Mission Lenders Working Group

Building Success in Underserved Communities

January 6, 2023

Ms. Dianna Seaborn
Director
Office of Financial Assistance
Office of Capital Access
U.S. Small Business Administration
409 Third Street, SW
Washington, DC 20416

RE: RIN 3245–AH92
Docket Number SBA-2022-23597

Dear Ms. Seaborn:

I submit this letter on behalf of the Mission Lenders Working Group (MLWG) and its member Community Advantage (CA) lenders working to finance, grow and sustain small businesses and emerging entrepreneurs in underbanked and underserved communities across the country. We appreciate the opportunity to comment on the Small Business Administration's (SBA) Small Business Lending Company (SBLC) Moratorium Rescission and Removal of the Requirement for a Loan Authorization announced by SBA on November 7, 2022, in Federal Register Notice 23597.

About the Mission Lenders Working Group

The Mission Lenders Working Group (MLWG) is a network of SBA 7(a) Community Advantage (CA) lenders that was organized in 2015 as a way for CA lenders to share best practices, offer peer-to-peer training and support, and collaborate on education and advocacy to keep policymakers updated on the pilot's impact. MLWG members act as agents of change in the communities they serve by intentionally making capital accessible to support and sustain underserved and underbanked small businesses and entrepreneurs. MLWG membership represents the diversity of the mission lending industry – including some of the largest CA lenders in terms of volume as well as smaller lenders, rural-focused lenders, and lenders targeting underserved urban centers, but all are seasoned, prudent lenders. All of our member lenders are intentionally mission-driven and committed to financing, supporting, and strengthening businesses that are unable to secure financing from a traditional 7(a) lender or a conventional bank.

The MLWG is committed to leveraging the experience of mission-driven lenders and the power of an SBA loan guarantee to effectively reach, finance, and grow underserved small businesses. Collectively, MLWG members are responsible for more than half of all CA lending done to date in terms of loan count and volume.

Background on the Community Advantage Pilot and its Success

In 2011, the SBA launched the Community Advantage (CA) Pilot Program. The CA pilot was designed to reach underserved markets that historically lacked access to SBA-backed loans. SBA recognized the unique capacity and experience of nontraditional lenders, particularly SBA Microloan Intermediaries, SBA Certified Development Companies (CDCs) and Treasury-authorized Community Development Financial Institutions (CDFIs) -to finance businesses that traditional 7(a) lenders could not and in many cases, should not lend to. In working with business borrowers, CA lenders are providing the 'on-ramp' that enables underbanked entrepreneurs to climb the ladder of economic opportunity and build generational wealth.

SBA acknowledged that to increase lending in underserved markets using SBA's flagship 7(a) loan guarantee, they needed to enlist the expertise of the vanguard, non-traditional lenders that had experience in markets that conventional banks and traditional 7(a) lenders could not reach. Each SBA-authorized CA Lender was identified as either a Small Business Lending Company (SBLC) or a Non-Federally Regulated Lender (NFRL) depending on whether the lender was subject to regulation by a state.

The SBA requires CA lenders to deliver at least 60% of their CA loans to businesses in an "underserved market," currently defined by SBA as Empowerment Zones and Enterprise Communities, HUBZones, Low-to-Moderate Income communities (LMI), Opportunity Zones, rural areas, startups, and veteran-owned businesses. By existence, Microloan Intermediaries, CDCs, and CDFIs are part of a larger SBA mission-focused ecosystem. Always mission-oriented, CA lenders consistently exceed the 60% threshold.

Our members are deeply embedded in the communities they serve and work intentionally to deliver services to underbanked entrepreneurs. Member CA lenders work with key local stakeholders and advisors at Small Business Development Centers and Women's Business Centers that also assist underserved entrepreneurs in the early stages of accessing affordable capital, leading to referrals to microlenders, CDCs, and CDFIs. Our members can determine the next step for a business owner, be it funding or determining that additional support is necessary to ready them for the right-structured financing. This SBA mission-focused ecosystem acts as a buttress and works to advance equity for marginalized entrepreneurs with the ultimate goal of having these small businesses become bankable and create a relationship with a local traditional lender.

