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Small Business: Access to Capital and Job Creation

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Summary

The U.S. Small Business Administration (SBA) administers several programs to support small businesses, including loan guaranty and venture capital programs to enhance small business access to capital; contracting programs to increase small business opportunities in federal contracting; direct loan programs for businesses, homeowners, and renters to assist their recovery from natural disasters; and small business management and technical assistance training programs to assist business formation and expansion. Congressional interest in these programs has increased in recent years, primarily because assisting small business is viewed as a means to enhance economic growth.

Some, including President Obama, have argued that the SBA should be provided additional resources to assist small businesses in acquiring capital necessary to start, continue, or expand operations and create jobs. Others worry about the long-term adverse economic effects of spending programs that increase the federal deficit. They advocate business tax reduction, reform of financial credit market regulation, and federal fiscal restraint as the best means to assist small business economic growth and job creation.

During the 111th Congress

- P.L. 111-5, the American Recovery and Reinvestment Act of 2009 (ARRA), provided the SBA an additional $730 million, including $375 million to temporarily subsidize SBA fees and increase the 7(a) loan guaranty program's maximum loan guaranty percentage to 90%;
- P.L. 111-240, the Small Business Jobs Act of 2010, authorized $30 billion for the Small Business Lending Fund to encourage community banks to provide small business loans ($4 billion was issued); $1.5 billion for the State Small Business Credit Initiative to provide funding to participating states with small business capital access programs; numerous changes to the SBA's loan guaranty and contracting programs; $510 million to continue the SBA's fee subsidies and 90% maximum loan guaranty percentage through December 31, 2010; and about $12 billion in tax relief for small businesses; and
- P.L. 111-322, the Continuing Appropriations and Surface Transportation Extensions Act, 2011, continued the SBA's fee subsidies and the 7(a) program's 90% maximum loan guaranty percentage through March 4, 2011, or until available funding was exhausted, which occurred on January 3, 2011.

During the 112th Congress, several bills were introduced to enhance small business access to capital through the SBA, including bills to extend the SBA's temporary fee subsidies and the 90% maximum loan guaranty percentage. Congress did not adopt these legislative efforts. Instead, Congress passed legislation to enhance small business contracting opportunities, expand access to the SBA's surety bond guarantee program, amend the SBA's size standard practices, require a review and reassessment of the federal procurement small business goaling program, and expand small business mentor-protégé programs. Congress also adopted the Jumpstart Our Business Startups Act (P.L. 112-106) that established a regulatory structure for startups and small businesses to raise capital through securities offerings using the Internet through crowdfunding.

During the 113th Congress, P.L. 113-76, the Consolidated Appropriations Act, 2014, increased the annual authorization amount for the SBA's Small Business Investment Company (SBIC) venture capital program to $4 billion from $3 billion. The increased authorization amount is designed to provide small businesses additional access to venture capital.

During the 114th Congress

- P.L. 114-38, the Veterans Entrepreneurship Act of 2015, authorized and made permanent the SBA's current practice of waiving the SBAExpress loan program's one-time, up-front loan guaranty fee for veterans (and their spouse). The act also increased the 7(a) loan program's FY2015 authorization limit from $18.75 billion to $23.5 billion; and
- P.L. 114-113, the Consolidated Appropriations Act, 2016, expanded the projects eligible for refinancing under the 504/CDC loan guaranty program in any fiscal year in which the refinancing program and the 504/CDC program as a whole do not have credit subsidy costs; generally limited refinancing under this provision to no more than 50% of the dollars loaned under the 504/CDC program during the previous fiscal year; and increased the SBIC program's family of funds limit (the amount of outstanding leverage allowed for two or more SBIC licenses under common control) to $350 million from $225 million. The act also increased the 7(a) loan program's authorization limit to $26.5 billion for FY2016.

