

- **Size**—The unit must fit within the space allocated in the hull and ice wedge;
- **Power**—Minimum 686-kW rated (920 hp);
- **Capability**—360-degree thrust (azimuthing steering control);
- **Certification for use in ice**—No hull protrusion(s), tunnel with propeller, or any feature that subjects the thruster to ice damage along the hull form, per American Bureau of Shipping Rules for Building and Classing Vessels, Polar Class PC-5.

Failure to meet any of these four technical requirements would have severe negative consequences for the capabilities of the vessel. It is not feasible to modify the shape of the hull forward to accommodate a thruster of a different configuration, since the hull shape has been optimized for ice breaking through extensive testing over the past four years. Any changes at this point would significantly affect vessel capabilities. Reduction of the minimum power, or elimination of the 360-degree thrust requirement, would also result in a vessel that could not successfully support open water science equipment deployments in the Arctic. Vessels working in the Arctic are subject to demanding and often dangerous conditions due to low temperatures, high winds, and rough seas as well as ice. Accepting a design that is susceptible to ice damage could render the bow thruster inoperable under these severe conditions, thereby jeopardizing the safety of the vessel and personnel aboard. Such compromises also produce a ship that would not be allowed to operate independently in the Arctic under emerging international agreements which require minimum standards for equipment survivability for vessels operating in polar waters (Arctic and Antarctic). Independent operation is critical to cost-effective science support. Requiring the ARRV to be escorted by another, more ice-capable vessel could add over \$6M in outside charter cost for NSF and the other funding agencies for every 100 days in the ice. Frequent damage as a result of using a non-compliant design would add significant annual program cost for maintenance and repair (in excess of \$100K per incident depending on the extent of damage) once the vessel goes into operation. This financial loss is in addition to the lost science opportunities caused by delay in sailing.

As noted in UAF's request for this waiver, UAF performed market research in April and early May of 2009 that initially found that bow thrusters are generally available in manufacturers' commercial product lines. UAF then

conducted additional market research by reviewing industry publications and the Internet, and by attending an industry suppliers' conference, in order to assess whether there exists a domestic capability to provide a bow thruster that meets the necessary requirements for safe and successful operation in Arctic waters.

After identifying 15 potential domestic suppliers, UAF compared the existing product lines for compliance with the bow thruster technical specifications and requirements as identified above.

Beginning with an assessment of power requirements, the bow thrusters offered by 12 domestic firms either did not meet the 686-kW rated minimum or the companies simply served as distributors of others' product lines. Two of the remaining three domestic suppliers did not provide bow thrusters that meet the required ice certification standards, because their products rely upon tunnels with propellers or units that extended from the hull; these features make this type of bow thruster susceptible to ice damage which, as explained above, could render them inoperable under the severe conditions inherent in Arctic operations. The final, most capable domestic manufacturer of bow thrusters did comply with the stated size, power and (potentially) capability requirements. However, this bow thruster relies upon controllable vanes that are fitted to the thruster discharge nozzles to achieve the 360-degree thrust capability. The controllable vanes make the bow thrusters susceptible to ice damage which, as explained above, could render them inoperable under the severe conditions inherent in Arctic operations.

In the absence of a domestic supplier that could provide a requirements-compliant bow thruster, UAF requested that NSF issue a Section 1605 waiver determination with respect to the purchase of foreign-supplied, requirements-compliant bow thruster, so that the vessel will contain a bow thruster that meets the specific design and technical requirements which, as explained above, are necessary for this vessel to be able to perform its Arctic mission safely and successfully. Furthermore, UAF's market research indicated that bow thrusters compliant with the ARRV's technical specifications and requirements are commercially available from foreign vendors within their standard product lines.

NSF's Division of Acquisition and Cooperative Support (DACCS) and other NSF program staff reviewed the UAF

waiver request submittal, found that it was complete, and determined that sufficient technical information was provided in order for NSF to evaluate the waiver request and to conclude that a waiver is needed and should be granted.

### III. Waiver

On January 28, 2010, based on the finding that no domestically produced bow thruster met all of the ARRV's technical specifications and requirements and pursuant to section 1605(b), the Director of the National Science Foundation granted a limited project waiver of the Recovery Act's Buy American requirements with respect to the procurement of a 360-degree azimuthing, 686-kW, ice classed bow thruster.

Dated: February 24, 2010.

