



Frequently Asked Questions (FAQs)

General Information

1. What is the State Small Business Credit Initiative (SSBCI)?

The SSBCI is a Federal program administered by the Department of the Treasury (Treasury) which was funded with \$1.5 billion to strengthen state programs that support private financing to small businesses and small manufacturers. In conjunction with leveraged private financing, the SSBCI is expected to help spur up to \$15 billion in lending to small businesses and manufacturers that are not getting the loans or investments they need to expand and create jobs. The SSBCI gives states, territories and eligible municipalities the opportunity to build upon or create successful models for state small business programs, including Capital Access Programs (CAPs), collateral support programs, loan participation programs, loan guarantee programs, and venture capital programs.

2. How long will the SSBCI operate?

The SSBCI is a one-time program of limited duration. The authorities and duties of the Secretary of Treasury to implement and administer the program terminate on September 27, 2017. The obligations of participating states and territories to perform and report on progress will expire as outlined in the terms of the Allocation Agreement. Allocation Agreements between the Treasury and the participating states, territories and municipalities will expire on March 31, 2017.

3. How much SSBCI funding is available to my state, territory, or eligible municipality?

The enacting legislation for the SSBCI, the Small Business Jobs Act of 2010 (P.L. 111-240)(the Act) set out a formula that calculates the amount of funds available to each state, territory, and eligible municipality.

For ease of reference, the SSCI website includes the maximum amounts allocated by the Act to each state, territory, and eligible municipality. Please visit the website at <http://www.treasury.gov/ssbci> for more details.

4. Can states, territories, and eligible municipalities work together to standardize their program rules for CAPs?

Yes. CAPs are established and administered by each jurisdiction, individually. Several financial institutions have commented to Treasury that standardizing CAP rules across states, territories and eligible municipalities would increase the program's efficiency and usability. States have the discretion to standardize several program characteristics that would increase uniformity across jurisdictions. For example, the states, territories or eligible municipalities could use similar enrollment forms for financial institutions to participate in the program; create similar enrollment forms for each loan; set the same rules for eligible



borrowers and use of loan proceeds, consistent with the SSBCI Policy Guidelines; standardize the amount of borrower and lender payments to the CAP reserve fund and the state's match in the CAP reserve fund, consistent with the SSBCI Policy Guidelines; agree on the form and frequency of reporting from lenders; and use similar forms to document the recovery of any loan losses from the CAP reserve fund. The result could be savings for financial institutions on staff training, loan operations, back office recordkeeping, and management expenses. In the end, lower CAP costs should motivate more lenders to participate in the CAP and originate more loans.

More uniformity in CAP program design would also help smaller financial institutions because customers would become more familiar with the CAP rules and the administration by the state, territory or eligible municipalities would become more streamlined. The end result should be that CAPs becomes easier to implement for financial institutions of all sizes.

A collateral benefit is that creating more uniformity across CAPs could encourage financial institutions to participate in CAPs in smaller states. When CAP loan demand is uncertain, financial institutions are less likely to make the effort to participate. However, if the programs are standardized across large and small jurisdictions, financial institutions can offer CAPs in all locations with little extra cost. Ultimately, the final design of CAPs is left to the discretion of states, territories and eligible municipalities.

5. May states, territories or eligible municipalities contract for the administration of their CAP or OCSP?

Yes. The Act allows a participating state to enter contracts in which its SSBCI-supported program (CAP or OCSP) is administered by another state or by an authorized agent of, or entity supervised by, the state, territory or municipality. This option allows states, territories or eligible municipalities that are launching new programs to obtain the advantages of using an experienced public or private administrator. Using an experienced administrator may facilitate the launch of a new program and save expenses.

6. Are funds transferred under SSBCI considered a grant or other type of federal assistance?

No. Section 3003(c)(5) of the Act specifically states that funds transferred to states, territories, and eligible municipalities under the SSBCI program are not considered federal assistance for the purposes of subtitle V of title 31 of the U.S. Code. Because SSBCI funds are not considered federal assistance or a grant, many federal assistance or federal grant reporting requirements that states are familiar with do not apply.

Application Related Questions

1. Who is eligible to apply for funds?

Eligible applicants include all states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of Northern Mariana Islands, Guam, American Samoa, and the United States Virgin Islands; and under the circumstances



described in the Act, a municipality of a State of the United States to which the Act has given a special permission under Section 3004(d) of the Act to apply.

