

§ 201.61 Market agencies selling or purchasing livestock on commission; relationships with dealers.

(a) *Market agencies selling on commission.* No market agency selling consigned livestock shall enter into any agreement, relationship or association with dealers or other buyers which has a tendency to lessen the loyalty of the market agency to its consignors or impair the quality of the market agency's selling services. No market agency selling livestock on commission shall provide clearing services for any independent dealer who purchases livestock from consignment to such market agency without disclosing, on the account of sale to the consignor, the name of the buyer and the nature of the financial relationship between the buyer and the market agency.

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(Approved by the Office of Management and Budget under control number 0590-0001)

[FR Doc. 95-20350 Filed 8-16-95; 8:45 am]

BILLING CODE 3410-KD-P

FEDERAL HOUSING FINANCE BOARD**12 CFR Part 934**

[95-17]

Procedures for Federal Home Loan Bank Access to Nonpublic Information of Federal Financial Regulatory Agencies

AGENCY: Federal Housing Finance Board.

ACTION: Final rule.

SUMMARY: The Federal Housing Finance Board (Finance Board) is promulgating a final rule on the procedures by which the Federal Home Loan Banks (FHLBanks) request, receive and store sensitive, nonpublic financial data from the Department of the Treasury, the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Office of Thrift Supervision, the Federal Deposit Insurance Corporation and the National Credit Union Administration (federal financial regulatory agencies).

EFFECTIVE DATE: August 17, 1995.

FOR FURTHER INFORMATION CONTACT: David A. Guy, Associate General Counsel, Office of General Counsel, Federal Housing Finance Board, 1777 F Street NW., Washington, D.C. 20006, 202-408-2536.

SUPPLEMENTARY INFORMATION: Pursuant to section 22 of the Federal Home Loan Bank Act (Bank Act), 12 U.S.C. 1442, the FHLBanks periodically request confidential financial data from the

federal financial regulatory agencies regarding FHLBank member institutions. On December 7, 1990, the Finance Board promulgated an interim final rule detailing the procedures by which the FHLBanks request, receive, and maintain this information. See 55 FR 50545 (Dec. 7, 1990). The interim final rule provided for a comment period. The Finance Board received just one comment letter from a savings bank, which objected to giving the FHLBanks access to nonpublic financial information about their members on the ground that such access gives the FHLBanks an unfair advantage over private enterprise competitors. However, Congress has specifically provided for the FHLBanks to have access to this information, see 12 U.S.C. 1442, and the final rule simply sets forth procedures for access and maintaining confidentiality. Further, the Finance Board believes that access to this information is necessary because it allows the FHLBanks to make credit and other decisions in a more safe and sound manner. Accordingly, the Finance Board is adopting the interim final rule as a final rule, without change.

Because this rule initially was published as an interim final rule and not as a proposed rule, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) do not apply. See *id.* § 603(a).

List of Subjects in 12 CFR Part 934

Federal home loan banks, Privacy, Securities, Surety bonds.

PART 934—OPERATIONS OF THE BANKS

Accordingly, the interim rule adding 12 CFR 934.15 which was published at 55 FR 50545 on December 7, 1990, is adopted as a final rule without change.

Dated: August 9, 1995.

By the Federal Housing Finance Board.

Bruce A. Morrison,
Chairman.

[FR Doc. 95-20218 Filed 8-16-95; 8:45 am]

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SMALL BUSINESS ADMINISTRATION**13 CFR Parts 120 and 122****Business Loan Policy and Business Loans; Facsimiles of SBA Forms**

AGENCY: Small Business Administration (SBA).

ACTION: Final rule.

SUMMARY: This final rule authorizes SBA participating lenders to use computer

generated facsimile exact copies of SBA application and closing forms in making SBA guaranteed loans. SBA lenders, under this final rule, agree to accept liability for a substantial SBA loss attributable to deficiencies in such forms. Under the final rule, SBA could deny liability to a lender which fails to use SBA provided forms or computerized facsimile exact copies of the SBA forms if this failure would contribute to a substantial loss by the SBA on the guaranteed loan.

EFFECTIVE DATE: This rule is effective August 17, 1995.

FOR FURTHER INFORMATION CONTACT: John R. Cox, 202/205-6490.

SUPPLEMENTARY INFORMATION: On March 3, 1995, SBA published in the **Federal Register** (42 FR 11941) a proposed rule which would authorize SBA participating lenders to use computerized exact replicas of SBA application and closing forms in making SBA guaranteed loans under section 7(a) of the Small Business Act (15 U.S.C. 636(a)). There were 46 public comments received in response to the publication and all favored the proposal. SBA will discuss the comments made in detail herein.