This report addresses a core issue facing the 114th Congress: What, if any, additional action should the federal government take to enhance small business access to capital? It discusses the role of small business in job creation and retention, then provides an assessment of the supply and demand for small business loans and recently enacted laws designed to enhance small business access to capital by increasing either the supply of small business loans or the demand for small business loans, or both. It also examines recent actions concerning the SBA's budget and concludes with a brief overview of three legislative options available to address small business access to capital issues during the remainder of the 114th Congress: wait-and-see, enact additional programs, or reduce and consolidate existing programs.

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Small Business Access to Capital

The Small Business Administration (SBA) administers several programs to support small businesses, including venture capital programs to provide "long-term loans and equity capital to small businesses, especially those with potential for substantial job growth and economic impact"[1] and loan guaranty programs to encourage lenders to provide loans to small businesses "that might not otherwise obtain financing on reasonable terms and conditions."[2] Historically, one of the justifications presented for funding the SBA's access to capital programs has been that small businesses can be at a disadvantage, compared with other businesses, when trying to obtain sufficient capital and credit.[3] As an economist explained,

> Growing firms need resources, but many small firms may have a hard time obtaining loans because they are young and have little credit history. Lenders may also be reluctant to lend to small firms with innovative products because it might be difficult to collect enough reliable information to correctly estimate the risk for such products. If it's true that the lending process leaves worthy projects unfunded, some suggest that it would be good to fix this "market failure" with government programs aimed at improving small businesses' access to credit.[4]

Congressional interest in the SBA's access to capital programs has increased in recent years, primarily because assisting small business in accessing capital is viewed as a means to enhance job creation and economic growth.[5]

Some, including President Obama, have argued that the SBA should be provided additional resources to assist small businesses in acquiring capital necessary to start, continue, or expand operations and create jobs. They note that small businesses have led job formation during previous economic recoveries.[6] In addition, the SBA has argued that "improving access to credit by small businesses is a crucial step in supporting economic recovery and job creation."[7]

Others contend the long-term adverse economic effects of spending programs that increase the federal deficit. They advocate business tax reduction, reform of financial credit market regulation,

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[1] U.S. Small Business Administration (SBA), *Fiscal Year 2014 Congressional Budget Justification and FY2012 Annual Performance Report*, p. 58.

[2] SBA, *Fiscal Year 2010 Congressional Budget Justification*, p. 30.

[3] Proponents of providing federal funding for the SBA's loan guarantee programs also argue that small business can promote competitive markets. See P.L. 83-163, §2(a), as amended; and 15 U.S.C. §631a.

[4] Veronique de Rugy, *Why the Small Business Administration's Loan Programs Should Be Abolished*, American Enterprise Institute for Public Policy Research, AEI Working Paper #126, April 13, 2006, at http://www.aei.org/files/2006/04/13/20060414_wp126.pdf. Also, see U.S. Government Accountability Office, *Small Business Administration: 7(a) Loan Program Needs Additional Performance Measures*, GAO-08-226T, November 1, 2007, pp. 3, 9-11, at http://www.gao.gov/new.items/d08226t.pdf.

[5] For example, see The White House, "Remarks by the President on Job Creation and Economic Growth," December 8, 2009, at http://www.whitehouse.gov/the-press-office/remarks-president-job-creation-and-economic-growth; and SBA, *Fiscal Year 2014 Congressional Budget Justification and FY2012 Annual Performance Report*, pp. 1-14. For further analysis concerning the role of small business in job creation, see CRS Report R41392, *Small Business and the Expiration of the 2001 Tax Rate Reductions: Economic Issues*, by Jane G. Gravelle and Sean Lowry; and CRS Report R41523, *Small Business Administration and Job Creation*, by Robert Jay Dilger.

[6] SBA, Office of Advocacy, *Small Business Economic Indicators for 2003*, August 2004, p. 3; Brian Headd, "Small Businesses Most Likely to Lead Economic Recovery," *The Small Business Advocate*, vol. 28, no. 6 (July 2009), pp. 1, 2; and SBA, *FY2013 Congressional Budget Justification and FY2011 Annual Performance Report*, p. 1.