While not required, most CA lenders provide their borrowers with a level of business support and/or technical assistance that goes beyond what a conventional bank or 7(a) lender would provide. This approach to lending is one of the factors that allows mission lenders to manage the risk involved in lending to businesses deemed 'unbankable' by conventional lenders (including start-ups.)

Since the CA pilot launched in 2011, the SBA has approved a total of $1,050,734,400 in CA loans to 7,673 businesses with an average loan size of $139,000. Traditional 7(a) and CA lending declined during the pandemic as lenders shifted their focus to processing PPP loans. In addition, many states implemented their own affordable capital programs and provided free business support services to small businesses. In FY 2020, SBA lending started to pick up and CA lenders continued to target a significant portion of their lending to underserved markets. In FY 2022, 717 CA loans were approved for an average loan size of $158,995, representing an increase in CA loan approval of 21 percent.

The Community Advantage model works and over the last 10 years, CA lenders have helped the SBA reach businesses in the underserved and underbanked markets it was seeking to serve more efficiently. The CA program benefits socioeconomically disadvantaged businesses that need access to patient, affordable capital. It was never intended to be as volume-producing as the traditional 7(a) program, but a lifeline to underserved and underbanked small businesses.

Comments on SBLC Moratorium Rescission to Increase Mission Lending

The latest rule on SBLCs, *Small Business Lending Company (SBLC) Moratorium Rescission and Removal of the Requirement for a Loan Authorization*, proposes rescinding the moratorium on licensing new Small Business Lending Companies. This would allow SBA to issue an unlimited number of new SBLC licenses to for-profit, non-depository lenders. Recognizing the oversight costs and limited SBA staff associated with bringing on new SBLCs, the SBA would assign only three new additional licenses to start. The rule would also create a new type of SBLC license for nonprofit, Mission-Based SBLCs (Mission SBLC), intended to help SBA fill "capital market gaps" identified by SBA.

While the MLWG appreciates and shares the SBA's commitment to bridging the longstanding capital gaps, particularly businesses in underserved and underbanked markets, we cannot support the proposed rule to lift the moratorium on SBLCs and create a tier of non-profit Mission SBLCs with criteria that differ from those in place for traditional SBLCs, as presented.

The MLWG is concerned that the proposed rule, as drafted, would not necessarily promote more lending in underserved markets or increase lending to underbanked businesses. Without specific and intentional outcomes or goals, we cannot foresee how the proposed rule would advance the SBA's Equity Plan to ensure lending in specific underserved markets.

The MLWG questions the need for two types of SBLCs. Specifically, we question why the SBA would certify three new for-profit SBLCs without requiring the new entities to abide by any of the mission objectives assigned to the nonprofit SBLCs. Particularly if the Agency is looking to serve those "struggling to obtain financing on non-predatory terms."

The proposed Mission-Based SBLC license would apply to nonprofit, non-depository institutions that would be required to lend to businesses in underserved markets. The rule states that an existing CA lender "in good standing" can apply for a Mission SBLC license, but the rule leaves it to the SBA's discretion to determine what constitutes a CA lender in "good standing." SBA also states that since Mission SBLCs are already regulated as CA lenders, it has the capacity to regulate Mission SBLCs as they are not increasing the total number of entities supervised. Further, the proposed rule lacks clarity on the future of the CA Program and does not identify how a current CA lender proceeds if it does not get approved as a Mission SBLC. It also fails to offer considerations for existing CA lenders wanting to remain in the CA program or for emerging mission lenders that are considering applying to the SBA for CA Lender authorization.