For many years, the SBA has required that its participating lenders use SBA provided application and closing forms in the SBA guaranteed business loan program. With advances in technology, SBA recognizes that these forms may be reproduced as mirror image facsimiles by computer and that permitting such reproductions to be used by participating lenders may be in the best interest of the SBA guaranteed loan program. Therefore, SBA proposed to permit SBA participating lenders to use computer generated facsimile exact copies of SBA application and closing forms in making SBA guaranteed loans. In this context, several commenters suggested that the SBA clarify what is meant by the term "exact computerized facsimile copies", as used in the proposed regulation. The Agency does not intend by this language that the type, font, line and spacing be exactly duplicated in an exact computer generated facsimile since variations in those aspects of a form do not affect the substantive nature of the documentation. The Agency is concerned with exact duplication of the language in the forms. In that regard, the regulation intends that the language represented on a permissible computer generated facsimile be exactly the same as that in the SBA form it is intended to portray. In order to avoid confusion as to which edition of a form is being reproduced, under the rule,

computerized copies must show the SBA form number, the Office of Management and Budget (OMB) number, and expiration date.

Several commenters suggested the possibility that SBA certify or otherwise qualify the preparers of computer generated facsimile forms or software which would be used to prepare such forms. SBA has no plans to furnish participating lenders with approved third party vendors which provide forms or software used to generate forms which are acceptable under the regulation. The Agency is in no position to evaluate, analyze and qualify vendors. Neither does SBA plan to provide such third party vendors with CD-Roms, diskettes or preprinted forms. Any participating lender or third party vendor interested in the implications of this regulation may obtain SBA preprinted forms from SBA's district offices which are located in every state.

One of the commenters suggested that if the Agency reviews a loan package prior to issuing its guaranty, a lender should not be held liable for a subsequent loss directly attributable to an error or omission in the computer generated forms it used to make or close the loan. It has been the Agency position for many years that it may deny liability to a lender for failure to prudently make or close an SBA guaranteed loan. Such a failure includes the utilization of incomplete or inaccurate documentation supporting the making and closing of the loan, regardless of SBA's review of a loan package.

In this regard, SBA's guaranty to a participating lender with respect to an SBA guaranteed business loan is conditionally based upon the lender's actions in prudently making and closing loans consistent with SBA's regulatory requirements. Accordingly, SBA's rules release the Agency from its obligation to a lender to purchase the guaranteed portion of a business loan under conditions prescribed in those regulations. Such conditions will now include compliance with this final regulation. SBA is confident that this approach is legally supportable based on its past experience, and it will administer the implementation of this regulation in a fashion consistent with that experience.

Therefore, SBA is amending section 120.202-5 of its regulations so that it is released from an obligation to a participating lender to purchase the guaranteed portion of a loan if the lender fails to utilize SBA provided forms or computerized exact facsimile copies thereof, and this failure contributes or may contribute to a

substantial loss on the loan guaranty by the SBA. This means that if the computer generated forms used by a lender are not exact facsimile copies of SBA's forms, and such lack of conformity contributes or may contribute to a substantial loss by SBA on its guaranty of the loan, SBA could refuse to honor its guaranty.

In this regard, a commenter suggested that the SBA define what is meant by "substantial" loss as used in the regulation. It is the Agency's position that the term is not susceptible to precise definition. It is a standard which has evolved out of decided decisions on a case by case basis. Note that section 120.202-5 of the SBA regulations also requires that the participating lender "substantially" comply with all the provisions of the regulations, guaranty agreement, and the loan authorization, with no specificity possible in that case either.

Finally, under this final rule, lenders participating in the SBA guaranteed business loan program are authorized to use SBA application and closing forms which are computer generated by the lenders themselves or generated from software prepared by third parties with whom they have contracted. Because SBA in the past has withheld permission to computerize some identified SBA forms, new section 122.5-6 of the regulations specifically lists the forms which may be computer generated, although the rule is intended to permit computer generation of exact facsimiles of all SBA application and closing forms used in the guaranteed loan program.

In light of the foregoing, SBA is promulgating this final rule as proposed.

Compliance With Executive Orders 12612, 12778 and 12866, the Regulatory Flexibility Act, 5 U.S.C. 601, et seq. and the Paperwork Reduction Act, 44 U.S.C. Ch. 35.

For purposes of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, SBA certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

The SBA certifies that this final rule will not constitute a significant regulatory action for the purposes of Executive Order 12866, since the change is not likely to result in an annual effect on the economy of \$100 million or more.

The SBA certifies that this final rule would not impose additional reporting or recordkeeping requirements which would be subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

The SBA certifies that this final rule would not have federalism implications warranting the preparation of a Federalism Assessment in accordance with Executive Order 12612.

Further, for purposes of Executive Order 12778, SBA certifies that this final rule is drafted, to the extent practicable, in accordance with the standards set forth in section 2 of that Order.

(Catalog of Federal Domestic Assistance Programs, No. 59.012)

List of Subjects

13 CFR Part 120

Loan programs—business, Small businesses.

13 CFR Part 122

Loan programs—business, Small businesses.

Accordingly, pursuant to the authority contained in section 5(b)(6) of the Small Business Act (15 U.S.C. 634(b)(6)), SBA hereby amends parts 120 and 122, chapter I, title 13, Code of Federal Regulations, as follows:

PART 120—BUSINESS LOAN POLICY

1. The authority citation for Part 120 continues to read as follows:

Authority: 15 U.S.C. 634(b)(6) and 636(a) and (h).