2. Under what conditions may a municipality apply for funding?

A municipality may apply for funding if the state in which the municipality is located failed to file a Notice of Intent by November 26, 2010, or if the state fails to submit an application for funding by June 27, 2011. Note that to date, only the states of Wyoming and North Dakota have not filed a Notice of Intent.

3. What are the eligibility criteria for programs under the SSBCI?

States, territories, and eligible municipalities may use SSBCI funds for CAPs as well as other credit support programs (OCSPs).

To be eligible for funding, a CAP is required to:

- i. Provide portfolio insurance for business loans based upon a separate loan-loss reserve fund for each financial institution;
- ii. Require insurance premiums to be paid by the financial institution lenders and by the business borrowers to the reserve fund to have their loans enrolled in the reserve fund;
- iii. Provide for contributions to be made by the State to the reserve fund in amounts at least equal to the sum of the amount of the insurance premium charges paid by the borrower and the financial institution to the reserve fund for any newly enrolled loan; and
- iv. Provide portfolio insurance solely for loans not exceeding \$5 million to borrowers with 500 or fewer employees.

To be eligible for funding, an OCSP must demonstrate:

- i. \$1 of public support will result in at least \$1 of new private financing;
- ii. Individual guarantees will be limited to loans of not greater than \$20 million and borrowers with 750 employees or fewer; and
- iii. On average, the program will target borrowers with 500 or fewer employees and loans with an average principal amount of \$5 million or less.

In addition, states, territories and eligible municipalities must demonstrate a reasonable expectation that, when considered together, its eligible CAP and eligible OCSPs will result in a minimum of \$10 of new small business lending for each \$1 in Federal funds. Please refer to the SSBCI Policy Guidelines for further information and examples.

The application for either CAPs or OCSPs must also include a report stating how the state, territory or eligible municipalities plan to use SSBCI funds to provide access to capital for small businesses in low- and moderate-income, minority, and other underserved communities, including women- and minority-owned small businesses.

4. What is the process for applying for funds?



Any state, territory or eligible municipality that establishes a new, or has an existing, CAP or OCSP that meets the eligibility criteria may apply for SSBCI funds by accessing the application and its attachments on the SSBCI website at <http://www.treasury.gov/ssbci>.

Completed applications from states and territories must be received by Treasury by 5:00 PM ET on June 27, 2011. Applications from eligible municipalities must be received by Treasury by 5:00 PM ET on September 27, 2011. Municipalities interested in applying should look for further information on the SSBCI website, beginning in late-June.

Treasury will review the applications in the order in which they are received.

5. Must an applicant have an existing SSBCI-eligible program in order to be eligible to apply?

No. If a state, territory, or eligible municipality does not have an existing CAP or OCSP, officials may establish one in order to obtain SSBCI funding. Treasury will provide technical assistance to applicants which are in the process of creating/starting programs.

The Act requires that a CAP or OCSP be fully positioned, within 90 days of the execution of the Allocation Agreement, to act on providing the kind of credit support that the CAP or OCSP program was established to provide.

6. Can state, territory, municipal, and private funds be used in combination with SSBCI funds to fund CAP reserve funds?

Yes. CAP reserve funds are eligible to receive SSBCI funds in an amount equal to the sum of the amount of the insurance premium charges paid by the small business borrowers and by the financial institution lender. The state, territory, or municipality may use any other sources of funds to provide additional support to the reserve fund. However, the SSBCI funds cannot be used to match any amount in excess of the sum of the borrower and financial institution lender contributions.

7. How can an Applicant use public funds in an OCSP?

OCSPs may use available public funds with its OCSP, subject to overall program guidelines:

- Each of the OCSPs must meet the 1 to 1 private leverage requirement and, taken together, all the approved SSBCI programs must demonstrate the ability to meet the 10 to 1 leveraging expectation.
- Private lenders or investors must have a meaningful amount of capital resources at risk, consistent with the SSBCI Policy Guidelines.
- SBA-guaranteed loans and other federally guaranteed loans may not be credit-enhanced by OCSPs.

Due to the variety of program structures that are possible, Treasury reserves the right to evaluate applications on a case-by-case basis.



