

for purposes of this section without regard to subparagraph (A)(ii) of such section 233(b)(2).

(5) Operation on annual basis

The Administrator may, in the Administrator's discretion, apply section 233 of the Bank Enterprise Act of 1991 for purposes of this section by providing community enterprise assessment credits with respect to annual periods rather than semiannual periods.

(6) Outreach

The Administrator shall ensure that information about the Bank Enterprise Act of 1991 under this section is widely disseminated to all interested parties.

(7) Qualified activities

For the purpose of this subchapter, section 233(a)(2)(A) of the Bank Enterprise Act of 1991 shall be applied by inserting "of the increase" after "the amount".

(Pub. L. 103-325, title I, § 114, Sept. 23, 1994, 108 Stat. 2179.)

Editorial Notes

REFERENCES IN TEXT

The Bank Enterprise Act of 1991, referred to in subsecs. (a)(2), (5) and (b)(6), is subtitle C (§§ 231-234) of title II of Pub. L. 102-242, Dec. 19, 1991, 105 Stat. 2308-2315, which enacted sections 1834 to 1834b of this title, amended section 1817 of this title, and enacted provisions set out as a note under section 1811 of this title. For complete classification of this Act to the Code, see Short Title of 1991 Amendment note set out under section 1811 of this title and Tables.

The Federal Deposit Insurance Act, referred to in subsec. (a)(5), is act Sept. 21, 1950, ch. 967, § 2, 64 Stat. 873, which is classified generally to chapter 16 (§ 1811 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1811 of this title and Tables.

CODIFICATION

Section is comprised of section 114 of Pub. L. 103-325. Subsec. (c) of section 114 of Pub. L. 103-325 amended section 1834a of this title.

§ 4713a. Guarantees for bonds and notes issued for community or economic development purposes

(a) Definitions

In this section, the following definitions shall apply:

(1) Eligible community development financial institution

The term "eligible community development financial institution" means a community development financial institution (as described in section 1805.201 of title 12, Code of Federal Regulations, or any successor thereto) certified by the Secretary that has applied to a qualified issuer for, or been granted by a qualified issuer, a loan under the Program.

(2) Eligible community or economic development purpose

The term "eligible community or economic development purpose"—

(A) means any purpose described in section 4707(b) of this title; and

(B) includes the provision of community or economic development in low-income or underserved rural areas.

(3) Guarantee

The term "guarantee" means a written agreement between the Secretary and a qualified issuer (or trustee), pursuant to which the Secretary ensures repayment of the verifiable losses of principal, interest, and call premium, if any, on notes or bonds issued by a qualified issuer to finance or refinance loans to eligible community development financial institutions.

(4) Loan

The term "loan" means any credit instrument that is extended under the Program for any eligible community or economic development purpose.

(5) Master servicer

(A) In general

The term "master servicer" means any entity approved by the Secretary in accordance with subparagraph (B) to oversee the activities of servicers, as provided in subsection (f)(4).

(B) Approval criteria for master servicers

The Secretary shall approve or deny any application to become a master servicer under the Program not later than 90 days after the date on which all required information is submitted to the Secretary, based on the capacity and experience of the applicant in—

(i) loan administration, servicing, and loan monitoring;

(ii) managing regional or national loan intake, processing, or servicing operational systems and infrastructure;

(iii) managing regional or national originator communication systems and infrastructure;

(iv) developing and implementing training and other risk management strategies on a regional or national basis; and

(v) compliance monitoring, investor relations, and reporting.

(6) Program

The term "Program" means the guarantee Program for bonds and notes issued for eligible community or economic development purposes established under this section.

(7) Program administrator

The term "Program administrator" means an entity designated by the issuer to perform administrative duties, as provided in subsection (f)(2).

(8) Qualified issuer

(A) In general

The term "qualified issuer" means a community development financial institution (or any entity designated to issue notes or bonds on behalf of such community development financial institution) that meets the qualification requirements of this paragraph.