**Lawrence Rudolph,**  
General Counsel.

[FR Doc. 2010-4170 Filed 2-26-10; 8:45 am]

BILLING CODE 7555-01-P

## SMALL BUSINESS ADMINISTRATION

### SBA Lender Risk Rating System

**AGENCY:** Small Business Administration.

**ACTION:** Notice of revised Risk Rating System; request for comments.

**SUMMARY:** This notice implements changes to the Small Business Administration's (SBA's) Risk Rating System (Risk Rating System). The Risk Rating System is an internal tool to assist SBA in assessing the risk of each active 7(a) Lender's and Certified Development Company's (CDC's) SBA loan operations and loan portfolio. Consistent with industry best practices, SBA recently redeveloped the model used to calculate the composite risk ratings to ensure that the Risk Rating System remains current and predictive as technologies and available data evolve. SBA is publishing this notice with a request for comments to provide the public with an opportunity to comment and to allow for any necessary adjustments as the industry moves through the economic cycle.

**DATES:** This notice is effective March 1, 2010.

**Comment Date:** Comments must be received on or before April 30, 2010.

**ADDRESSES:** You may submit comments, identified by RIN number [INSERT RIN NUMBER], by any of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Mail:* Bryan Hooper, Director for Office of Credit Risk Management, U.S. Small Business Administration, 409 3rd Street, SW., 8th floor, Washington, DC 20416.

- *Hand Delivery/Courier:* Bryan Hooper, Director for Office of Credit Risk Management, U.S. Small Business Administration, 409 3rd Street, SW., 8th Floor, Washington, DC 20416.

All comments will be posted on <http://www.Regulations.gov>. If you wish to include within your comment, confidential business information (CBI) as defined in the Privacy and Use Notice/User Notice at <http://www.Regulations.gov> and you do not want that information disclosed, you must submit the comment by either Mail or Hand Delivery and you must address the comment to the attention of Bryan Hooper, Director for Office of Credit Risk Management, Office of Credit Risk Management. In the submission, you must highlight the information that you consider is CBI and explain why you believe this information should be held confidential. SBA will make a final determination, in its discretion, of whether the information is CBI and, therefore, will be published or not.

**FOR FURTHER INFORMATION CONTACT:** Bryan Hooper, Director, Office of Credit Risk Management, U.S. Small Business Administration, 409 Third Street, SW., 8th Floor Washington, DC 20416, (202) 205-3049.

#### SUPPLEMENTARY INFORMATION:

##### I. Background Information

###### A. Introduction to the Risk Rating System

In 2005, the Small Business Administration (SBA) developed an SBA internal Lender Risk Rating System (Risk Rating System). The Risk Rating System is an internal tool that primarily uses data in SBA's Loan and Lender Monitoring System (L/LMS) to assist SBA in assessing the risk of an SBA Lender's SBA loan performance on a uniform basis and identifying those SBA Lenders whose portfolio performance, or other Lender-specific risk-related factors, may demonstrate the need for additional SBA monitoring or other action. The Risk Rating System also serves as a vehicle to measure the aggregate strength of SBA's overall 7(a) and 504 loan portfolios and to assist SBA in managing the related risk. In addition, SBA uses risk ratings and the underlying components to make more effective use of its on-site and off-site Lender review and assessment resources.

Under SBA's Risk Rating System, SBA assigns all SBA Lenders a composite risk rating of 1 to 5, based on empirical data. The rating reflects SBA's assessment of the potential risk to the government of that SBA Lender's SBA portfolio performance. The composite rating is calculated using several component factors. The component factors were developed using step-wise regression analysis to determine the components that provided a linear regression formula that was most predictive of actual purchases over a one year period.

On May 1, 2006, SBA published a notice and request for comment in the **Federal Register** seeking comments on the proposed Risk Rating System (72 FR 25624). A final notice was published in the **Federal Register** on May 16, 2007 (72 FR 27611).

###### B. Redevelopment

Typically, under industry best practices, custom credit scoring models are redeveloped approximately every three to five years to reflect changing conditions, portfolio shifts, and to incorporate additional data that may have become available. This redevelopment is consistent with such practices and is necessary to ensure that SBA's risk ratings provide an accurate assessment of Lenders' SBA portfolio performance. SBA's portfolio has changed substantially over the past five years; the portfolio has grown dramatically, and the composition of loan products (delivery methods) has greatly shifted. In addition, over the past five years the economy, and in particular the small business lending environment, has changed. Given these circumstances and that SBA now has five years' experience with this modeling and the type of SBA data available, SBA determined to test for additional or different components to increase the model's predictiveness.