[7] SBA, "President Obama Announces New Efforts to Improve Access to Credit for Small Businesses," October 21, 2009, at https://www.whitehouse.gov/assets/documents/small_business_final.pdf.

and federal fiscal restraint as the best means to assist small business economic growth and job creation.[8]

Economists generally do not view job creation as a justification for providing federal assistance to small businesses. They argue that in the long term such assistance will likely reallocate jobs within the economy, not increase them. In their view, jobs arise primarily from the size of the labor force, which depends largely on population, demographics, and factors that affect the choice of home versus market production (e.g., the entry of women in the workforce). However, economic theory does suggest that increased federal spending may result in additional jobs in the short term. For example, the SBA reported in September 2010 that the $730 million in additional funding provided to the agency by P.L. 111-5, the American Recovery and Reinvestment Act of 2009 (ARRA), created or retained 785,955 jobs.[9]

As will be discussed, the tightening of private-sector lending standards and the disruption of credit markets in 2008 and 2009 led to increased concern in Congress that small businesses might be prevented from accessing sufficient capital to start, continue, or expand their operations—actions that were expected to lead to higher levels of employment. As the SBA indicated in its FY2010 congressional budget justification report,

> Over the last decade, small businesses across this country have been responsible for the majority of new private sector jobs, leaving little doubt that they are a vital engine for the nation's economic growth. However, with the United States facing the most severe economic crisis in more than 70 years, small businesses are confronted with a frozen lending market and limited access to the capital they need to survive and grow at this critical time.[10]

Since then credit markets have improved and lending standards have moderated, but congressional concern about the economy and disagreements concerning the best means to enhance job creation and economic growth remain.

During the 111th Congress, several laws were enacted to enhance small business access to capital. For example,

- P.L. 111-5, provided the SBA an additional $730 million, including $375 million to temporarily subsidize SBA fees and increase the 7(a) loan guaranty program's maximum loan guaranty percentage from 85% on loans of $150,000 or less and 75% on loans exceeding $150,000 to 90% for all regular 7(a) loans.
- P.L. 111-240, the Small Business Jobs Act of 2010, authorized the Secretary of the Treasury to establish a $30 billion Small Business Lending Fund (SBLF) ($4.0 billion was issued) to encourage community banks with less than $10 billion in assets to increase their lending to small businesses; $1.5 billion State Small Business Credit Initiative to provide funding to participating states with small business capital access programs; numerous changes to the SBA's loan guaranty and contracting programs; funding to continue the fee subsidies and the

[8] Susan Eckerly, "NFIB Responds to President's Small Business Lending Initiatives," Washington, DC, October 21, 2009, at http://www.nfib.com/newsroom/newsroom-item/cmsid/50080/; NFIB, "Government Spending," Washington, DC, at http://www.nfib.com/issues-elections/issues-elections-item/cmsid/49051/; and National Federation of Independent Business, "Payroll Tax Holiday," at http://www.nfib.com/issues-elections/issues-elections-item/cmsid/49039/.

[9] SBA, "FY2009/2010 Final—Recovery Program Performance Report, September 2010," September, 2010, at https://www.sba.gov/sites/default/files/recovery_act_reports/perform_report_9_2010.pdf.

[10] SBA, *Fiscal Year 2010 Congressional Budget Justification*, p. 1.

7(a) program's 90% maximum loan guaranty percentage through December 31, 2010; and about $12 billion in tax relief for small businesses (see **Table A-1** in the **Appendix** for a list of its key provisions).

- P.L. 111-322, the Continuing Appropriations and Surface Transportation Extensions Act, 2011, authorized the SBA to continue its fee subsidies and the 7(a) program's 90% maximum loan guaranty percentage through March 4, 2011, or until available funding was exhausted, which occurred on January 3, 2011.

