SBA Procedural Notice

TO:	All SBA Employees	**CONTROL NO.:**	5000-1131
SUBJECT:	Transition Period for Initiatives under Sections 501 and 502 of the Recovery Act	**EFFECTIVE:**	11-16-2009

On February 17, 2009, President Obama signed into law the American Recovery and Reinvestment Act of 2009 (the "Recovery Act") (P.L. 111-5). On March 16, 2009, SBA implemented sections 501 and 502 of the Recovery Act, which provide fee relief on 7(a) and 504 loans and an increased guaranty percentage on 7(a) loans. Both initiatives have contributed to a significant resurgence in lending to small businesses by SBA's participating lenders and Certified Development Companies (CDCs).

Based on the activity to date, SBA projects that the Agency will have funds to support these two Recovery Act initiatives through late-November 2009. Therefore, with this Notice SBA is establishing procedures in anticipation of the end of the availability of Recovery Act funds. Once the appropriated Recovery Act funds are exhausted, some funds are projected to become available again as previously approved Recovery Act loans are cancelled.

As described more fully in the Attachment to this notice, as of November 23, 2009 SBA is providing for a transition period where applications for new loans may be submitted either: (1) as Recovery Act loans, which will mean being placed in a queue to await the potential availability of Recovery Act funding or may not be funded at all; or (2) as non-Recovery Act loans, which will be funded as soon as approved, but which will not be eligible for fee relief under section 501 or the increased guaranty under section 502 of the Recovery Act.

Applications submitted as new Recovery Act loans will be processed up to the point of approval and then will be placed into a queue awaiting the availability of Recovery Act funds (the "SBA Recovery Loan Queue"). As Recovery Act funds become available, applications placed into the SBA Recovery Loan Queues will be funded in the order they were approved by SBA, with the exception that requests for increases to previously approved Recovery Act loans will be funded before applications for new Recovery Act loans. At any time while waiting in the SBA Recovery Loan Queue, an applicant may choose to withdraw its application from the queue and re-submit it as a non-Recovery Act loan once the transition period has begun. Applicants will be able to determine where they are in the SBA Recovery Loan Queue by accessing SBA's website. The website address is www.sba.gov/recoveryq.

SBA Field Offices will advise lenders and CDCs of this Notice. Questions concerning this Notice should be directed to the lender relations specialist in the local SBA field office. The local SBA field office may be found at www.sba.gov/localresources.

Eric R. Zarnikow
Associate Administrator for Capital Access

Attachment

SBA Form 1353.2 (12-93) MS Word Edition; previous editions obsolete
Must be accompanied by SBA Form 58

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Attachment

The following changes to submission, approval, and cancellation procedures for Recovery Act loans will begin at 12:01 a.m. Eastern Standard Time (EST) on **November 23, 2009**:

1. New loan applications: All 7(a) and 504 loan applications submitted by lenders and CDCs as of **November 23, 2009** may be submitted in one of two ways:

   a. as a non-Recovery Act loan with the maximum guaranty for 7(a) loans of 75 percent for loans over $150,000 and 85 percent for loans of $150,000 or less, and for 7(a) and 504 loans, with all applicable fees; or

   b. under sections 501 and/or 502 of the Recovery Act, which will be processed up to the point of approval and then placed in a queue awaiting the availability of Recovery Act funds (the "SBA Recovery Loan Queue").

   SBA Recovery Loan Queues – New Loan Applications:

   - There will be two SBA Recovery Loan Queues for new loan applications: one for 7(a) applications (including Dealer Floor Plan applications) and one for 504 applications.
   - Applications submitted to SBA prior to **November 23, 2009**, but not yet approved, will be placed in the SBA Recovery Loan Queues unless the lender or CDC notifies SBA that the applicant wants the application submitted as a non-Recovery Act loan.
   - Applications submitted under delegated and non-delegated processes will be placed in the same SBA Recovery Loan Queue.
   - Applications placed in the SBA Recovery Loan Queues awaiting the availability of funds may result in significant delays or may not be funded at all.
   - At any point while waiting in the SBA Recovery Loan Queues, an applicant may request that its application be withdrawn from the queue and re-submitted as a non-Recovery Act loan with all applicable fees and lower guaranty levels.
   - For 504 loans, SBA will not reimburse the CDC for the CDC Processing Fee unless and until the 504 application in the SBA Recovery Loan Queue is approved for Recovery Act funding.
   - If a loan submitted through E-tran is incorrectly marked as a non-Recovery Act loan and the lender then requests it be re-classified as a Recovery Act loan, once it is cancelled and resubmitted as a new loan it will be placed into the SBA Recovery Loan Queue in the order it was approved by SBA for inclusion in the Recovery Loan Queue, which may result in delays or the failure of the loan to be funded as a Recovery Act loan.
   - **January 15, 2010** will be the last day that new loan applications that have been approved subject to the availability of Recovery Act funding will be placed in the SBA Recovery Loan Queues (except as described below under the heading

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"Difference in procedure for increases to previously approved 7(a) Recovery Act loans with the higher guaranty").