SBA reviewed 86 possible variables; of which 26 were tested in detail. These variable factors were derived from SBA's experience working with the model over the past five years and feedback from Lenders, including comments received in response to the Proposed Risk Rating System Notice. 71 FR 25624 (May 1, 2006). The factors were run through the model in various combinations and the most predictive combinations of factors were chosen for each loan program (7(a) and 504). In so doing, SBA selected additional components that proved to enhance the predictive value of the model over the earlier model factors.

##### II. The Redeveloped Risk Rating Model

The redeveloped model used to calculate the composite risk ratings is an updated version of the previous model. It remains a custom credit score model, at the Lender-level, based on the same outcome as the previous system—the likelihood of a Lender's purchases over the next 12 months. It models the relative risk levels of Lenders. The model continues to use loan-level SBA performance data (as provided by the Lenders and SBA centers), and it continues to use external risk assessment data in the form of off-the-shelf Small Business Predictive Score (SBPS) credit scores, derived from third party business and consumer credit bureau data.

The SBA will continue to report the risk ratings by SBA peer groups based on SBA loan portfolio size, as determined by outstanding SBA guaranteed dollars. Peer group sizes will remain the same as under the former Lender Risk Rating Notice, and they will continue to reflect SBA's relative level of risk from Lenders in each peer group. The existing peer groups will continue to significantly reduce the possibility of the same event (for example, a loan purchase) having a different impact on Lenders in the same peer group. Splitting SBA Lenders into peer groups based on portfolio size also helps SBA to better monitor those SBA Lenders in the largest peer groups that represent the overwhelming majority of guaranteed dollars at risk, and allows SBA to make the best use of its oversight resources. The most notable changes that will result from the redevelopment are:

1. Updated components in the linear regression formulas for both 7(a) Lenders and CDCs in the 504 program, chosen in conjunction with a full step-wise regression analysis.

2. Modeling of the overall portfolios, with the age and/or size of a Lender's portfolio represented by a component (consisting of three segments for 7(a) Lenders). These segments replace the need for a separate linear regression model for each Peer Group in 7(a).

3. Both components and weightings of the components are the same across the 7(a) portfolio. The components and weightings of the rating formula are also the same across all CDCs.

The rating components in the new risk rating model include:

1. Several previously used rating components;
2. Additional performance-related components;
3. Components to account for differences in performance between delivery methods;

4. Assessment of the age of a loan portfolio;
5. Other measures of loan credit quality;
6. Measures of net flow (dollars in and dollars out); and
7. An additional commercial off the shelf risk score.

SBA had received a number of comments when it initially proposed the Risk Rating System in May 2006 regarding the need to include losses and recoveries in the risk rating models. Due to the substantial time lag for losses to occur, adding a loss factor did not directly improve the predictive power of the Lender risk ratings. However, a similar factor, net flow, did add to the predictive values of the risk rating model for 7(a) Lenders and was therefore included as a new 7(a) rating component. Net flow incorporates a measure of losses and recoveries, as it is calculated by summing all fees and recoveries coming in, less purchases going out.

These new components provide SBA and its Lenders with a more diverse set of factors that add predictive value to the risk ratings calculated by the risk rating model. A description of all of the rating components used in the redeveloped risk rating model may be found in the overview section below.

### III. Other Changes to the Risk Rating System

In addition to employing new rating components, the redeveloped risk rating model also relies on a newer version of the SBPS scoring tool. As of June 30, 2009, SBA switched from SBPS version 5 to an improved SBPS version 6 recently produced by Dun & Bradstreet (D&B) and FICO. Version 6 has been validated numerous times for more than a year by D&B/FICO and an SBA subcontractor, TrueNorth, and it has been found to be predictive on both the 7(a) and 504 loan portfolios. In addition, since the commercial release of SBPS version 6 in December 2006, the SBPS has also been validated on multiple independent account portfolios of industry leading financial institutions.

This notice provides program participants and other parties with an explanation of the components and a description of other modeling enhancements. In addition, SBA is soliciting comments on the components and enhancements. These changes have been made to the model and included in the risk rating update for the quarter ending September 30, 2009, and will be made available to Lenders through SBA's Lender Portal upon publication of this notice.

### IV. Text of the SBA Lender Risk Rating System

#### A. Overview

Under SBA's Risk Rating System, SBA assigns all SBA Lenders a composite risk rating. The composite rating reflects SBA's assessment of the potential risk to the government of that SBA Lender's SBA portfolio performance.

For 7(a) Lenders, SBA will base the composite rating on eleven components. The components for 7(a) Lenders are as follows:

1. Past 12 Months Actual Purchase Rate;
2. Six (6) Month Liquidation Rate;
3. Gross Delinquency Rate;
4. Gross Past-Due Rate;
5. Six (6) Month Net Flow Indicator;
6. Average Small Business Predictive Scores (SBPS);
7. Projected Purchase Rate (PPR);
8. Dollar Weighted Average Financial Stress Score (FSS);
9. PLP Percent;
10. SBA Express Percent; and
11. Portfolio Size/Age.

The statistical analysis performed showed that incorporating the Portfolio Size/Age component improved the predictive power of the 7(a) Lender risk rating. This component is further broken down into three segments:

- (1) Lenders with 7(a) portfolios equal to or less than \$4 million SBA guaranteed outstanding;
- (2) Lenders with 7(a) portfolios over \$4 million SBA guaranteed outstanding, and whose average loan age is over 30 months; and
- (3) Lenders with 7(a) portfolios over \$4 million SBA guaranteed outstanding, and whose average loan age is equal to or under 30 months.

For CDCs, SBA will base the Lender rating on six common components. The components for CDCs follow:

1. Past 12 Months Actual Purchase Rate;
2. Six (6) Month Delinquency Rate;
3. Gross Delinquency Rate;
4. Gross Past-Due Rate;
5. Average Small Business Predictive Score (SBPS); and
6. Low Month on Book Indicator.

In general, these 7(a) and CDC components reflect both historical SBA Lender performance and projected future performance. The components were selected through statistical analysis using step-wise regression analysis. The selected components were then used in an overall regression model to create the Lender risk rating. No single component normally decides an SBA Lender's risk rating. SBA updates the Lender risk ratings on a quarterly basis, using refreshed Lender data. Each

of the risk rating factors is described in more detail in the Rating Components section below.

SBA generally does not intend to use the risk ratings as the sole basis for taking enforcement actions against SBA Lenders. The primary purpose is to focus SBA's oversight resources on those SBA Lenders whose portfolio performance or other Lender-specific risk-related factors demonstrate a need for further review and evaluation by SBA.

All SBA Lenders have on-line access to their Lender risk rating and rating component values along with peer group and portfolio component averages through SBA's Lender Portal. Information on the Lender Portal can be found at 72 FR 27611, 27619 (May 16, 2007).

#### B. Lender Risk Rating

The SBA Lender risk rating (LRR) is a measure of predicted performance over the next 12 months. SBA uses its risk rating model to calculate and assign a composite rating of 1 to 5 to each SBA Lender. SBA may make adjustments to the composite rating based on results of reviews, third party information on a SBA Lender's operations, portfolio trends and other information that could impact a SBA Lender's risk profile. (See Overriding Factors section for further detail.) In general, a rating of 1 indicates strong portfolio performance, least risk, and that the least degree of SBA oversight is likely needed (relative to other SBA Lenders), while a 5 rating indicates weak portfolio performance, highest risk, and that the highest degree of SBA oversight is likely needed. SBA provides the following general descriptions for the Lender risk ratings:

**LRR 1**—The SBA operations of an SBA Lender rated 1 are generally considered strong in every respect, typically score well above average in all or nearly all of the rating components described in this Notice, are more likely to have well below average historical purchase rate, and have loans that demonstrate highly acceptable credit quality and/or credit trends as measured by credit scores and portfolio performance.

**LRR 2**—The SBA operations of an SBA Lender rated 2 are generally considered good, typically are above average in all or nearly all of the rating components described in this Notice, are more likely to have below average previous (12 months) purchase rates, and have loans that demonstrate better-than-acceptable credit quality and/or credit trends as measured by credit scores and portfolio performance.

LRR 3—The SBA operations of an SBA Lender rated 3 are generally considered about average in all or nearly all of the rating components described in this Notice, are likely to have average previous (12 months) purchase rates, and have loans that demonstrate acceptable credit quality and/or credit trends as measured by credit scores and portfolio performance.

LRR 4—The SBA operations of an SBA Lender rated 4 are generally considered below average in all or nearly all of the rating components described in this Notice, are likely to have below average component factors and above average previous (12 months) purchase rates, and have loans that demonstrate somewhat less-than-acceptable credit quality and/or credit trends as measured by credit scores and portfolio performance.

LRR 5—The SBA operations of an SBA Lender rated 5 are generally considered well below average in all or nearly all of the rating components described in this Notice, are most likely to have well above average previous (12 months) purchase rates, and have loans that demonstrate less-than-acceptable credit quality and/or credit trends as measured by credit scores and portfolio performance.

The descriptions for each rating value are not meant as definitions of the ratings and do not limit or dictate SBA's dealings with any SBA Lender.

### C. Rating Components

#### 1. 7(a) Lenders

SBA's quantitative composite risk ratings for 7(a) Lenders rely on eleven components, selected because of their power to predict loan purchases over the next 12 months. For the 7(a) program, the eleventh component is broken down into three different segments based on age and size of a 7(a) Lender's portfolio. Each of the eleven rating components is defined below.

(i) *Past 12-Months Actual Purchase Rate*. The Past 12-Month Actual Purchase Rate is a historical measure of SBA loan guarantee purchases from the 7(a) Lender in the 12 months preceding the rating date. Thus, this component provides a measure of 7(a) Lender performance and risk reflective of actual SBA guarantee purchases. SBA calculates this rate by dividing the sum of total gross dollars of the 7(a) Lender's loans purchased during the past 12 months (numerator), by the sum of total gross dollars of the 7(a) Lender's SBA loans outstanding at the end of the 12-month period. Gross dollars purchased in the last 12 months are added to the

denominator, as they are not included in the outstanding figure.

(ii) *6 Month Liquidation Rate*. The Six (6) Month Liquidation Rate is the liquidation rate (loans in liquidation but not yet purchased by SBA) calculated over the past six (6) months. This component provides a measure of 7(a) Lender performance and risk as indicated by dollars in liquidation over the past six (6) months, as placed in that status by SBA at the request of the Lender. SBA calculates this ratio by dividing the sum of the total gross dollars of the 7(a) Lender's SBA loans in liquidation status in each of the six (6) months prior to the rating date (numerator), by the sum of total gross dollars of the 7(a) Lender's SBA loans outstanding in each of the six (6) months prior to the rating date (denominator).

(iii) *Gross Delinquency Rate*. The Gross Delinquency Rate is the delinquency rate (loans 60 days past due or more, but not in liquidation) as of the rating date. This component provides a measure of 7(a) Lender performance and risk as indicated by SBA loan dollars in delinquency status as reported by the Lender. SBA calculates this ratio by dividing the sum of the total gross dollars of the 7(a) Lender's SBA loans in delinquency status as of the rating date (numerator), by the sum of total gross dollars of the 7(a) Lender's SBA loans outstanding as of the rating date (denominator).

(iv) *Gross Past-Due Rate*. The Gross Past-Due Rate is the past-due rate (30 to 59 days past-due) as of the rating date. This component provides a measure of 7(a) Lender performance and risk as indicated by SBA loan dollars in past-due status as reported by the Lender. SBA calculates this rate by dividing the sum of the total gross dollars of the 7(a) Lender's SBA loans in past-due status as of this date (numerator), by the sum of the total gross dollars of the 7(a) Lender's SBA loans outstanding as of this date (denominator).

(v) *6 Month Net Flow Indicator*. The Six (6) Month Net Flow Indicator measures net flows, or dollars-in and dollars-out, over the last six (6) months preceding the rating date. Dollars-in includes guarantee fee payments and recoveries by SBA from a 7(a) Lender; dollars-out reflects guarantee purchases made by SBA. The net flow indicator is calculated by summing up all guarantee fees and recoveries submitted by the 7(a) Lender to SBA over the six (6) months prior to the rating date. From the six (6) month total, all of the purchases paid out by SBA to the 7(a) Lender over the same six (6) months are subtracted. If the net flow of dollars is

positive, the component value is a 1; if the net flow of dollars is negative, the component value is 0.

(vi) *Average Small Business Predictive Score (SBPS)*. The SBPS is a portfolio management (not origination) credit score based upon a borrower's business credit report and principal's consumer credit report. SBPS is a proprietary calculation provided by Dun & Bradstreet, under contract with SBA, and is compatible with FICO's "Liquid Credit" origination score. This component provides an indication of the relative credit quality of the loans in a 7(a) Lender's SBA portfolio. The score is calculated from the average SBPS score of the loans in a 7(a) Lender's portfolio, weighted by each loan's guaranteed dollars outstanding.

(vii) *Projected Purchase Rate (PPR)*. The PPR is a predictive measure of the relative future riskiness of the 7(a) Lender's SBA loans over the next 12-months, calculated as of the rating date. This is a credit quality, leading indicator, predictive factor. The PPR is derived from the annual and quarterly statistical validations of SBPS credit scores on the entire SBA 7(a) portfolio. As part of this validation process, Dun & Bradstreet and FICO compare the SBPS credit scores, by delivery method, of all outstanding 7(a) loans at the beginning of the validation period to the actual purchases observed over the next 12-months. From this comparison, a projected purchase rate is developed for each 7(a) loan based on the loan's delivery method and current SBPS credit score. A 7(a) Lender's PPR is then determined by calculating the dollar-weighted average PPR of the 7(a) loans in the Lender's portfolio. SBA calculates this rate by dividing the sum of the PPRs for each loan (multiplied by the guaranteed dollars outstanding for each loan) by the total guaranteed dollars outstanding for all the Lender's loans.

