate.

**List of Subjects in 13 CFR Part 120**

Community development, Loan programs-business, Reporting and recordkeeping requirements, Small businesses.

For the reasons stated in the preamble, SBA proposes to amend 13 CFR part 120 as follows:

**PART 120—BUSINESS LOANS**

■ 1. The authority citation for 13 CFR part 120 continues to read as follows:

**Authority:** 15 U.S.C. 634(b)(6), (b)(7), (b)(14), (h), and note, 636(a), (h) and (m), and note, 636m, 650, 657t, and note, 657u, and note, 687(f), 696(3), and (7), and note, 697, 697a and e, and note; Pub. L. 116–260, 134 Stat. 1182.

■ 2. Amend § 120.10 by:

■ a. Removing the definition for “Authorization”;

■ b. Revising the definitions for “Loan Instruments” and “Loan Program Requirements or SBA Loan Program requirements”;

■ c. Adding a definition for “Mission-Based Small Business Lending Company (MISSION-BASED SBLC)” in alphabetical order; and

■ d. Revising the definition for “Small Business Lending Company (SBLC)”.

The revisions and addition read as follows:

**§ 120.10 Definitions**

\* \* \* \* \*

*Loan Instruments* are the note, instruments of hypothecation, and all other agreements and documents related to a loan.

*Loan Program Requirements or SBA Loan Program Requirements* are requirements imposed upon Lenders, CDCs, or Intermediaries by statute; SBA and applicable government-wide regulations; any agreement the Lender, CDC, or Intermediary has executed with SBA or to which the Lender or CDC is subject; SBA Standard Operating Procedures (SOPs); **Federal Register** notices; and official SBA notices and forms applicable to the 7(a) Loan Program, 504 Loan Program or Microloan Program, as such requirements are issued and revised by SBA from time to time. For CDCs, this term also includes requirements imposed by Debentures, as that term is defined in § 120.802. For Intermediaries, this term also includes requirements imposed by promissory notes, collateral documents, and grant agreements.

\* \* \* \* \*

*Mission-Based Small Business Lending Company (Mission-Based SBLC)* is a type of SBLC that is a nonprofit lending institution licensed and authorized by SBA only to make loans pursuant to section 7(a) of the Small Business Act to fill an identified capital market gap. SBA accepts applications for Mission-Based SBLCs from time to time as published in the **Federal Register**.

\* \* \* \* \*

*Small Business Lending Company (SBLC)* is a non-depository lending institution that is SBA-licensed and is authorized by SBA to only make loans pursuant to section 7(a) of the Small Business Act and loans to Intermediaries in SBA’s Microloan program. SBA accepts applications for SBLCs from time to time as published in the **Federal Register**.

\* \* \* \* \*

**§ 120.120 [Amended]**

■ 3. Amend § 120.120 introductory paragraph by removing the last sentence.

**§ 120.192 [Amended]**

■ 4. Amend § 120.192 by removing the last sentence.

■ 5. Amend § 120.220 by revising the last sentence of the introductory paragraph and the last sentence of paragraph (e) to read as follows:

**§ 120.220 Fees that Lender pays SBA.**

\* \* \* Acceptance of the guaranty fee by SBA does not waive any right of SBA arising from a Lender’s negligence, misconduct or violation of any provision of these regulations or the guaranty agreement.

\* \* \* \* \*

(e) \* \* \* Acceptance of the guarantee fee by SBA shall not waive any right of SBA arising from the Lender’s misconduct or violation of any provision of this part, the guarantee agreement or other loan documents.

\* \* \* \* \*

■ 6. Amend § 120.466 by revising paragraph (a)(6) to read as follows:

**§ 120.466 SBA Supervised Lender application.**

\* \* \* \* \*

(a) \* \* \*

(6) In connection with any application to acquire an existing SBLC License, the applicant must include a letter agreement signed by an authorized official of the SBLC whose License is to be acquired certifying that the SBLC is seeking to transfer its SBA lending authority to the applicant;

\* \* \* \* \*

<sup>9</sup> [https://www.bls.gov/oes/current/oes\\_nat.htm](https://www.bls.gov/oes/current/oes_nat.htm).



■ 7. Amend § 120.470 by revising the introductory paragraph and paragraph (b) and by adding a paragraph (h) to read as follows:

**§ 120.470 What are SBA's additional requirements for SBLCs?**

In addition to complying with SBA's requirements for SBA Lenders and SBA Supervised Lenders, an SBLC (including a Mission-Based SBLC) must meet the requirements contained in this regulation and the SBLC regulations that follow.

\* \* \* \* \*

(b) \* \* \* An SBLC must be a corporation (profit or nonprofit) or a limited liability company or limited partnership, except for a Mission-Based SBLC, which must be a nonprofit corporation.