- 8. Question 1E of the Application asks for documents showing that all legal actions pursuant to applicable law have been taken that are necessary to enable the designee to implement the Applicant's proposed program(s). What should we include in our response?**

A recommended response to Question 1E includes a narrative statement that describes the authority upon which the designated agency is able to enter into binding agreements on behalf of the state, territory, or eligible municipality with Treasury. This will typically involve discussion of the entity's charter and express authorizations from the state to act on its behalf through a state resolution or other instrument. Secondly, the narrative should discuss the unique aspects of the state, territory, or municipal budget process and how funds transferred from Treasury for the purposes of this program will be deployed for the uses in the approved application. In some states, this involves the passage of a budget resolution in the state legislative body. Responses to this question alert Treasury to potential concerns and unique aspects of state law that may need to be addressed during closing.

- 9. The Application requires a designation letter. What should it say?**

The designation letter should come from governor of the state or the chief executive of the territory or municipality. This letter must expressly state that: (1) the governor or chief executive has designated the department, agency or political subdivision named in the application to accept the SSBCI allocated funds; (2) the designated entity is responsible for the implementation of the programs included in the application; (3) the designated entity will be responsible for overseeing the programs and contractors (if the applicant expects to use contractors) and is responsible for all reporting requirements under the allocation agreement; (4) the designated entity has all necessary legal authority to enter into an allocation agreement with Treasury.

- 10. The Application includes standard non-construction assurances in SF-424B. Who must make these assurances?**

The assurances in SF-424B apply only to the applicant (as distinguishable from the contracting entity that may be identified in the application). The assurances in SF-424B do not apply to the private entities that lend to or invest in small businesses nor to the small businesses that receive such loans and investments. It may be helpful to note that with respect to item 5 of the SF-424B, the Act is not one of the 19 specified statutes or regulations that would make the Intergovernmental Personnel Act applicable. With respect to item 9, the Act is not one of the Davis-Bacon Act related acts and therefore the prevailing wage requirements contained therein are not applicable to the use of SSBCI funds.

- 11. How should an applicant document its plans to use SSBCI funds to provide access to capital for small businesses in low- and moderate-income, minority, and other underserved communities, including women- and minority-owned small businesses?**

Question 2D in the application requires that a state, territory or eligible municipality applying for SSBCI funds provide a narrative describing its plan to provide access to capital to the above-referenced communities.



An acceptable plan will:

- Describe how the applicant will provide access to capital for these small businesses. The applicant may have different strategies for different groups referenced in the SSBCI statute. By way of example, some applicants plan to provide access to capital through the design of the program itself (e.g., providing reduced pricing or enhanced risk mitigation as an incentive for targeted geographies or populations). Other applicants provide access to capital through a concerted campaign to disseminate information through organizations that have business relationships with target groups (e.g., seminars and one-on-one counseling; advertisements in specialized media; periodic e-mailed newsletters that reach target populations). The plan is part of the application that is incorporated by reference in the Allocation Agreement between Treasury and the participating state.
- Describe how the applicant will monitor performance relative to the plan. An acceptable plan should include some way for the applicant to periodically assess if the plan is on-track over the course of the allocation time period. For example, some applicants track the actual outreach activities that have occurred, (e.g., how many seminars were held and how many businesses attended. Some applicants monitor the actual loan volume to targeted groups or to low- and moderate-income communities. Loan results may be compared to prior years' results, to the region's business demographics, or to private lending in general. Treasury does not require states to subsequently report on their plan, but the state should maintain the monitoring records with the other program documents.

An applicant's plan should be sufficient to allow the Treasury to evaluate whether the plan is substantive and relevant to local market conditions. Plans will vary due to local circumstances and precisely which strategies a state decides to use in order to provide access to capital for small businesses. The features of the plan are left to the applicant's discretion.

12. How can applicants demonstrate that they will achieve the 10:1 leverage ratio by the end of the allocation period?

As described in further detail in the SSBCI Policy Guidelines, in order for OCSPs to be eligible for SSBCI funding, the applicant must demonstrate a "reasonable expectation" that, when considered with all other CAPs and/or OCSPs proposed for SSBCI funding, such programs together have the ability to use federal contributions to generate small business lending at least 10 times the SSBCI contribution amount. Because private leverage ratios for CAP programs tend to be quite high, most applicants with both CAPs and OCSPs will meet the private leverage ratio expectation in the first year of the allocation period. (Please see the SSBCI Policy Guidelines for more information about how to calculate a weighted average private leverage ratio when the applicant intends to operate both CAPs and OCSPs.)