According to the SBA, the temporary fee subsidies and 90% maximum loan guaranty for the 7(a) program "engineered a significant turnaround in SBA lending.... The end result is that the agency helped put more than $42 billion in the hands of small businesses through the Recovery Act and Jobs Act combined."[11]

During the 112th Congress, several bills were introduced to enhance small business access to capital through the SBA, including bills to extend the SBA's temporary fee subsidies and increase the 7(a) program's loan guaranty percentage to 90%.[12] Congress did not adopt these legislative efforts. Instead, Congress passed legislation designed to enhance small business contracting opportunities, expand access to the SBA's surety bond guarantee program, amend the SBA's size standard practices, require a review and reassessment of the federal procurement small business goaling program, and expand small business mentor-protégé programs.[13] Congress also adopted the Jumpstart Our Business Startups Act (P.L. 112-106) that established a regulatory structure for startups and small businesses to raise capital through securities offerings using the Internet through crowdfunding (discussed later).[14]

During the 113th Congress, P.L. 113-76, the Consolidated Appropriations Act, 2014, increased the SBA's Small Business Investment Company (SBIC) venture capital program's authorization amount to $4 billion from $3 billion as a means to provide small businesses additional access to venture capital.

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- P.L. 114-113, the Consolidated Appropriations Act, 2016, expanded the projects eligible for refinancing under the 504/CDC loan guaranty program in any fiscal year in which the refinancing program and the 504/CDC program as a whole do not have credit subsidy costs; generally limited refinancing under this provision to no more than 50% of the dollars loaned under the 504/CDC program during the previous fiscal year; and increased the SBIC program's family of funds limit (the amount of outstanding leverage allowed for two or more SBIC licenses

[11] SBA, "Jobs Act Supported More Than $12 Billion in SBA Lending to Small Businesses in Just Three Months," January 3, 2010, at https://www.sba.gov/content/jobs-act-supported-more-12-billion-sba-lending-small-businesses-just-three-months.

[12] For example, see H.R. 5851, the Increasing Small Business Lending Act of 2012 (112th Congress); and S. 1828, the Increasing Small Business Lending Act of 2011 (112th Congress).

[13], the National Defense Authorization Act for Fiscal Year 2013.

[14] Securities and Exchange Commission, "Crowdfunding," 80 *Federal Register* 71388-71615, November 16, 2015.

under common control) to $350 million from $225 million. The act also increased the 7(a) loan program's authorization limit to $26.5 billion for FY2016.

This report addresses a core issue facing the 114th Congress: What, if any, additional action should the federal government take to enhance small business access to capital? It discusses the role of small business in job creation and retention, then provides an assessment of the supply and demand for small business loans and of recently enacted laws designed to enhance small business access to capital by increasing either the supply of small business loans or the demand for small business loans, or both. It also examines recent actions concerning the SBA's budget and concludes with a brief overview of three legislative options available to address small business access to capital issues during the remainder of the 114th Congress: wait-and-see, enact additional programs, or reduce and consolidate existing programs.

Three Indicators of the Supply and Demand for Private-Sector Small Business Loans

Federal Reserve Board: Surveys of Senior Loan Officers

Each quarter, the Federal Reserve Board surveys senior loan officers concerning their bank's lending practices. The survey includes a question concerning their bank's credit standards for small business loans: "Over the past three months, how have your bank's credit standards for approving applications for C&I [commercial and industrial] loans or credit lines—other than those to be used to finance mergers and acquisitions—for small firms (annual sales of less than $50 million) changed?" The senior loan officers are asked to indicate if their bank's credit standards have "Tightened considerably," "Tightened somewhat," "Remained basically unchanged," "Eased somewhat," or "Eased considerably." Subtracting the percentage of respondents reporting "Eased somewhat" and "Eased considerably" from the percentage of respondents reporting "Tightened considerably" and "Tightened somewhat" provides an indication of the market's supply of small business loans.

As shown in **Figure 1**, senior loan officers reported that they tightened small business loan credit standards during the early 2000s; loosened them during the mid-2000s, and tightened them during the late 2000s. Since 2009, small business credit markets have generally improved, with some tightening in 2016.