(B) Approval criteria for qualified issuers

(i) In general

The Secretary shall approve a qualified issuer for a guarantee under the Program

in accordance with the requirements of this paragraph, and such additional requirements as the Secretary may establish, by regulation.

(ii) Terms and qualifications

A qualified issuer shall—

(I) have appropriate expertise, capacity, and experience, or otherwise be qualified to make loans for eligible community or economic development purposes;

(II) provide to the Secretary—

(aa) an acceptable statement of the proposed sources and uses of the funds; and

(bb) a capital distribution plan that meets the requirements of subsection (c)(1); and

(III) certify to the Secretary that the bonds or notes to be guaranteed are to be used for eligible community or economic development purposes.

(C) Department opinion; timing

(i) Department opinion

Not later than 30 days after the date of a request by a qualified issuer for approval of a guarantee under the Program, the Secretary shall provide an opinion regarding compliance by the issuer with the requirements of the Program under this section.

(ii) Timing

The Secretary shall approve or deny a guarantee under this section after consideration of the opinion provided to the Secretary under clause (i), and in no case later than 90 days after receipt of all required information by the Secretary with respect to a request for such guarantee.

(9) Secretary

The term “Secretary” means the Secretary of the Treasury.

(10) Servicer

The term “servicer” means an entity designated by the issuer to perform various servicing duties, as provided in subsection (f)(3).

(b) Guarantees authorized

The Secretary shall guarantee payments on bonds or notes issued by any qualified issuer, if the proceeds of the bonds or notes are used in accordance with this section to make loans to eligible community development financial institutions—

(1) for eligible community or economic development purposes; or

(2) to refinance loans or notes issued for such purposes.

(c) General program requirements

(1) In general

A capital distribution plan meets the requirements of this subsection, if not less than 90 percent of the principal amount of guaranteed bonds or notes (other than costs of issuance fees) are used to make loans for any eligible community or economic development

purpose, measured annually, beginning at the end of the 1-year period beginning on the issuance date of such guaranteed bonds or notes.

(2) Relending account

Not more than 10 percent of the principal amount of guaranteed bonds or notes, multiplied by an amount equal to the outstanding principal balance of issued notes or bonds, minus the risk-share pool amount under subsection (d), may be held in a relending account and may be made available for new eligible community or economic development purposes.

(3) Limitations on unpaid principal balances

The proceeds of guaranteed bonds or notes under the Program may not be used to pay fees (other than costs of issuance fees), and shall be held in—

(A) community or economic development loans;

(B) a relending account, to the extent authorized under paragraph (2); or

(C) a risk-share pool established under subsection (d).

(4) Repayment

If a qualified issuer fails to meet the requirements of paragraph (1) by the end of the 90-day period beginning at the end of the annual measurement period, repayment shall be made on that portion of bonds or notes necessary to bring the bonds or notes that remain outstanding after such repayment into compliance with the 90 percent requirement of paragraph (1).

(5) Prohibited uses

The Secretary shall, by regulation—

(A) prohibit, as appropriate, certain uses of amounts from the guarantee of a bond or note under the Program, including the use of such funds for political activities, lobbying, outreach, counseling services, or travel expenses; and

(B) provide that the guarantee of a bond or note under the Program may not be used for salaries or other administrative costs of—

(i) the qualified issuer; or

(ii) any recipient of amounts from the guarantee of a bond or note.

(d) Risk-share pool

Each qualified issuer shall, during the term of a guarantee provided under the Program, establish a risk-share pool, capitalized by contributions from eligible community development financial institution participants an amount equal to 3 percent of the guaranteed amount outstanding on the subject notes and bonds.

(e) Guarantees

(1) In general

A guarantee issued under the Program shall—

(A) be for the full amount of a bond or note, including the amount of principal, interest, and call premiums;

(B) be fully assignable and transferable to the capital market, on terms and conditions that are consistent with comparable Govern-

ment-guaranteed bonds, and satisfactory to the Secretary;

(C) represent the full faith and credit of the United States; and

(D) not exceed 30 years.