Treasury recognizes that some OCSPs, by design, may not meet the leverage expectation during the first calendar year of the allocation period. Applicants should demonstrate in their application how the OCSP programs will recycle SSBCI funds, attract subsequent private financing, and generate program income, to achieve the 10:1 private leverage ratio expectation by the end of the allocation time period's reporting period, which is December 31, 2016. Please refer to the SSBCI Policy Guidelines for examples.

- 13. When calculating the 10:1 leverage expectation for private financing, may a Participating state, territory or municipality count SBA-guaranteed loans or other financing that is credit-enhanced by federal, state or local incentives?**

Yes, provided that (a) the financing is caused by, or is the result of, an SSBCI-supported transaction, (b) the capital comes directly from a private entity, and (c) the lender or investor has at least some of its own capital at risk.

Post-Application / Review Related Questions

- 1. What is the likelihood of an application being approved?**

The application for SSBCI funding is not a competitive award process. Treasury will approve all applications that meet the criteria set forth in the Act and in the SSBCI Policy Guidelines. To expedite processing, applicants should make every effort to ensure that their applications are complete and include all supporting documentation, as applicable.

- 2. Once a state, territory, or municipality receives an Allocation Agreement, how long does it take to receive the SSBCI funds?**

The allocated funds are available in thirds. The transfer of the first third will occur immediately following the receipt of the fully signed Allocation Agreement. If the state, territory, or eligible municipality plans to use the SSBCI funds as collateral for a qualifying loan or swap funding facility, the entire allocation is available to be transferred in a single lump sum.

Program Income and Administrative Expense Questions

- 1. What is program income and how is it calculated?**

Program income is gross income received by the participating state, territory or municipality, including any returns on capital that is directly generated by an SSBCI-supported activity or as a result of the SSBCI funds.

Interest, fees, refunds or other types of gross income earned by financial institutions, private venture capital funds or private angel investor networks on loans or investments made using SSBCI funds are not considered program income.



When income is generated by an approved CAP or OCSP that includes non-SSBCI funds, only the pro-rata share of program income directly attributable to SSBCI funds is considered program income. For example, income generated from an approved CAP or OCSP in which 60% of program funds are non-SSBCI funds, only 40% of gross income shall be considered program income.

2. How can program income be used?

Program income must be employed for any allowable purposes for which the allocated and transferred SSBCI funds may be used, including use for administrative expenses. Program income is not subject to the 3% and 5% limitations of use for administrative purposes that the transferred SSBCI funds are subject to under Section 3003(d)(3)(c) of the Act. Further, program income is not restricted for use by the same SSBCI funds-supported activity that generated the program income. Instead, the program income from one approved CAP or OCSP but may be used for any approved CAP or OCSP.

3. How may I pay for my administrative expenses?

There are two ways to fund administrative expenses: (1) out of allocated funds, and (2) out of program income, including any administrative fees paid to the participating state, territory or municipality.

The Act establishes strict limitations on the use of allocated funds for administrative expenses. In the case of the first 1/3 transferred, an amount not exceeding five (5) percent of the transferred amount may be employed for allowable administrative expenses. Administrative charges to subsequent transfers are not to exceed three (3) percent of the transferred amount.

To supplement these amounts, states, territories and municipalities may charge fees for program administration. Proceeds from these fees, as well as any interest income or other program income, may be used for allowable administrative expenses without limitation.

Post-Award / Compliance Questions

1. Are there any recoupment provisions in the Allocation Agreement for the allocated funds?

Yes. Section 6.4 of the Allocation Agreement mandates that if the participating state, territory or municipality is found in default of the Allocation Agreement, Treasury may recoup misused funds.

Other sections of the allocation agreement disclose other circumstances that will limit access by a state, territory, or municipality' access to the allotted funds. Section 6.2 of the Allocation Agreement explains the discretionary remedies available to Treasury if the state, territory or municipality is found in default of the agreement. These remedies include the authority to withhold any future disbursements pending resolution of the event of default



and the authority to reduce or suspend future disbursements. Events of default are listed in Section 6.1 of the Allocation Agreement and include making inaccurate, false or misleading information in the application or Allocation Agreement and failure to comply with any part of the Allocation Agreement, including failure to submit timely and accurate reports.