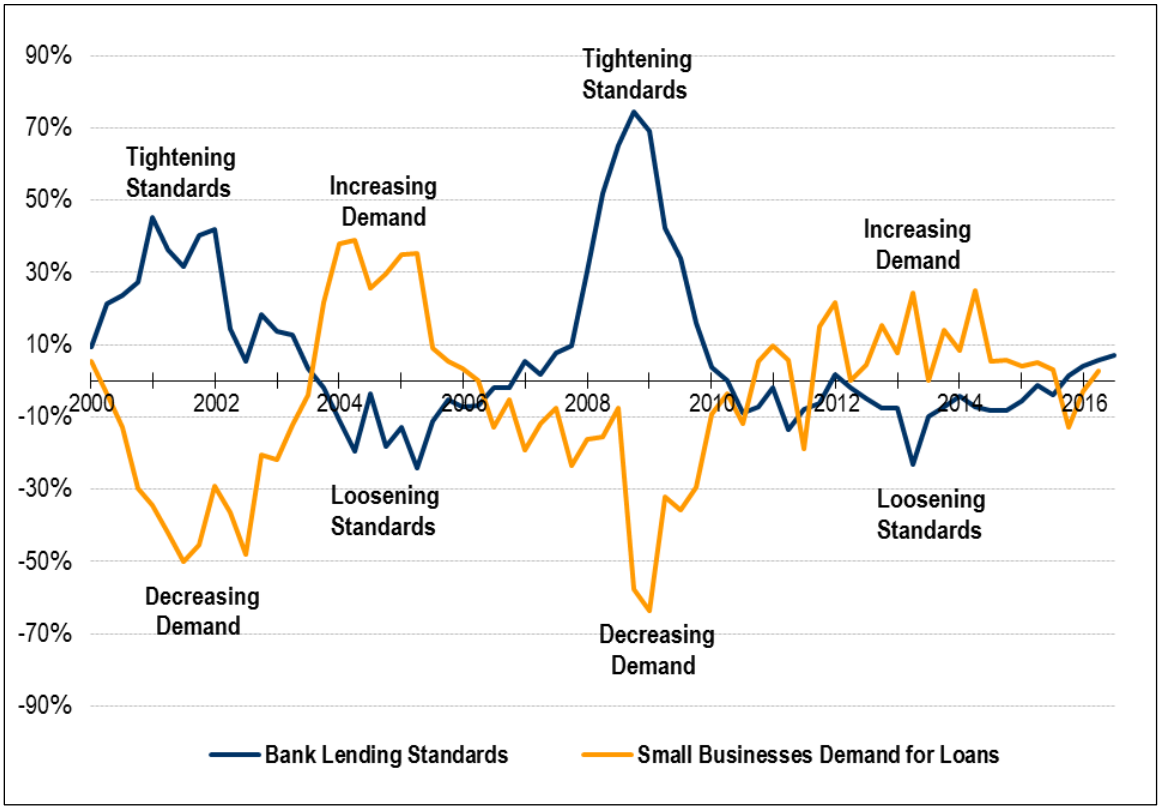
The survey also includes a question concerning the demand for small business loans: "Apart from normal seasonal variation, how has demand for C&I loans changed over the past three months for small firms (annual sales of less than $50 million)?" Senior loan officers are asked to indicate if demand was "Substantially stronger," "Moderately stronger," "About the same," "Moderately weaker," or "Substantially weaker." Subtracting the percentage of respondents reporting "Moderately weaker" and "Substantially weaker" from the percentage of respondents reporting "Substantially stronger" and "Moderately stronger" provides an indication of the market's demand for small business loans.