- The appropriate SBA processing center must receive all documentation completed in full no later than 11:00 p.m. EST on **January 8, 2010**.
- Application submissions through E-tran must be completed no later than 11:00 p.m. EST on **January 14, 2010**.
- As of 11:00 p.m. EST on **January 15, 2010**, if a new loan application has not been approved subject to the availability of funds, it will not be placed into the SBA Recovery Loan Queue and lenders and CDCs will need to decide whether or not to re-submit the application as a non-Recovery Act loan with all applicable fees and lower guaranty levels.
- As of 11:00 p.m. EST on **January 15, 2010**, new loan applications will only be processed as non-Recovery Act loans with all applicable fees and lower guaranty levels.
- New loan applications in the SBA Recovery Loan Queues awaiting available Recovery Act funds as of **January 15, 2010** may remain in the SBA Recovery Loan Queues until **February 15, 2010**.
- After 11:00 p.m. EST on **February 15, 2010**, the remaining applications for new loan requests in the SBA Recovery Loan Queues will be withdrawn by SBA, and lenders and CDCs will need to decide whether or not to re-submit these applications as non-Recovery Act loans with all applicable fees and lower guaranty levels.

2. SBA Recovery Loan Queues: Applicants will be able to determine where they are in the SBA Recovery Loan Queue for both new Recovery Loan applications and requests for increases to previously approved Recovery Act loans (see below) by accessing SBA's website. The website address is www.sba.gov/recoveryq.

3. Requests for increases to previously approved Recovery Act loans: As with new applications, beginning on **November 23, 2009**, requests from lenders and CDCs for increases to previously approved Recovery Act loans also will be placed in SBA Recovery Loan Queues awaiting the availability of Recovery Act funds.

   SBA Recovery Loan Queues – Increases:

   - These queues will be separate from the SBA Recovery Loan Queues for new loan applications.
   - **Requests for increases to previously approved Recovery Act loans will be funded before applications for new Recovery Act loans.** A request for an increase has priority over a new Recovery Act loan application because it relates to a Recovery Act loan that has already been approved by SBA to a small business that has determined a need for additional financing to ensure its success. In addition, prioritizing increases to previously approved Recovery Act loans should have a more

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stimulative effect since these loans are closer to being funded or already have been funded.

- As discussed in the next section, only guaranty fee relief will be available after **February 15, 2010**.
- Requests for increases that are in the SBA Recovery Loan Queues may experience significant delays and may never be funded using Recovery Act funds.
- At any point while waiting in the SBA Recovery Loan Queues, a lender may ask that a request for an increase be withdrawn and re-submitted as a new, non-Recovery Act loan.
- The SBA Recovery Loan Queues for increases will remain open for new requests until 11:00 p.m. Eastern Daylight Savings Time (EDST) on **September 17, 2010** in order to provide sufficient time for processing before the end of the fiscal year.
- Requests for increases to previously approved Recovery Act loans must be submitted to the appropriate SBA processing center, depending on the processing method.
- At 11:00 p.m. EDST on **September 30, 2010**, any requests for an increase remaining in the SBA Recovery Loan Queues will be withdrawn by SBA, and lenders and CDCs will need to decide whether or not to re-submit these requests as new, non-Recovery Act loans with all applicable fees and lower guaranty levels.

<u>Difference in procedure for increases to previously approved 7(a) Recovery Act loans with the higher guaranty:</u>

- Section 502 of the Recovery Act, which permits the increased guaranty on 7(a) loans, sunsets one year from the date of enactment (February 17, 2009).
- Requests for increases to previously approved Recovery Act 7(a) loans that received the higher guaranty will only be processed up to 11:00 p.m. EST on **February 15, 2010**.
- After **February 15, 2010**, requests for increases to previously approved Recovery Act 7(a) loans with the higher guaranty may only be considered as follows:
    - The lender can submit a new loan application to the Standard 7(a) Loan Guaranty Processing Center for the amount of the increase. The application will be placed into the SBA Recovery Loan Queue for increases and, if funded, the new loan will receive the lower guaranty of non-Recovery Act loans, but will receive guaranty fee relief under the Recovery Act. (These requests will require a completed application, a separate loan number and a separate closing.)
    - The lender can submit a request to the Standard 7(a) Loan Guaranty Processing Center to reduce the guaranty percentage on the Recovery Act 7(a) loan to the maximum for non-Recovery Act loans and then request an increase in the loan amount. The increase request will be placed into the SBA Recovery Loan Queue and, if funded, will receive guaranty fee relief under the Recovery Act. If the increase is not funded, the higher guaranty percentage cannot be reinstated.

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- The lender can submit a new loan application to the appropriate SBA processing center, depending on the processing method, for a new non-Recovery Act loan for the increase amount and pay the applicable guaranty fee on that amount (not the combined amount of the Recovery Act loan and the new loan). This is the only option that can be processed using delegated authority. These applications will require a completed application and a separate closing.

4. Cancellations of previously approved Recovery Act loans:
   - It is **extremely important** that lenders and CDCs notify SBA of any previously approved Recovery Act loans that they have cancelled as soon as possible and no later than **September 24, 2010**.
   - If a Recovery Act loan is cancelled by mistake by a lender or CDC, there may not be enough Recovery Act funds to reinstate it.
   - After **September 30, 2010**, a Recovery Act loan that is erroneously reported to SBA as cancelled by a lender or CDC **cannot** be reinstated.

5. Lender and CDC Fees to Borrowers: If a new loan application is not able to be funded by SBA as a Recovery Act loan and the lender or CDC chooses to re-submit the loan application as a non-Recovery Act loan, SBA strongly encourages lenders and CDCs not to charge additional fees in connection with the resubmission of the application.

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