\* \* \* \* \*

(h) *Mission-Based SBLCs.* (1) A Mission-Based SBLC must make a certain percentage of the total number of its loans in an identified capital market gap. An entity applying to become a Mission-Based SBLC must identify in its business plan the capital market gap it will target and the percentage of its total loans it proposes to make in that market. The identified capital market gap may include a geographic area, startup businesses, business sector, demographic, or other underserved market. An identified capital market gap and the percentage of loans made in that market is accepted by SBA, in SBA's sole discretion, based on whether SBA agrees there is a need in the targeted market and whether the applicant can meet that need.

(2) SBA determines, in its sole discretion, a Mission-Based SBLC's minimum acceptable lender capitalization, percentage of total loans that it will make in its identified capital market gap, maximum loan size, and geographic area of operation. SBA may make these determinations on the basis of the Mission-Based SBLC's proposed lender capitalization, proposed identified capital market gap, Loan Loss Reserve Account, business plan, experience of staff, or lending history, among other things.

■ 8. Amend § 120.471 by adding paragraph (a)(4) to read as follows:

**§ 120.471 What are the minimum capital requirements for SBLCs?**

(a) \* \* \*

(4) A Mission-Based SBLC must maintain a minimum amount of capital as determined at the discretion of the Administrator in consultation with SBA's Associate Administrator for the Office of Capital Access (AA/OCA). The capital requirement will ensure

sufficient risk protection for SBA and lenders while not burdening smaller lenders with large capital requirements.

\* \* \* \* \*

■ 9. Amend § 120.801 by revising the last sentence of paragraph (a) to read as follows:

**§ 120.801 How a 504 Project is financed.**

(a) \* \* \* SBA issues a loan number if it agrees to guarantee part of the funding for a Project.

\* \* \* \* \*

■ 10. Amend § 120.820 by adding paragraph (g) to read as follows:

**§ 120.820 CDC Affiliation.**

\* \* \* \* \*

(g) Notwithstanding paragraphs (b), (c), and (e) of this section, a CDC may be affiliated with a Mission-Based SBLC.

■ 11. Amend § 120.842 by revising the last sentence of paragraph (b)(4) and paragraph (b)(5) to read as follows:

**§ 120.842 ALP Express Loans.**

\* \* \* \* \*

(b) \* \* \*

(4) \* \* \* If approved, SBA will notify the ALP CDC of the loan number assigned to the loan.

(5) \* \* \* After receiving notification of the loan number from SBA, the ALP CDC is responsible for properly undertaking all actions necessary to close the ALP Express Loan and Debenture in accordance with the expedited loan closing procedures applicable to a Priority CDC and with § 120.960, and in compliance with all applicable Loan Program Requirements.

\* \* \* \* \*

**§ 120.921 [Amended]**

■ 12. Amend § 120.921 by removing the last sentence in paragraph (a).

■ 13. Amend § 120.960 by revising paragraph (c)(1) to read as follows:

**§ 120.960 Responsibility for closing.**

\* \* \* \* \*

(c) \* \* \*

(1) The CDC has failed to comply materially with any Loan Program Requirement as defined in § 120.10;

\* \* \* \* \*

■ 14. Amend § 120.971 by revising paragraph (a)(1) to read as follows:

**§ 120.971 Allowable fees paid by Borrower.**

(a) \* \* \*

(1) *Processing fee.* The CDC may charge up to 1.5 percent of the net Debenture proceeds to process the financing. Two-thirds of this fee will be considered earned and may be collected by the CDC when the loan number is

issued by SBA. The portion of the processing fee paid by the Borrower may be reimbursed from the Debenture proceeds;

\* \* \* \* \*

**Isabella Casillas Guzman,**  
Administrator.

[FR Doc. 2022-23597 Filed 11-4-22; 8:45 am]

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**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

[Docket No. FAA-2022-1404; Project Identifier MCAI-2022-01044-A]

RIN 2120-AA64

**Airworthiness Directives; Pilatus Aircraft Ltd. Airplanes**

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for certain Pilatus Aircraft Ltd. (Pilatus) Model PC-12/47E airplanes. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI identifies the unsafe condition as corrosion of the actuator attachment lug areas underneath the anti-rotation pads of the main landing gear (MLG) and nose landing gear (NLG). This proposed AD would require replacing certain MLG and NLG electro-mechanical actuators. The FAA is proposing this AD to address the unsafe condition on these products.

**DATES:** The FAA must receive comments on this NPRM by December 22, 2022.

**ADDRESSES:** You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to [regulations.gov](https://www.regulations.gov). Follow the instructions for submitting comments.
- *Fax:* (202) 493-2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.