(2) Limitations

(A) Annual number of guarantees

The Secretary shall issue not more than 10 guarantees in any calendar year under the Program.

(B) Guarantee amount

The Secretary may not guarantee any amount under the Program equal to less than \$100,000,000, but the total of all such guarantees in any fiscal year may not exceed \$1,000,000,000.

(f) Servicing of transactions

(1) In general

To maximize efficiencies and minimize cost and interest rates, loans made under this section may be serviced by qualified Program administrators, bond servicers, and a master servicer.

(2) Duties of Program administrator

The duties of a Program administrator shall include—

(A) approving and qualifying eligible community development financial institution applications for participation in the Program;

(B) compliance monitoring;

(C) bond packaging in connection with the Program; and

(D) all other duties and related services that are customarily expected of a Program administrator.

(3) Duties of servicer

The duties of a servicer shall include—

(A) billing and collecting loan payments;

(B) initiating collection activities on past-due loans;

(C) transferring loan payments to the master servicing accounts;

(D) loan administration and servicing;

(E) systematic and timely reporting of loan performance through remittance and servicing reports;

(F) proper measurement of annual outstanding loan requirements; and

(G) all other duties and related services that are customarily expected of servicers.

(4) Duties of master servicer

The duties of a master servicer shall include—

(A) tracking the movement of funds between the accounts of the master servicer and any other servicer;

(B) ensuring orderly receipt of the monthly remittance and servicing reports of the servicer;

(C) monitoring the collection comments and foreclosure actions;

(D) aggregating the reporting and distribution of funds to trustees and investors;

(E) removing and replacing a servicer, as necessary;

(F) loan administration and servicing;

(G) systematic and timely reporting of loan performance compiled from all bond servicers' reports;

(H) proper distribution of funds to investors; and

(I) all other duties and related services that are customarily expected of a master servicer.

(g) Fees

(1) In general

A qualified issuer that receives a guarantee issued under this section on a bond or note shall pay a fee to the Secretary, in an amount equal to 10 basis points of the amount of the unpaid principal of the bond or note guaranteed.

(2) Payment

A qualified issuer shall pay the fee required under this subsection on an annual basis.

(3) Use of fees

Fees collected by the Secretary under this subsection shall be used to reimburse the Department of the Treasury for any administrative costs incurred by the Department in implementing the Program established under this section.

(h) Authorization of appropriations

(1) In general

There are authorized to be appropriated to the Secretary, such sums as are necessary to carry out this section.

(2) Use of fees

To the extent that the amount of funds appropriated for a fiscal year under paragraph (1) are not sufficient to carry out this section, the Secretary may use the fees collected under subsection (g) for the cost of providing guarantees of bonds and notes under this section.

(i) Investment in guaranteed bonds ineligible for Community Reinvestment Act purposes

Notwithstanding any other provision of law, any investment by a financial institution in bonds or notes guaranteed under the Program shall not be taken into account in assessing the record of such institution for purposes of the Community Reinvestment Act of 1977 (12 U.S.C. 2901 [et seq.]).

(j) Administration

(1) Regulations

Not later than 1 year after September 27, 2010, the Secretary shall promulgate regulations to carry out this section.

(2) Implementation

Not later than 2 years after September 27, 2010, the Secretary shall implement this section.

(k) Termination

This section is repealed, and the authority provided under this section shall terminate, on September 30, 2014.¹

(Pub. L. 103-325, title I, § 114A, as added Pub. L. 111-240, title I, § 1134, Sept. 27, 2010, 124 Stat. 2515.)

¹ See Termination of Section note below.

TERMINATION OF SECTION

For delay of termination of section by Pub. L. 117–328, see Termination Date note below.

Editorial Notes

REFERENCES IN TEXT

The Community Reinvestment Act of 1977, referred to in subsec. (i), is title VIII of Pub. L. 95–128, Oct. 12, 1977, 91 Stat. 1147, which is classified generally to chapter 30 (§2901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2901 of this title and Tables.

