

Proposed § 120.620 describes the extent of SBA's guarantee of a Pool Certificate. SBA guarantees the timely payment, whether or not collected, of principal and interest, and any prepayment of principal on the loans. SBA's guarantee to a Registered Holder in a Pool of SBA guaranteed portions of loans is backed by the full faith and credit of the United States.

Proposed § 120.621 describes the extent of SBA's guarantee of an individual guaranteed portion. SBA guarantees to purchase from the Registered Holder the guaranteed portion equal to the unpaid principal and interest, less deductions for the servicing fees of the Lender and the fiscal and transfer agent ("FTA"). SBA does not guarantee timely payment on individual guaranteed portions. SBA's guarantee to a Registered Holder is unconditional and is backed by the full faith and credit of the United States. SBA's guarantee is triggered when the Borrower defaults on installments of principal or interest, the Lender fails to send to the FTA any payments it received from the Borrower, or the FTA fails to send to the Registered Holder any payments it received from the Lender.

Proposed § 120.630 specifies the qualifications that an entity must possess to be a Pool Assembler. Among other things, the entity must be subject to regulation by an appropriate agency, have the financial capability to assemble acceptable guaranteed portions, and be in good standing with SBA. In proposed § 120.631, SBA specifies reasons for suspending a Pool Assembler from the secondary market.

Proposed § 120.640 describes the administration of the Pools and individual guaranteed portions. The

FTA maintains a registry of Certificate owners. Each Pool is self-liquidating, which means that there is no substitution of guaranteed portions of loans that are paid off by the borrower or SBA. If SBA pays a claim under a guarantee with respect to a Certificate, it is subrogated to the rights satisfied by the payment. This means that SBA can take any and all steps to be reimbursed for payments it makes. Absent an express statutory change, no federal, state or local law can preclude or limit SBA's exercise of its ownership rights in the portions of loans constituting the Pool against which Certificates are issued.

Proposed § 120.641 requires the Pool Assembler, Registered Holder of a Certificate representing an individual guaranteed portion, or any subsequent seller to disclose to the purchaser information on the Certificate's terms, conditions, and yield. Section 120.642 specifies the documents that a Pool Assembler must deliver to the FTA before the FTA can issue a Certificate, such as a Pool application form and documents which evidence the guaranteed portions which comprise the Pool. Section 120.643 specifies the documents that a seller must provide the FTA before the FTA can issue the initial Certificate for an individual SBA guaranteed portion, including documentation of ownership and a copy of the note that represents the guaranteed loan.

Proposed § 120.644 describes certain conditions applying to the sale of individual guaranteed portions. Each Certificate which represents the guaranteed portion of a single loan must be for the entire amount of the guaranteed portion. A Lender (or its Associate) cannot purchase the

guaranteed portion of a loan which it has made.

In § 120.645, SBA describes how to transfer a Certificate and what information a seller must supply to the FTA. Transfers must comply with Article 8 of the Uniform Commercial Code of New York State.

Under § 120.650 the FTA registers, issues, transfers title to, and redeems Certificates. Proposed § 120.651 tells a Registered Holder what information it must give to the FTA to replace a Certificate because of loss, theft, destruction, mutilation or defacement. Section 120.652 authorizes the FTA to collect fees approved by SBA.

Proposed § 120.660 specifies the reasons for SBA to suspend or revoke the privilege of a lender, broker, dealer, or Registered Holder to participate in the secondary market.

#### Subpart G—Microloan Demonstration Program

This proposed subpart revises, amends, and reorganizes the rules covering the microloan demonstration program ("microloans") currently located in Part 122. Substantive changes include: (1) § 120.708(c) provides a clearer understanding of how SBA determines the interest rate charged to an intermediary; (2) § 120.708(e) makes it clear that SBA loans to intermediaries are non-recourse unless an intermediary causes a loss to SBA by fraud or negligence; and (3) § 120.710 requires an intermediary to maintain accurate and current books and records, and to report periodically to SBA the status of its microloan portfolio.

The following conversion chart shows where to find the current Part 122 microloan sections:

Existing section	Action	New section
§ 122.61 (a) and (b) .....	Revised .....	§ 120.700 (a)–(c)
§ 122.61–2 (a)–(c) .....	Retained .....	§ 120.701 (a)–(c)
§ 122.61–2(d) .....	Revised .....	§ 120.701(d)
§ 122.61–2 (e)–(g) .....	Retained .....	§ 120.701 (e)–(g)
	New .....	§ 120.701(h)
§ 122.61–3(a) .....	Revised .....	§ 120.700(d)
§ 122.61–3(b) .....	Revised .....	§ 120.703
§ 122.61–3(c) .....	Revised .....	§ 120.703(c)
§ 122.61–4 (a) and (b) .....	Revised .....	§ 120.705
§ 122.61–4(c) .....	Deleted .....	
§ 122.61–5 .....	Revised .....	§ 120.704
§ 122.61–6 (a)–(c) .....	Revised .....	§ 120.707
§ 122.61–6(d) .....	Revised .....	§ 120.707
§ 122.61–6(e) .....	Revised .....	§ 120.707
§ 122.61–6(f) .....	Deleted .....	
§ 122.61–7 .....	Revised .....	§ 120.708
§ 122.61–8 (a)–(c) .....	Revised .....	§ 120.710
§ 122.61–8(d) .....	Deleted .....	§ 120.710
§ 122.61–9 (a) and (b) .....	Revised .....	§ 120.710
§ 122.61–10 .....	Retained .....	§ 120.712
§ 122.61–11(a) .....	Revised .....	§ 120.712
§ 122.61–11(b) .....	Revised .....	§ 120.702