On its surface, lifting the moratorium and adding non-mission SBLCs does not necessarily improve access to mission lending for underserved communities. SBA is proposing additional requirements on Mission-Based SBLCs "*to ensure that Mission-Based SBLCs fill identified capital market gaps and provide targeted financial assistance to underserved communities*. However, the proposal does not identify the specific market gaps that Mission SBLCs are expected to target, and the rule does not establish a percentage of loans to be made in a target market. The rule does not identify how these non-mission lenders will be trained to underwrite, close, and service SBA-approved loans, or even the possibility of guardrails in place so that SBA can monitor other online financial product transactions taking place. Unless the SBA *clearly* and *intentionally* identifies the underserved market gaps, there will be no way to evaluate the success of the proposed rule. The proposed rule would not require or even request a new non-mission, for-profit SBLC to target lending to an underserved capital market or markets, which is contrary to SBA's stated goal and may have adverse, unintended consequences on programmatic integrity.

Like the current Community Advantage program, the proposed rule states to "ensure that Mission-Based SBLCs fill identified capital market gaps and provide targeted financial assistance to underserved communities" SBA proposes to place additional restrictions, requirements, and burdens on mission SBLCs. Presently, CA lenders ARE Mission SBLCs and they **already have a historical track record of lending to underserved communities and individuals**. Yet, it is not proposing restrictions on the three new "non-mission-based" SBLCs. We have serious concerns about a for-profit, non-mission lender's ability to provide the level of outreach, management support, technical assistance, accountability, and service that mission lenders provide.

Based on this proposed rule, we believe SBA is prioritizing increased loan volume at the expense of ensuring that businesses in undercapitalized markets get the right-sized, structured, and priced loan. Ensuring that businesses have access to capital is critical – but so is ensuring that they have access to management support, technical assistance and financing that leaves them better off than they were before. Mission lenders also understand that some businesses are not ready for a loan, even if an artificial intelligence algorithm (AI) determines otherwise. AI is the one tool that fintech lenders rely upon for fast decision-making and quick turnaround of applications. Many fintech lenders do not adopt a person-centered approach that mission lenders do. For CA lenders and traditional 7(a) lenders, AI is but one tool in their toolbox, along with focused support and technical assistance. For mission lenders, building a long-term relationship with the small business owner is paramount, not just scoring.

The three non-mission SBLC licenses are expected to be assigned to Fintech lenders. Many Fintech lenders offer varying financial products with high fees, high penalties, and high interest rates. The 7(a) program has maximum interest rates and fees regulated by the SBA. With the lack of clarity on the non-SBLC program, SBA must require Fintech lenders seeking licenses to cap the fees, interest rates, and penalties on all products they offer to mirror what is required by the 7(a) program. If SBA intends to reach underserved markets by expanding the number of SBLC licenses, strong guardrails need to be in place to protect the businesses that have been negatively affected by predatory online lenders.

For the duration of the CA program, participating lenders are "recommended" to provide technical assistance to their clients in the program. It is core to how mission lenders operate and work with their clients. CA lenders have provided thousands of hours of TA to their small business owners and rising entrepreneurs. Although we assume the recommendation will continue as a CA lender transitions to a Mission SBLC, no such requirement is proposed for the three new non-mission SBLCs. Technical Assistance is the on-ramp for a mission lender to create trust and build a foundation for a long-term relationship with borrowers.

It is also unclear how the proposed rule will ***promote mission lending*** when so many programmatic details are not addressed (i.e., geography, maximum loan size, target markets, etc.). The proposed rule leaves too many details to be approved by SBA personnel on a lender-by-lender basis, thus creating separate guidelines for each authorized lender. SBA promotes this individualized approach as flexible to fill specific market gaps, yet it lacks clarity for current CA lenders evaluating the program. Further, while we have a level of trust and confidence in the current leadership at SBA, current leadership will change and the rules and requirements for the Mission-Based SBLC could change. This has been clearly evidenced and is the experience of CA lenders in the Community Advantage program.