2. The introductory text of § 120.202-5 is revised to read as follows:

§ 120.202-5 When SBA does not purchase.

SBA shall be released from its obligation to purchase its share of the guaranteed loan if the Lender has not substantially complied with all of the provisions of these regulations, the Guaranty Agreement and the Loan Authorization; has failed to disclose material facts; has made material misrepresentations to SBA with respect to the loan; or has failed to utilize SBA provided forms or exact computerized facsimile copies thereof; provided that any of these failures contributes or may contribute to a substantial loss on the loan by SBA; or upon the happening of any one or more the following events:

* * * * *

PART 122—BUSINESS LOANS

1. The authority citation for part 122 continues to read as follows:

Authority: 15 U.S.C. 634(b)(6), 636(a), 636(m).

2. Section 122.5-6 is added to read as follows:

§ 122.5-6 Facsimile Copies of SBA Application Forms.

For guaranteed loans, a Participating Lender may use computer generated SBA application or closing forms which are exact facsimile reproductions of SBA's forms. Lenders which use computer generated application or closing forms agree to accept liability for a substantial SBA loss due to deficiencies in the use of these forms. (See § 120.202-5 of this chapter). All SBA business loan forms, including the following, may be computer generated: 147 (Note), 148 (Guaranty), 155 (Standby Agreement), 601 (Applicant's Agreement of Compliance), 928 (Mortgage), 1050 (Settlement Sheet), 1059 (Security Agreement).

Dated: June 29, 1995.

Philip Lader,
Administrator.

[FR Doc. 95-20434 Filed 8-16-95; 8:45 am]

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13 CFR Part 122

Business Loans—Microloans

AGENCY: Small Business Administration (SBA).

ACTION: Final rule.

SUMMARY: Section 7(m) of the Small Business Act (15 U.S.C. 636(m)) (Act) authorizes the SBA to operate a microloan demonstration program (Program) under which the SBA lends funds to qualified intermediaries which re-lend amounts of \$25,000 or less to eligible small business concerns. Under this final rule, an intermediary would be allowed to operate across state lines with the written approval of the SBA Associate Administrator for Financial Assistance if that person makes a determination that it is in the best interest of the small business community to allow such intermediary to operate in more than one state.

EFFECTIVE DATE: This rule is effective August 17, 1995.

FOR FURTHER INFORMATION CONTACT: John R. Cox, 202/205-6490.

SUPPLEMENTARY INFORMATION: Section 7(m) of the Act authorizes the SBA to operate the Program in which the SBA lends funds to authorized intermediaries which re-lend amounts up through \$25,000 to eligible small business concerns.

Section 122.61-11(a) of SBA's regulations (13 CFR 122.61-11(a)) provides that "* * * no intermediary may undertake Program activities in more than one State". Since section 7(m) of the Act does not prohibit a

microloan intermediary from conducting its operations in more than one state, SBA believes that the regulation is too broad. Circumstances may occur when it would be in the best interest of a small business community to authorize a microloan intermediary to operate across state lines. On May 5, 1995, SBA published in the **Federal Register** (60 FR 22311) a proposed rule to allow the SBA Associate Administrator for Financial Assistance to make a determination in that regard. No comments were received so the final rule is being published as proposed.

Compliance With Executive Orders 12612, 12778 and 12866, the Regulatory Flexibility Act, 5 U.S.C. 601, et seq. and the Paperwork Reduction Act, 44 U.S.C. Ch. 35

For purposes of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, SBA certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

SBA certifies that this final rule will not constitute a significant regulatory action for the purposes of Executive Order 12866, since the change is not likely to result in an annual effect on the economy of \$100 million or more, nor will this final rule impose additional reporting or recordkeeping requirements which would be subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

SBA certifies that this final rule would not have federalism implications warranting the preparation of a Federalism Assessment in accordance with Executive Order 12612.

For purposes of Executive Order 12778, SBA certifies that this final rule is drafted, to the extent practicable, in accordance with the standards set forth in section 2 of that Order.

(Catalog of Federal Domestic Assistance Programs, No. 59.012)

List of Subjects in 13 CFR Part 122

Loan programs—business, Small businesses.

Accordingly, pursuant to the authority contained in section 5(b)(6) of the Small Business Act (15 U.S.C. 634(b)(6)), SBA amends part 122, chapter I, title 13, Code of Federal Regulations, as follows:

PART 122—BUSINESS LOANS

1. The authority citation for part 122 continues to read as follows:

Authority: 15 U.S.C. 634(b)(6), 636(a), 636(m).

2. Section 122.61-11(a) is amended by revising the last sentence to read as follows:

§ 122.61-11 Program procedure.

(a) *Participation of intermediary by State.* * * * Further, no intermediary may undertake Program activities in more than one State unless the SBA Associate Administrator for Financial Assistance determines in writing that it would be in the best interest of the small business community to operate across State lines.

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Dated: July 31, 1995.

Philip Lader,
Administrator.

[FR Doc. 95-20433 Filed 8-16-95; 8:45 am]

BILLING CODE 8025-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 28299; Amdt. No. 1680]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from: