

financing to the small business community. SBA estimates that for FY 2000, it approved approximately 6,300 loans between \$100,000 and \$150,000. For FY 2002, SBA estimates that it approved approximately 7,600 loans between \$100,000 and \$150,000. This represents an increase of approximately 1,300 additional SBA loans between \$100,000 and \$150,000 in FY 2002 compared to FY 2000. This compares to a total of about 52,000 loans SBA approved in FY 2002. (The SBA estimates that annually about 3 percent of its 7(a) loans go to an existing SBA borrower—For example, SBA may approve a term loan and a separate working capital loan to the same borrower—Thus, the actual number of small businesses receiving an SBA loan in a given year will be about 50,000 businesses.)

Section 203 of the Act raises the maximum amount the SBA may guarantee to a single borrower from \$750,000 to \$1 million, which will allow SBA and its lending partners to provide additional small business financing, particularly to growing small businesses and to businesses located in more costly, higher growth areas of the country. In FY 2002, the first full year during which SBA could guaranty loans up to \$1 million, about 2,000 small businesses benefited from SBA's expanded guaranty authority. Section 203 also limits the maximum size of an SBA loan to \$2 million, where formerly there was no maximum. However, historically the Agency has approved very few loans over \$2 million, generally less than 20 per year. But, with continuing limitations to SBA 7(a) loan authority due to budget constraints, the 7(a) authority that would have been used by these 20 or so larger SBA borrowers can now be channeled to smaller borrowers. Thus, while annually about 20 or so larger borrowers will no longer have access to SBA financing due to this limitation, the Agency estimates that with an average SBA loan size of approximately \$163,000, about 370 other small business borrowers will receive SBA financing that would not otherwise be available.

Section 205 imposes a subsidy recoupment fee on SBA borrowers that pre-pay longer term loans. This recoupment fee was instituted to ensure SBA loan subsidy costs are not distorted and effectively increased due to the prepayment of longer term loans by SBA borrowers, which could reduce the overall availability of SBA financing to the small business community as a whole. SBA's analysis of management information data indicates that approximately 80 SBA loans were pre-

paid in FY 2002 and subject to the subsidy recoupment fee. This compares to a total of approximately 52,000 SBA loans approved during FY 2002.

Section 206 modifies, simplifies and, in many cases, reduces the fees that the SBA charges lenders for SBA's guaranty, which the lenders usually pass on to the borrowers. It also establishes a guaranty fee of 3.5 percent for loans over \$700,000, the majority of which are loans made under SBA's new authority (under section 203 above) to approve guaranties up to \$1 million. The simplification and modification of the fee structure was intended to reduce the administrative complexity of SBA loan programs and reduce the administrative costs associated with an SBA loan, thereby encouraging lenders to make more SBA loans. Section 206 also revised and reduced the cost of SBA's guaranty for some SBA loans. In FY 2002, under the revised fee structure about 17,000 SBA borrowers paid lower guaranty fees (from several hundred to over \$1,000 less), about 33,000 borrowers paid the same, and about 3,000 borrowers paid slight guaranty fees. As a result of these and other program changes, SBA approved about 8,000 additional loans in FY 2002 compared to FY 2000. The SBA also estimates that in FY 2002 about 2,500 small businesses were approved for an SBA guaranty between \$700,000 and \$1 million and were thus impacted by the 3.5 percent guaranty that applies to these loans. However, these loans were approved for small businesses that, without the SBA guaranty, would not have had access to financing. As a result, they benefited economically from the availability of these loans, which was in part made possible by the 3.5 percent guaranty fee.

Section 207 allows borrowers under the 7(a) business loan program to lease out a portion of a building constructed with the proceeds of an SBA guaranteed loan, which provides additional flexibility to some borrowers and enhances their longer term prospects for success. SBA's analysis indicates that of the approximately 52,000 loans approved during FY 2002, only about 100 small businesses took advantage of this increased flexibility.

Section 209 allows the SBA guaranteed portions of export working capital loans to be sold in the secondary market, which is expected to improve lender liquidity and encourage lenders to provide additional financing to small business exporters. From an analysis of its management information data, the Agency estimates that about 370 small businesses benefited from SBA guaranteed export working capital loans

in FY 2002, which is about the same number of small businesses that received export working capital loans in FY 2000. The SBA estimates about 60 of those loans were sold on the secondary market.

Section 306 requires that SBA provide no less than 90 days notice to Premier Certified Lenders (PCL) of its intent to include PCL loans in a bulk sale of SBA loans. About 30 CDCs currently participate in the PCL program, through which about 780 loans were approved in FY 2002. However, SBA has not as yet included any PCL loans in bulk asset sales and currently has no plans to do so.

List of Subjects in 13 CFR Part 120

Loan programs—business, Small businesses.

■ For the reasons set forth in the preamble, amend part 120 of title 13 of Code of Federal Regulations as follows:

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

Authority: 15 U.S.C. 634(b)(6), 636(a) and (h), 696(3), and 697(a)(2).

■ 2. Revise § 120.131 to read as follows:

§ 120.131 Leasing part of new construction or existing building to another business.

(a) If the SBA financing (whether 7(a) or 504) is for the construction of a new building, a Borrower may permanently lease up to 20 percent of the Rentable Property to one or more tenants if the Borrower permanently occupies and uses no less than 60 percent of the Rentable Property, and plans to permanently occupy and use within three years some of the remaining space not immediately occupied and not permanently leased and plans to permanently occupy and use within ten years all of the remaining space not permanently leased. If the Borrower is an Eligible Passive Company which leases 100 percent of the new building's space to one or more Operating Companies, the Operating Company, or Operating Companies together, must follow the same rules set forth in this paragraph.

(b) If the SBA financing (whether 7(a) or 504) is for the acquisition, renovation, or reconstruction of an existing building, the Borrower may permanently lease up to 49 percent of the Rentable Property if the Borrower permanently occupies and uses no less than 51 percent of the Rentable Property. If the Borrower is an Eligible Passive Company which leases 100 percent of the space of the existing building to one or more Operating Companies, the Operating Company, or