

SBA Final Rule: SBLC Moratorium Rescission and Removal of the Requirement for a Loan Authorization

The SBA issued a [final regulation](#) on April 12 that lifts the moratorium on licensing new Small Business Lending Companies (SBLCs) and adds a new type of mission-based institution called a Community Advantage (CA) SBLC. The SBA issued [proposed regulation](#) on November 7, 2022, and received 169 comments. Of note, SBA is changing the name of Mission-Based SBLCs to “Community Advantage SBLCs.” The regulation is effective on May 12, 2023. SBA plans to issue notices in the Federal Register with information on the SBLC license application processes.

SBA’s goal in adding CA SBLC’s is to reach underbanked communities. The regulation will also remove the requirement for a Loan Authorization in the 7(a) and 504 loan programs. In 1982, SBA repealed its authority to approve additional SBLCs as participating lenders. Since then, the number of SBLC licenses has remained 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.

Like regular SBLCs, SBA will license CA SBLCs for the sole purpose of making 7(a) loans. When SBA authorizes an additional CA SBLC license to a CA lender, the CA lender will transition from making 7(a) loans in a temporary pilot program to making 7(a) loans under a permanent license in the 7(a) loan program. Adding CA SBLCs to the possible types of 7(a) lenders will also allow CA lenders an opportunity to apply to participate in the 7(a) loan program as a CA SBLC while continuing to meet the needs of underserved communities.

SBA received many comments that SBA should make the CA Pilot Program permanent. SBA is not making the program permanent and will instead use this regulation to provide a process to allow current CA Lenders to transition into CA SBLCs.

SBA also received comments regarding the possibility of SBLC licenses being awarded to fintech lenders, some of whom were associated with fraud in the Paycheck Protection Program (PPP). SBA maintains that SBLCs are defined as non-depository lending institutions, which is not synonymous with the term fintech. The regulation also states that “SBA has for many years provided oversight to non-depository entities participating in the SBA business loan programs” and “In fact, most all lending institutions incorporate the use of financial technology in their delivery of loans and other financial products.”

The final regulation makes the following revisions to the proposed rule:

120.470 – What are SBA's additional requirements for SBLCs?

SBA is removing the word “only” to clarify that SBLCs, and CA SBLCs may participate in other lines of business in addition to 7(a) lending or making loans to Intermediaries.

SBA received multiple comments regarding the costs that lending entities may encounter when they become CA SBLCs. SBA agrees with these concerns and will revise the requirement for fidelity insurance. The current requirement for fidelity insurance is that an SBLC must maintain a Brokers Blanket Bond or Finance Companies Blanket Bond or such other form of coverage as SBA may approve, in a minimum amount of \$2 million executed by a surety holding a certificate of authority from the Secretary of the Treasury. SBA determined this requirement may be overly burdensome for CA SBLCs and will provide an exception to state that SBA's Administrator, with SBA's Associate Administrator for the Office of Capital Access (AA OCA) or their designees will determine the appropriate coverage levels for CA SBLCs.

120.471 – What are the minimum capital requirements for SBLCs?

SBA received comments that SBA should consider requiring a minimum loan loss reserve requirement for CA SBLCs. SBA agrees with these comments and will require CA SBLCs to maintain a loan loss reserve account as determined by the Administrator, in consultation with the AA OCA or their designees.
