need not be considered in determining the limitation contained in 12 U.S.C. 371c with respect to the aggregate amount of loans secured by stock or obligations of an affiliate.

(c) Federal funds transactions between affiliates. The limitations contained in 12 U.S.C. 371c apply to the sale of Federal funds by a national bank to an affiliate of such bank.

(d) Deposits between affiliated banks. A deposit made by a national bank in an affiliate is considered to be a loan or extension of credit to the affiliate under 12 U.S.C. 371c, except for a deposit made in an affiliated domestic or foreign bank in the ordinary course of correspondent business or as otherwise provided in 12 U.S.C. 371c(d)(1). Loans or extensions of credit to an affiliate are required to be secured under 12 U.S.C. 371c. However, 12 U.S.C. 90 and applicable case law restrict the authority of national banks to pledge their assets to secure private deposits. Similar restrictions on securing deposits also apply to many state-chartered banks. Consequently, a national bank may not make a deposit in an affiliated national bank unless made in the ordinary course of correspondent business or as provided in 12 U.S.C. 371c(d)(1). A national bank may not make a deposit in an affiliated state bank unless made in the ordinary course of correspondent business or as provided in 12 U.S.C. 371c(d)(1) or unless the affiliated state bank can legally offer collateral for such deposit in conformance with the requirements of 12 U.S.C. 371c. A national bank may not receive a deposit from an affiliated bank, except in the ordinary course of correspondent business or as provided in 12 U.S.C. 371c(d)(1), because of its legal inability to provide the required collateral.

Dated: February 17, 1995. Eugene A. Ludwig, *Comptroller of the Currency.* [FR Doc. 95–4703 Filed 3–2–95; 8:45 am] BILLING CODE 4810–33–P

# 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:** Proposed rule.

**SUMMARY:** This proposed rule would authorize SBA participating lenders to use computer generated facsimile exact copies of SBA application and closing forms in making SBA guaranteed loans. SBA lenders, under the proposed rule, would agree to accept liability for a substantial SBA loss attributable to deficiencies in such forms. Under the proposed rule, SBA would 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.

**DATES:** Comments must be submitted on or before April 3, 1995.

**ADDRESSES:** Comments may be mailed to John R. Cox, Associate Administrator for Financial Assistance, Small Business Administration, 409 Third Street, SW., Washington, DC 20416.

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

**SUPPLEMENTARY INFORMATION:** For many years, the SBA has required that its participating lenders use SBA provided forms in the SBA guaranteed business loan program. With advances in technology, SBA recognizes that such forms may be reproduced as mirror image facsimiles by computers and that such reproductions may be in the best interest of expedition of the SBA guaranteed loan program.

Under this proposed rule, lenders participating in the SBA guaranteed business loan program would be authorized to use SBA application and closing forms which are computer generated by the lenders or 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, the proposed new §122.5-6 would specifically include these forms in the general authority to utilize computer generated facsimile copies: SBA Forms 147 (Note), 148 (Guaranty), 155 (Standby Agreement), 601 (Applicant's Agreement of Compliance), 928 (Mortgage), 1050 (Settlement Sheet), 1059 (Security Agreement).

SBA's guaranty to a participating lender with respect to an SBA guaranteed business loan is conditional on the lender's actions in properly and prudently making, closing, servicing, and liquidating a loan. Accordingly, SBA's rules release the agency from its obligation to the lender to purchase the guaranteed portion of a business loan under certain prescribed conditions. SBA is proposing to amend §120.202-5 of its regulations so that it would be 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 computer exact facsimile

copies thereof, and this failure contributes to a substantial loss on the loan by the SBA. This means that if the computer generated SBA forms used by a lender are not exact facsimile copies, and such lack of conformity contributes or may contribute to a substantial loss by SBA on the loan, SBA could refuse to honor its guaranty with respect to the lender. In no event could SBA refuse to purchase the guaranteed portion from a registered holder (*i.e.*, investor) in the secondary market. SBA's obligation to a registered holder always unconditional, and this proposed rule would have no effect on such obligation.

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 proposed rule, if promulgated in final form, will not have a significant economic impact on a substantial numbers of small entities.

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

SBA certifies that the proposed rule, if promulgated in final form, would not impose additional reporting or recordkeeping requirements which could be subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

SBA certifies that this proposed rule could 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 proposed rule, if promulgated in final form, 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 proposes to amend parts