

(including advances for the care, preservation, and maintenance of collateral securing the loan), and any security interest or guarantee (excluding SBA's guarantee) which the Lender or SBA may hold or receive in connection with a loan.

(e) *Guarantors.* Guarantors of financial assistance have no rights of contribution against SBA on an SBA guaranteed or direct loan. SBA is not deemed to be a co-guarantor with any other guarantors.

#### Homestead Protection for Farmers

##### **§ 120.550 What is homestead protection for farmers?**

SBA may lease to a farmer-Borrower the farm residence occupied by the Borrower and a reasonable amount of adjoining property (no more than 10 acres and seven farm buildings), if they were acquired by SBA as a result of a defaulted farm loan made or guaranteed by SBA (see the Consolidated Farm and Rural Development Act, 7 U.S.C. 1921, for qualifying loan purposes).

##### **§ 120.551 Who is eligible for homestead protection?**

SBA must notify the Borrower in possession of the availability of these homestead protection rights within 30 days after SBA acquires the property. A farmer-Borrower must:

- (a) Apply for the homestead occupancy to the SBA field office which serviced the loan within 90 days after SBA acquires the property;
- (b) Provide evidence that the farm produces farm income reasonable for the area and economic conditions;
- (c) Show that at least 60 percent of Borrower's gross annual income came from farm or ranch operations in at least any two out of the last six calendar years;
- (d) Have resided on the property during the previous six years; and
- (e) Be personally liable for the debt.

##### **§ 120.552 Lease.**

If approved, the applicant must personally occupy the residence during the term of the lease and pay a reasonable rent to SBA. The lease shall be for a period not to exceed 5 years, renewable for up to another 5 years. During or at the end of the lease period, the lessee has a right of first refusal to reacquire the homestead property under terms and conditions no less favorable than those offered to any other purchaser.

##### **§ 120.553 Appeal.**

If the application is denied, the Borrower may appeal the decision to the Regional Administrator in the region in

which the field office which denied the application is located. Until the conclusion of any appeal, the Borrower may retain possession of the homestead property. If there is a conflict between state law and this section, state law prevails.

#### **Subpart F—Secondary Market**

##### **§ 120.600 What is the SBA Secondary Market?**

The SBA secondary market ("Secondary Market") consists of the sale of Certificates, representing either the entire guaranteed portion of an individual 7(a) guaranteed loan or an undivided interest in a Pool consisting of the SBA guaranteed portions of a number of 7(a) guaranteed loans. By the terms of the Certificate, SBA guarantees a Registered Holder timely payment of principal and interest to which the Registered Holder is entitled from the loan or loans underlying the Certificate. Transactions involving interests in Pools or the sale of individual guaranteed portions are governed by the contracts entered into by the parties, SBA's Secondary Market Program Guide, and this subpart. See sections 5 (f), (g) and (h) of the Small Business Act (15 U.S.C. 634 (f), (g) and (h)).

##### **§ 120.601 Definitions.**

The definitions in this section apply throughout this subpart.

(a) *Certificate* is the document the FTA issues representing a beneficial fractional interest in a Pool (Pool Certificate), or an undivided interest in the entire guaranteed portion of an individual 7(a) guaranteed loan that is sold separately.

(b) *Current* means that no repayment from a Borrower to a Lender is over 29 days late measured from the due date of the payment on the records of the FTA's central registry (Pools) or the entity servicing the loan (individual guaranteed portion).

(c) *FTA* is the SBA's fiscal and transfer agent.

(d) *Note Rate* is the interest rate on the Borrower's note.

(e) *Net Rate* means the interest rate on an individual guaranteed portion in a Pool.

(f) *Payment date* is the date that the FTA deposits checks in the U.S. mail. SBA may change the date or method of payment by publishing a document in the Federal Register.

(g) *Pool* is an aggregation of SBA guaranteed portions of loans made by Lenders.

(h) *Pool Assembler* is a financial institution that:

(1) Organizes and packages a Pool by acquiring the SBA guaranteed portions of loans from Lenders;

(2) Resells fractional interests in the Pool to Registered Holders; and

(3) Directs the FTA to issue Certificates.

(i) *Pool Rate* means the interest rate on a Certificate.

(j) *Registered Holder* is the Certificate owner listed in FTA's records.

#### Certificates

##### **§ 120.610 Description of Certificates.**

(a) *General form and content.* Each Certificate must be registered with the FTA (no bearer Certificates). SBA must approve the terms of the Certificate.

(b) *Face amount of Pool Certificate.* The face amount of a Pool Certificate cannot be less than a specified minimum amount and must be in increments which SBA may specify (except for one Certificate in each Pool). SBA may change these requirements by issuing a document in the Federal Register after analyzing market conditions and program experience.

(c) *Payment Terms for Pool Certificates.* Principal installments and interest payments are based on the unpaid principal balance of the portion of the Pool represented by a Pool Certificate. All prepayments on loans in the Pool must be passed through to the Registered Holders on the payment date.

(d) *Payment Terms for Certificates which represent individual guaranteed portions.* Principal installments and interest payments are based on the unpaid principal balance of the entire SBA guaranteed portion of the loan. The Certificate must provide for a pro rata pass through to the Registered Holder of payments which the FTA receives from a Lender or any entity servicing the loan.

##### **§ 120.611 Description of Pools backing Pool Certificates.**

(a) *Pool characteristics.* (1) When the FTA issues a Pool Certificate, each Pool must have:

(i) A minimum number of guaranteed portions of loans;

(ii) A minimum aggregate principal balance of the guaranteed portions;

(iii) A maximum percentage of the Pool which an individual guaranteed portion may constitute;

(iv) A maximum allowable difference between the highest and lowest note interest rates;

(v) A maximum allowable difference between the remaining terms to maturity of the loans in the Pool; and

(vi) A minimum weighted average maturity at Pool formation.

(2) SBA may adjust the Pool characteristics periodically based upon