Statutory Notes and Related Subsidiaries

TERMINATION DATE

Pub. L. 117–328, div. E, title I, Dec. 29, 2022, 136 Stat. 4655, provided in part: “That such section 114A [this section] shall remain in effect until December 31, 2023”.

Additional provisions delaying the termination of this section were contained in the following prior appropriation acts:

Pub. L. 117–103, div. E, title I, Mar. 15, 2022, 136 Stat. 244.

Pub. L. 116–260, div. E, title I, Dec. 27, 2020, 134 Stat. 1385.

Pub. L. 116–93, div. C, title I, Dec. 20, 2019, 133 Stat. 2439.

Pub. L. 116–6, div. D, title I, Feb. 15, 2019, 133 Stat. 143.

Pub. L. 115–141, div. E, title I, Mar. 23, 2018, 132 Stat. 540.

Pub. L. 115–31, div. E, title I, May 5, 2017, 131 Stat. 331.

Pub. L. 114–113, div. E, title I, Dec. 18, 2015, 129 Stat. 2427.

Pub. L. 113–235, div. E, title I, Dec. 16, 2014, 128 Stat. 2336.

§ 4714. Recordkeeping

(a) In general

A community development financial institution receiving assistance from the Fund shall keep such records, for such periods as may be prescribed by the Fund and necessary to disclose the manner in which any assistance under this subchapter is used and to demonstrate compliance with the requirements of this subchapter.

(b) User profile information

The Fund shall require each community development financial institution or other organization receiving assistance from the Fund to compile such data, as is determined to be appropriate by the Fund, on the gender, race, ethnicity, national origin, or other pertinent information concerning individuals that utilize the services of the assisted institution to ensure that targeted populations and low-income residents of investment areas are adequately served.

(c) Access to records

The Fund shall have access on demand, for the purpose of determining compliance with this subchapter, to any records of a community development financial institution or other organization that receives assistance from the Fund.

(d) Review

Not less than annually, the Fund shall review the progress of each assisted community development financial institution in carrying out its strategic plan, meeting its performance goals, and satisfying the terms and conditions of its assistance agreement.

(e) Reporting

(1) Annual reports

The Fund shall require each community development financial institution receiving assistance under this subchapter to submit an annual report to the Fund on its activities, its financial condition, and its success in meeting performance goals, in satisfying the terms and conditions of its assistance agreement, and in complying with other requirements of this subchapter, in such form and manner as the Fund shall specify.

(2) Availability of reports

The Fund, after deleting or redacting any material as appropriate to protect privacy or proprietary interests, shall make such reports submitted under paragraph (1) available for public inspection.

(Pub. L. 103–325, title I, §115, Sept. 23, 1994, 108 Stat. 2184.)

§ 4715. Special provisions with respect to institutions that are supervised by Federal banking agencies

(a) Consultation with appropriate agencies

The Fund shall consult with and consider the views of the appropriate Federal banking agency prior to providing assistance under this subchapter to—

(1) an insured community development financial institution;

(2) any community development financial institution that is examined by or subject to the reporting requirements of an appropriate Federal banking agency; or

(3) any community development financial institution that has as its community partner an institution that is examined by or subject to the reporting requirements of an appropriate Federal banking agency.

(b) Requests for information, reports, or records

(1) In general

Except as provided in paragraph (4), notwithstanding any other provisions of this subchapter, prior to directly requesting information from or imposing reporting or recordkeeping requirements on an insured community development financial institution or other institution that is examined by or subject to the reporting requirements of an appropriate Federal banking agency, the Fund shall consult with the appropriate Federal banking agency to determine if the information requested is available from or may be obtained by such agency in the form, format, or detail required by the Fund.

(2) Timing of response from appropriate Federal banking agency

If the information, reports, or records requested by the Fund pursuant to paragraph (1) are not provided by the appropriate Federal banking agency in less than 15 calendar days after the date on which the material is requested, the Fund may request the information from or impose the recordkeeping or reporting requirements directly on such institutions with notice to the appropriate Federal banking agency.