The Federal Register Notice included reference to the Paycheck Protection Program as part of their justification to lift the SBLC moratorium. The CARES Act, signed into law on March 27, 2020, established PPP under section 7(a) of the Small Business Act to provide ***forgivable loans*** to small businesses and nonprofit organizations. Under the law, qualifying businesses were able to obtain forgivable loans equal to the lesser of 2.5 months of average total monthly payments for payroll costs or $10 million and were required to self-certify their need for the loan. The Notice attributes much of the PPP's success to non-traditional lenders: "*Based on the success of the PPP, removing the moratorium on licensing new SBLCs and Mission-Based SBLCs opens opportunities for more non-traditional lenders to participate in the 7(a) Loan Program, providing additional sources of capital to America's small businesses and targeting gaps in the credit market.*"

One need only refer to the recent report from the House Select Subcommittee on the Coronavirus Crisis to have serious pause and concern before allowing new "non-traditional lenders" into the SBA 7(a) program. In fact, the report recommends that Congress should continue to fund (mission) community lenders, so they can increase their capacity to directly serve underserved communities. Further, the report states that Congress should consider additional federal regulations for non-bank/non-depository lenders, such as the lenders being considered under this proposed rule. The report underscored that, in some cases, fintech companies, which were supposed to help underserved small businesses complete applications and process requests for pandemic-related aid, instead acted fraudulently and took advantage of those in need.

In contrast, the 7(a) CA lender infrastructure established by the SBA nearly a decade ago allowed experienced CDFIs and CDCs to quickly deliver needed relief to underserved small businesses in the second and third rounds of PPP funding. If the CA network had not been established within the larger 7(a) program, most businesses that failed to secure PPP loans from banks would have had no alternative and the jobs these businesses supported would have been lost.

Rather than issuing new for-profit SBLC licenses to expand SBA-backed lending into underserved markets, we encourage the SBA to elevate the CA pilot and promote the work of CA lenders, the ***original*** Mission- Based SBLCs. Specifically:

- Immediately extend the CA Pilot program for five years or more and support Congressional efforts to codify CA, as proposed in the *Community Advantage Loan Program Permanency Act of 2022.* The current extension to September 2024 is insufficient for a prudent mission lender to want to invest in a program with less than two years of runway. Multiple program extensions across different administrations and changing operating rules have made it problematic for new mission lenders to commit to the program. Codifying the program would allow mission lenders to grow their CA lending portfolios, grant emerging CA lenders the ability to plan and invest in the necessary staff and systems, and continue using SBA loan guarantee authority to finance small businesses that traditional 7(a) lenders and other financial institutions do not serve. No large for-profit financial institution would tolerate such programmatic changes, yet mission lenders are expected to continue reaching the hardest to serve while adapting to rapidly changing rules, which are more restrictive than to other 7(a) lenders.
- Formalize the CA Network Partners. Among other benefits, the CA Network Partners model would provide an on-ramp for emerging mission lenders that are considering the CA program. These mission lenders are touchstones in the local community and have established trust within

the community. This local network creates a pathway for small business owners to establish a relationship with a local lender, and, where the business owner may receive technical assistance or simple reassurances as they go through the application process. As indicated above, Network Partners also bolster the SBA mission-focused ecosystem.

- SBA-Approved CA Lenders should have access to the Federal Reserve Discount Window: During PPP, SBA-approved lenders including non-depository institution lenders were eligible to participate in the Paycheck Protection Program Liquidity Facility (PPPLF). This included SBA-qualified PPP lenders, banks, credit unions, Community Development Financial Institutions, members of the Farm Credit System, and small business lending companies licensed by the SBA. This would be an excellent option for so many CA lenders that need access to long-term, affordable capital for CA lending.

Finally, The MLWG was also troubled by a statement in the Federal Register Notice regarding the limitations of the CA program:

> "*SBA considered leaving the regulations unchanged and relying upon the CA Pilot Loan Program to address the needs of access to capital in underserved markets; however, the low historic loan volume and lack of any CA loan activity in some rural and underserved geographic areas makes this an unviable alternative*."