(viii) *Dollar Weighted Average Financial Stress Score (FSS)*. The FSS predicts the likelihood that a small business borrower will experience one or more of the following conditions over the next 12 months, based on the information in D&B's files: obtaining legal relief from creditors; ceasing business operations without paying all creditors in full; voluntarily withdrawing from business operation, leaving unpaid obligations; going into receivership or reorganization; or making an arrangement for the benefit of creditors. FSS uses statistical probabilities to classify businesses into a score range, where the lowest score has the highest likelihood of business failure. The score includes D&B data related to payment trends, business

financial statements, industry position, business size and age, and public filings.

(ix) *PLP Percent*. The PLP Percent is the percent of the 7(a) Lender's PLP loan dollars outstanding (disbursed but not purchased or paid-in-full), compared to the 7(a) Lender's total outstanding SBA portfolio as of the rating date. This variable is reflective of the fact that there is a strong correlation among various SBA delivery methods and loan risk, with PLP loans generally providing the least risk. This component is calculated by taking the sum of the 7(a) Lender's total PLP loan gross dollars outstanding (numerator), and dividing it by the sum of the total gross dollars outstanding for the 7(a) Lender (denominator).

(x) *SBA Express Percent*. The SBA Express Percent is the percent of the 7(a) Lender's SBA Express loan dollars outstanding (disbursed but not purchased or paid-in-full), compared to the 7(a) Lender's total outstanding SBA portfolio as of the rating date. This variable is reflective of the fact that there is a strong correlation among various SBA delivery methods and loan risk, with SBA Express loans being among those delivery methods with generally greater risk. This component is calculated by taking the sum of the 7(a) Lender's total SBA Express loan gross dollars outstanding (numerator), and dividing it by the sum of the total gross dollars outstanding for the 7(a) Lender (denominator).

(xi) *Portfolio Size/Age Segment Component*. During the redevelopment process, it was found that 7(a) Lender performance differed depending on the size and age of the Lender's SBA portfolio. To account for these differences, 7(a) Lenders were analyzed and divided into three different segments based on the differences seen in the performance outcome variable. The first segment of 7(a) Lenders consists of Lenders with SBA portfolios less than or equal to \$4 million in outstanding SBA guarantees regardless of portfolio age. This segment generally presents the least portfolio risk. The second segment of 7(a) Lenders consists of Lenders with an outstanding SBA guaranteed portfolio of more than \$4 million and an average loan age ("month on book") of greater than 30 months. The third segment of 7(a) Lenders consists of Lenders with an outstanding SBA guaranteed portfolio of more than \$4 million and an average loan age ("month on book") of less than or equal to 30 months. This segment generally presents the greatest portfolio risk. Factor weight is dependent on which segment is applicable.

## 2. Certified Development Companies (CDCs)

SBA's quantitative composite risk ratings for CDCs rely on six components, selected because of their power to predict loan purchases over the next 12 months. Each of the six rating components is defined below.

(i) *Past 12-Months Actual Purchase Rate*. The Past 12 Months Actual Purchase Rate is a historical measure of SBA loan guarantee purchases from the CDC in the 12 months preceding the rating date. Thus, this component provides a measure of the CDC's performance and risk reflective of actual SBA guarantee purchases. SBA calculates this rate by dividing the sum of total gross dollars of the CDC's loans purchased during the past 12 months (numerator), by the sum of total gross dollars of the CDC's SBA loans outstanding at the end of the 12-month period. Gross dollars purchased in the last 12 months are added to the denominator, as they are not included in the outstanding figure.

(ii) *6 Month Delinquency Rate*. The Six (6) Month Delinquency Rate is the delinquency rate calculated over the past six (6) months. It is calculated by dividing the sum of the total gross dollars of the CDC's loans in delinquency status in each of the six (6) months prior to the rating date (numerator) by the sum of total gross dollars of the CDC's SBA loans outstanding in each of the six (6) months prior to the rating date.