Lastly, Section 7.1 of the Allocation Agreement covers termination of availability of SSBCI funds. Please see “What is the time frame to draw down an allocation?” for more information.

2. What are the restrictions on enrolling existing loans or lines of credit into an approved program?

Financial institution lenders are prohibited from refinancing any existing outstanding balance or previously made loan, line of credit, extension of credit or other debt owed by a small business borrower already on the books of the same financial institution (or an affiliate) into an SSBCI-supported CAP or OCSP. However, this limitation does not prohibit a financial institution lender from originating a new loan under an approved program and subsequently refinancing the same loan under any approved program. This limitation also does not prohibit a financial institution lender from enrolling or refinancing previously made loans from another, non-affiliated financial institution into an approved program.

3. What are the restrictions on borrowers’ use of loan proceeds?

Financial institution lenders must obtain an assurance from eligible borrowers or eligible investees that loan or investment proceeds from an approved program will only be used for business purposes including start-up costs, working capital, business procurement, franchise fees, equipment, inventory, and the purchase, construction, renovation or improvements of an eligible place of business. Purchases of real estate (commercial or otherwise), securities or the acquisition or holding of any other real property for passive investment purposes, and lobbying activities are not considered eligible business purposes under an SSBCI-approved program. Furthermore, loan or investment proceeds may not be used to pay delinquent federal or state tax debts unless a repayment plan is in place and in no circumstances may be used to repay taxes held in trust or escrow (e.g., payroll or sales taxes). Loan or investment proceeds may not be used to reimburse funds owed to or purchase any portion of the ownership interest of any owner of the business.

4. How can participating states, territories and municipalities comply with Section 4.4 of the Allocation Agreement regarding restrictions on the use of allocated funds with respect to prohibited loan purposes?

Section 4.4(e) of the Allocation Agreement specifies, “The participating state, territory or municipality shall not use any allocated funds for loans used to finance, in whole or in part, business activities prohibited by the SSBCI Policy Guidelines, Treasury regulations, including Treasury regulations promulgated after the date of this Allocation Agreement.” As such, the SSBCI Policy Guidelines are the controlling document.



Treasury has created sample self-certifications that a participating state, territory or municipality may use in order to obtain certifications from the financial institution lenders and the small business borrowers. These certifications are not intended to replace or supersede any internal controls the participating state, territory, or municipality has in place. Rather, these certifications are provided for illustrative purposes and are available for use by the participating state, territory, or municipality according to their discretion. These sample certifications are attached as [Annex 1 and 2](#) to this document.

5. **May SBA-guaranteed loans, or other federally guaranteed or insured loans be enrolled in approved state programs receiving SSBCI funds?**

The SSBCI Policy Guidelines prohibit enrolling the unguaranteed portion of SBA-guaranteed loans in either a CAP or OCSP. This prohibition also applies to the unguaranteed portion of other federally guaranteed loans.

6. **How do participating states, territories and municipalities comply with the Sex Offender certifications in Section 4.9 of the Allocation Agreement?**

Section 4.9 of the Allocation Agreement specifies that “[**Participating states, territories and municipalities** must obtain]...(c) a certification from the private entity, including any financial institution, that the Principals of such entity have not been convicted of a sex offense against a minor (as such terms are defined in section 111 of the Sex Offender Registration and Notification Act (42 U.S.C. 16911)).”

Meaning of “private entity”: Section 4.9(c) of the Allocation Agreement requires that both the financial institution lender and each borrowing entity certify to the **participating state, territory or municipality** that none of the Principals have been convicted to referenced sex offense.

Meaning of “Principals”: For the limited purposes of Section 4.9 of the Allocation Agreement, Principal is defined as, “ if a sole proprietorship, the proprietor; if a partnership, each managing partner and each partner who is a natural person and holds a 20% or more ownership interest in the partnership; and if a corporation, limited liability company, association or a development company, each director, each of the five most highly compensated executives or officers of the entity, and each natural person who is a direct or indirect holder of 20% or more of the ownership stock or stock equivalent of the entity.”