This statement implies that mission lenders are failing at loan production volume even as that was never an explicit requirement. The CA program was not intended to be a volume-producing program on par with traditional 7(a) lenders and conventional banks, but a program to fill the small-dollar loan gaps within the 7(a) program for the benefit of underserved and underbanked small businesses. Further, major reforms were made to the CA program in April 2022 that included lifting the moratorium on new lenders and extending the program until September 30, 2024. Mission Lenders considering CA program participation must balance the cost of investing in a new program and the associated expenses as well as the program's ambiguous existence in the next 20 months. SBA stated in the proposed rule when discussing new SBLC lenders, "*newly established SBLCs take up to five years to reach the current lending activity sustained by established SBLC license holders.*" The changes to the CA program need time to take effect. The SBA should have coordinated the CA program reforms with a longer extension of the pilot so that emerging CA lenders have the certainty needed to justify the investment into a CA program.

We urge the SBA to lean into the CA program. The CA program, which has established a successful track record in supplying capital to underbanked businesses, should be among the core strategies for wealth-building and economic development in underserved communities. The CA model ***does*** work and ***is*** powerful for reaching underserved and underbanked small businesses and entrepreneurs. The June 2018 Industrial Economics Incorporated Report states "Overall, the evaluation finds that the CA Program is serving an important function for its target market. The financing and technical assistance provided by mission-oriented CA lenders is reaching the program's target market of small businesses in emerging markets at a critical stage for these businesses…"[1]

[1] Industrial Economics Incorporated, "Evaluating Technical Assistance and Economic Opportunity Outcomes of the Community Advantage Pilot Program," June 2018. https://www.sba.gov/sites/default/files/2020-11/Community_Advantage_Final_Evaluation_Report_-_June_21_2018.pdf

Removal of Requirement for Loan Authorization

SBA is proposing to remove the requirement for a Loan Authorization in the 7(a) and 504 Loan Programs. Both the 7(a) Loan Program and the 504 Program currently require a Loan Authorization providing the terms and conditions under which SBA will make or guarantee business loans.[2] The MLWG does not support this proposed rule.

The Authorization's weighty template is an appropriate reminder of the complexity of the programs and admonitory to any lender trying to gain entry into SBA lending of the intended complexities. Mission lenders with delegated authority become experts at the development of the Authorization because they have processed CA loans and, in most instances, many SBA 504 loans. They understand and appreciate the safeguards that the SBA has put in place. 7(a) lenders and CDCs (SBA lenders) review SBA's template, which covers every potential loan requirement and lending scenario, to select the requirements that pertain to the individual loan application. The SBA Lender then creates the Authorization, signs it, and uploads it into SBA's electronic transmission (E-Tran) system as a digital record. Many of our members indicate that it is not a hard template to complete, but it is time-consuming and creates a permanent roadmap for the transaction. Under non-delegated processing methods, SBA's loan guaranty processing centers (SBA Centers) prepare the Authorization for the SBA Lender to sign and upload into E-Tran. Many of our non-delegated CA lenders rely on the SBA to work with them to create a sound, legal document. Additionally, many smaller CA lenders rely on the expertise of the SBA to partner and create a binding legal instrument. Separately, the SBA lender submits the terms and conditions of each loan into E-Tran through the submission of the loan application data and conditions.

The Loan Authorization template is deliberate and necessary. We have concerns that this proposed rule loosens the requirement for many Fintechs that are more focused on throughput and the secondary market premiums rather than lending to SBA guidelines.

We want to make sure underbanked businesses have access to responsible financing and are not left without options other than "the easy to access, high, priced predatory products." The Mission Lenders Working Group remains committed to working with the SBA to increase SBA-backed lending to underserved markets, to advance SBA's equity plan, and increase the efficiency of SBA lending while simultaneously making sure every SBA borrower is getting a loan that is "right-sized, priced, and structured to its business needs."

Please feel free to contact me should you have any questions on the above at alison@feighan.org.

Sincerely,

Alison Feighan

Alison Feighan
President

[2] SBA Federal Register Notice, Page 2 https://www.govinfo.gov/content/pkg/FR-2022-11-07/pdf/2022-23597.pdf