(iii) *Gross Delinquency Rate*. The Gross Delinquency Rate is the delinquency rate (loans 60 days past due or more, but not in liquidation) as of the rating date. This component provides a measure of CDC performance and risk as indicated by SBA loan dollars in delinquency status as reported by the CDC. SBA calculates this rate by dividing the sum of the total gross dollars of the CDC's SBA loans in delinquency status as of the rating date (numerator) by the sum of total gross SBA dollars of the CDC's SBA loans outstanding as of the rating date (denominator).

(iv) *Gross Past-Due Rate*. The Gross Past-Due Rate is the past-due rate (30 to 59 days past-due) as of the rating date. This component provides a measure of CDC's performance and risk as indicated by SBA loan dollars in past-due status as reported by the CDC. SBA calculates this rate by dividing the sum of the total gross dollars of the CDC's SBA loans in delinquency status as of this date (numerator), by the sum of the total gross dollars of its SBA loans

outstanding as of this date (denominator).

(v) *Average Small Business Predictive Score (SBPS)*. The SBPS is a portfolio management (not origination) credit score based upon a borrower's business credit report and principal's consumer credit report. SBPS is a proprietary calculation provided by Dun & Bradstreet, under contract with SBA, and is compatible with FICO's "Liquid Credit" origination score. This component provides an indication of the relative credit quality of the loans in a CDC's SBA portfolio. The score is calculated from the average SBPS score of the loans in a CDC's portfolio, weighted by each loan's guaranteed dollars outstanding.

(vi) *Low Month on Book Indicator*. The Low Month on Book Indicator component is triggered for a CDC if that CDC has a month-on-book age (average age) of 30 months or less. CDCs with a portfolio with less than 30 months on book or exactly 30 months on book generally have portfolios that are growing rapidly. The modeling process showed that there is a marked difference in these CDCs' performance compared to those CDCs with more established portfolios. If a CDC has a portfolio with an average age of more than 30 months on book, this component has a zero weight in its rating.

## 3. Overriding Factors

In addition to the common components referenced above, the Risk Rating System allows for consideration of additional factors. The occurrence of these factors may lead SBA to conclude that an individual SBA Lender's composite rating, as calculated by the risk rating model, is not fully reflective of its true risk. Therefore, the Risk Rating System provides for the consideration of overriding factors, which may only apply to a particular SBA Lender or group of SBA Lenders, and permit SBA to adjust an SBA Lender's calculated composite rating. The allowance of overriding factors in helping determine an SBA Lender's risk rating enables SBA to use key risk factors that are not necessarily applicable to all SBA Lenders, but indicate a greater or lower level of risk from a particular SBA Lender than that which the calculated rating provides.

Overriding factors may result from SBA Lenders' on-site risk based reviews/assessments and off-site evaluations. SBA routinely conducts on-site reviews of large SBA Lenders, performs safety and soundness examinations of SBA Small Business Lending Companies (SBLCs) and Non-Federally Regulated Lenders, and uses

certain off-site evaluation measures for other SBA Lenders.

Examples of other overriding factors that may be considered include, but are not limited to: enforcement or other actions of regulators or other authorities, including, but not limited to, Cease & Desist orders by federal financial regulators; early loan default trends; purchase rate or projected purchase rate trends; abnormally high default, purchase or liquidation rates; denial of liability occurrences; lending concentrations; rapid growth of SBA lending; net yield rate significantly worse than average; and inadequate, incomplete, or untimely reporting to SBA or inaccurate submission of required fees to SBA.

In conclusion, industry best practices and changes in the SBA portfolio, programs, and available data necessitate that SBA's risk rating model be periodically redeveloped. This notice marks the first redevelopment of SBA's risk rating model. In addition to the redevelopment, SBA has and will continue to perform annual validation testing on the calculated composite risk ratings, and will further refine the model as necessary to maintain or possibly improve the predictability of its risk scoring.

**Authority:** 15 U.S.C. 634(b)(7), and 15 U.S.C. 687(f).

**Karen G. Mills,**  
*Administrator.*

[FR Doc. 2010-4266 Filed 2-26-10; 8:45 am]

**BILLING CODE 8025-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-61566; File No. SR-FINRA-2009-065]

### Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1 Thereto, To Require the Reporting of Transactions in Asset-Backed Securities to TRACE

February 22, 2010.