Treasury has created sample self-certifications that a participating state, territory or municipality may use in order to obtain certifications from the financial institution lenders and the small business borrowers. These certifications are not intended to replace or supersede any internal controls the participating state, territory, or municipality has in place. Rather, these certifications are provided for illustrative purposes and are available for use by the participating state, territory, or municipality according to their discretion. These sample certifications are attached as [Annex 3](#) to this document.



7. What restrictions and reporting requirements apply to SSBCI funds after the end of the Allocation Agreement?

The authorities and duties Treasury to implement and administer the Program terminate on September 27, 2017. Further, Treasury expects that the expiration date of all Allocation Agreements will be March 31, 2017.

Between January 1, 2017, and March 31, 2017, each participating state, territory or municipality must submit (1) its final annual report, (2) its final Federal Financial Report (SF-425), and (3) a summary of the performance results of the allocation, including a narrative of how or the extent to which the purpose of the allocation was accomplished using allocated funds. In addition, each participating state, territory, or municipality must submit its final quarterly report by January 31, 2017.

Participating states, territories, and municipalities will not, under any circumstances, be released from these reporting requirements early, even if a participating state, territory, municipality draws down or uses allocated funds prior to the expiration of the allocation time period.

Restrictions set forth in the Act, Allocation Agreement, and SSBCI Policy Guidelines remain in effect until March 31, 2017.

8. Will I be required to calculate my private leverage ratio for each annual report?

No. Treasury intends to automatically calculate each participating state's, territory's or municipality's annual and cumulative private leverage ratio from the data provided by each participant's required Annual Report, as detailed in section 4.8 of the Allocation Agreement.

9. How much capital must participating lenders or investors have at risk under a CAP or OCSP?

Financial institution lenders or other private investors must have at least 20% of their own capital at risk in any approved CAP or OCSP, in order to fulfill the requirement of the Act to have a "meaningful amount of their own capital at risk". This means that in the case of default of a loan or investment made to an eligible small business under an approved SSBCI program, a private lender or investor will be at risk for at least 20% of such loss. In the case of an OCSP venture capital or angel investment network, this capital-at-risk requirement applies at the level of the fund that makes the investment in eligible small businesses, not at the "fund of funds" level.



Annex 1: **Example Borrower Certification for Use of Loan Proceeds:**

Sample Certification

These assurances reference Section 3005(e)(7) and Section 3011(c)(2) of the Small Business Jobs Act of 2010.

Legal Name of Small Business _____ (“Borrower”)
Loan Recipient:

Or

Legal Name of Any Other Entity _____ (“Borrower”)
that Receives Financial
Assistance:

The Borrower hereby certifies to the [financial institution lender] the following:

1. The loan proceeds will be used for a “business purpose.” Business purpose includes, but is limited to, start up costs, working capital, business procurement, franchise fees, equipment, inventory, as well as the purchase, construction renovation or tenant improvements of an eligible place of business that is not for passive real estate investment purposes. The definition of business purpose excludes: activities that relate to acquiring or holding passive investments, such as commercial real estate ownership and the purchase of securities; and lobbying activities, as defined in Section 3(7) of the Lobbying Disclosure Act of 1995, P.L. 104-65, as amended.
2. The loan proceeds will not be used to:
 - a. repay a delinquent federal or state income taxes unless the Borrower has a payment plan in place with the relevant taxing authority; or
 - b. repay taxes held in trust or escrow, e.g. payroll or sales taxes; or
 - c. reimburse funds owed to any owner, including any equity injection or injection of capital for the business’ continuance; or
 - d. to purchase any portion of the ownership interest of any owner of the business.
3. The Borrower is not:
 - a. an executive officer, director, or principal shareholder of the financial institution lender; or



U.S. Department of the Treasury **State Small Business Credit Initiative**

- b. a member of the immediate family of an executive officer, director, or principal shareholder of the financial institution lenders; or
- c. a related interest of an such executive officer, director, principal shareholder, or member of the immediate family.

For the purposes of these three borrower restrictions, the terms “executive officer”, “director”, “principal shareholder”, “immediate family”, and “related interest” refer to the same relationship to a financial institution lender as the relationship described in part 215 of title 12 of the Code of Federal Regulations, or any successor to such part.