#### I. Introduction

On October 1, 2009, the Financial Industry Regulatory Authority, Inc. ("FINRA") filed with the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act")<sup>1</sup> and Rule 19b-4

thereunder,<sup>2</sup> a proposed rule change to designate asset-backed securities, mortgage-backed securities, and other similar securities (collectively, "Asset-Backed Securities") as eligible for the Trade Reporting and Compliance Engine ("TRACE"), and to establish reporting, fee, and other requirements relating to such securities. The proposed rule change was published for comment in the **Federal Register** on October 28, 2009.<sup>3</sup> The Commission received four comments in response to the proposal.<sup>4</sup> On December 22, 2009, FINRA responded to the comments<sup>5</sup> and on January 19, 2010, FINRA filed Amendment No. 1 to the proposal.<sup>6</sup> The Commission is publishing this notice and order to solicit comments on Amendment No. 1 and to approve the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

#### II. Description of the Proposal

FINRA utilizes TRACE to collect from its members and publicly disseminate information on secondary over-the-counter transactions in corporate debt securities and, pursuant to a recent rule change to the Rule 6700 Series,<sup>7</sup> Agency Debt Securities and certain primary market transactions. In this proposal, FINRA has proposed to expand TRACE to include the reporting (but not public dissemination) of Asset-Backed Securities. Specifically, the proposed rule change would:

(1) In Rule 6710, amend the defined terms (a) "TRACE-Eligible Security" to include Asset-Backed Securities; (b) "Reportable TRACE Transaction" to include specific requirements regarding certain Asset-Backed Securities; (c) "Agency Debt Security" to incorporate new defined terms; (d) "TRACE System Hours" to transfer the defined term from Rule 6730(a) to Rule 6710(bb); and (e) "Asset-Backed Security" to clarify that the definition included a residual tranche of an Asset-Backed Security;<sup>8</sup>

(2) To Rule 6710, add the defined terms, "Sponsor," "Issuing Entity," "TBA," "Agency Pass-Through Mortgage-Backed Security," "Factor," "Specified Pool Transaction,"

"Stipulation Transaction," "Dollar Roll," and "Remaining Principal Balance";

(3) Amend the definitions of "List or Fixed Offering Price Transaction" and "Takedown Transaction" in Rule 6710(q) and Rule 6710(r), respectively, to exclude from those defined terms transactions in any type of Asset-Backed Security;

(4) In Rule 6710(y), amend the defined term "Stipulation Transaction" to delete the condition relating to the settlement of transactions not in conformity with certain uniform practices established as "good delivery";

(5) In Rule 6710(w), amend the defined term "Factor";<sup>9</sup>

(6) In Rule 6730, require the reporting of Asset-Backed Securities transactions;

(7) In Rule 6730(a)(6)(A), and for a six-month pilot period, establish the reporting period for Asset-Backed Securities transactions to no later than T + 1 during TRACE System Hours;<sup>10</sup>

(8) In Rule 6730(d)(1), amend the requirement that a member input a commission stated in points per bond, and instead require reporting of the total dollar amount of a commission;

(9) In Rule 6730(d)(2), modify the manner that a member reports the Factor to require a member to report the Factor only if the Factor used is not the current most publicly available Factor for the Asset-Backed Security;

(10) In Rule 6730(d)(4)(B), add subparagraphs (i) and (ii) and, in subparagraph (ii), require members to report, for all transactions in Asset-Backed Securities, the actual date of settlement and indicate if the transaction will or will not settle "regular way";<sup>11</sup>

(11) In Rule 6750, provide that information on a transaction in a TRACE-Eligible Security that is an Asset-Backed Security will not be disseminated;

(12) In Rule 6760, require a member that is a Sponsor or an Issuing Entity of an Asset-Backed Security to provide the required notice to FINRA, and modify the notification requirements to accept a mortgage pool number in certain circumstances;

(13) In Rule 7730, establish reporting fees for transactions in Asset-Backed Securities that are TRACE-Eligible Securities at the same rates in effect for transactions in corporate debt securities;<sup>12</sup> and

(14) In Rule 6700 Series, incorporate certain technical, administrative, and clarifying changes.

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Securities Exchange Act Release No. 60860 (October 21, 2009), 74 FR 55600 ("Notice").

<sup>4</sup> See *infra* note 13.

<sup>5</sup> See letter from Sharon Zackula, Associate Vice President and Associate General Counsel, FINRA, to Elizabeth M. Murphy, Secretary, Commission, dated December 22, 2009 ("FINRA Letter").

<sup>6</sup> See *infra* Section III.

<sup>7</sup> See Securities Exchange Act Release No. 60726 (September 28, 2009), 74 FR 50991 (October 2, 2009) (approving SR-FINRA-2009-010).

<sup>8</sup> See Amendment No. 1, *infra* Section III.

<sup>9</sup> See *id.*

<sup>10</sup> See *id.*

<sup>11</sup> See *id.*

<sup>12</sup> See *id.*

<sup>1</sup> 15 U.S.C. 78s(b)(1).