- 4. The Borrower is not:
 - a. a business engaged in speculative activities that develop profits from fluctuations in price rather than through normal course of trade, such as wildcatting for oil and dealing in commodities futures, unless those activities are incidental to the regular activities of the business and part of a legitimate risk management strategy to guard against price fluctuations related to the regular activities of the business; or
 - b. a business that earns more than half of its annual net revenue from lending activities; unless the business is a non-bank or non-bank holding company Community Development Financial Institutions; or
 - c. a business engaged in pyramid sales, where a participant's primary incentive is based on the sales made by an ever-increasing number of participants; or
 - d. a business engaged in activities that are prohibited by federal law or applicable law in the jurisdiction where the business is located or conducted. (Included in these activities is the production, servicing, or distribution of otherwise legal products that are to be used in connection with an illegal activity, such as selling drug paraphernalia or operating a motel that knowingly permits illegal prostitution); or
 - e. a business engaged in gambling enterprises, unless the business earns less than 33% of its annual net revenue from lottery sales.
- 5. No principal of the borrowing entity has been convicted of a sex offense against a minor (as such terms are defined in section 111 of the Sex Offender Registration and Notification Act (42 U.S.C. 16911)). For the purposes of this certification, principals is defined as if a sole proprietorship, the proprietor; if a partnership, each managing partner and each partner who is a natural person and holds a 20% or more ownership interest in the partnership; and if a corporation, limited liability company, association or a development company, each director, each of the five most highly compensated executives or officers of the entity, and each natural person who is a direct or indirect holder of 20% or more of the ownership stock or stock equivalent of the entity.



Legal Name: _____

By: _____

Authorized Signatory

Name: _____

Title: _____

Date: _____



Annex 2: Example Lender Certification for use of Loan Proceeds:

Sample Certification

This Assurance is referenced by Section 3005(e)(7) of the Small Business Jobs Act of 2010, and includes any financial institution lender that receives a loan, a loan guarantee, or other financial assistance using funds received by a Participating State under the State Small Business Credit Initiative.

Legal Name of Financial Institution Lender: _____ (“Lender”)

The Lender hereby certifies to the Participating State the following:

1. The loan has not been made in order to place under the protection of the approved state program prior debt that is not covered under the approved state program and that is or was owed by the borrower to the financial institution lender or to an affiliate of the financial institution lender.
2. The loan is not a refinancing of a loan previously made to that borrower by the financial institution lender or an affiliate of the financial institution lender.
3. No principal of the financial institution lender has been convicted of a sex offense against a minor (as such terms are defined in section 111 of the Sex Offender Registration and Notification Act (42 U.S.C. 16911)). For the purposes of this certification, principals is defined as if a sole proprietorship, the proprietor; if a partnership, each partner; if a corporation, limited liability company, association or a development company, each director, each of the five most highly compensated executives, officers, or employees of the entity, and each direct or indirect holder of 20% or more of the ownership stock or stock equivalent of the entity.

Legal Name:

By:

Authorized Signatory



U.S. Department of the Treasury

State Small Business Credit Initiative

Name: _____

Title: _____

Date: _____



Annex 3: Example Private Entity Sex Offender Certification

Sample Certification

This certification is required by Section 3011(c)(2) of the Small Business Jobs Act of 2010 from any private entity that receives a loan, a loan guarantee, or other financial assistance using funds received by a participating State under the State Small Business Credit Initiative.

Legal Name of Small Business Loan Recipient: _____

Or

Legal Name of Financial Institution Lender: _____

Or

Legal Name of Any Other Entity that Receives Financial Assistance: _____

As required by Section 3011(c)(2) of the Small Business Jobs Act of 2010, the private entity hereby certifies to the participating State that the Principals of the private entity have not been convicted of a sex offense against a minor (as such terms are defined in section 111 of the Sex Offender Registration and Notification Act (42 U.S.C. 16911)). For the purposes of this Certification, Principal means the following: if a sole proprietorship, the proprietor; if a partnership, each partner; if a corporation, limited liability company, association or a development company, each director, each of the five most highly compensated executives, officers, or employees of the entity, and each direct or indirect holder of twenty percent (20%) or more of the ownership stock or stock equivalent of the entity.



Legal Name: _____

By: _____

Authorized Signatory

Name: _____

Title: _____

Date: _____