Figure 1 shows senior loan officers reported that the demand for small business loans declined from 2000 to 2004, increased from 2004 to late 2006, declined somewhat in 2007 and 2008, and declined significantly in 2009. Demand then leveled off (at a relatively reduced level) during 2010, increased somewhat during the first half of 2011, declined somewhat during the latter half

of 2011, generally increased in 2012 through 2015, declined somewhat early in 2016, and increased somewhat later in 2016.[15]

Figure 1. Small Business Lending Environment, 2000-2016

(senior loan officers' survey responses)



Source: Federal Reserve Board, "Senior Loan Officer Opinion Survey on Bank Lending Practices," at http://www.federalreserve.gov/boarddocs/SnLoanSurvey/; and Brian Headd, "Forum Seeks Solutions To Thaw Frozen Small Business Credit," *The Small Business Advocate*, vol. 28, no. 10 (December 2009), p. 3, at https://www.sba.gov/sites/default/files/The%20Small%20Business%20Advocate%20-%20December%202009.pdf.

FDIC Call Reports: Outstanding Small Business Loans

The Federal Deposit Insurance Corporation (FDIC) reports bank lending statistics on a quarterly basis drawn from the banks' Consolidated Reports of Condition and Income (Call Report).[16] The FDIC has maintained comparable small business lending data for the second quarter (June 30) of each year since 2002. **Figure 2** shows the amount of outstanding small business loans (defined by the FDIC as commercial and industrial loans of $1 million or less) for non-agricultural purposes as of June 30 of each year since 2005. As shown in **Figure 2**, the amount of outstanding small

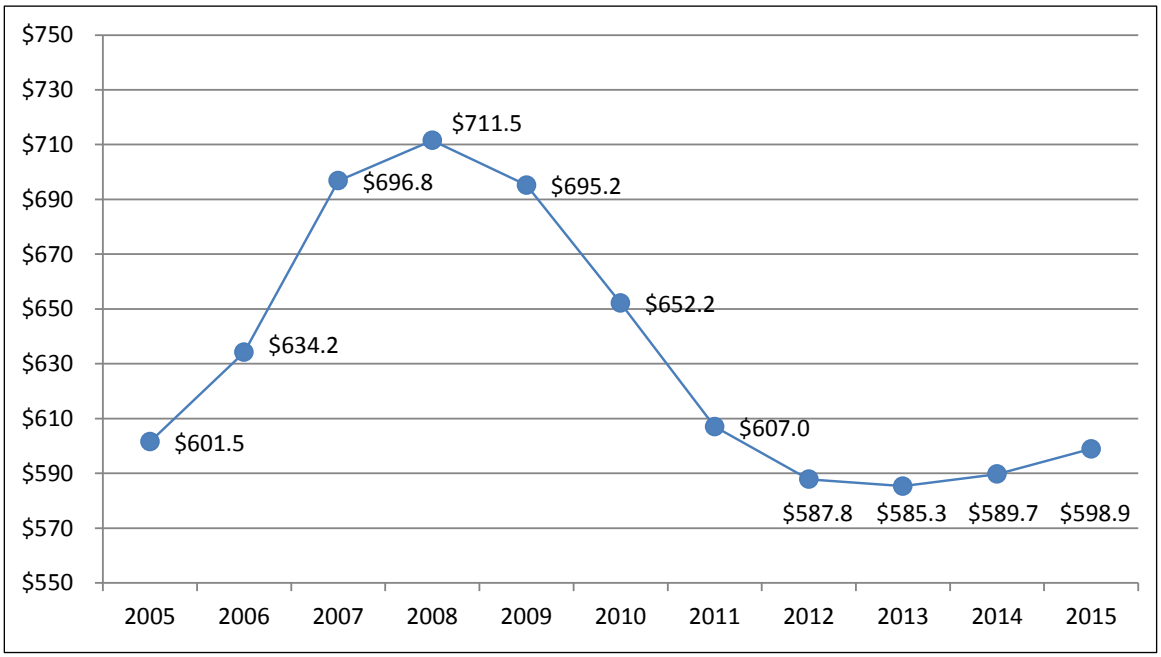
[15] Federal Reserve Board, "Senior Loan Officer Opinion Survey on Bank Lending Practices," at http://www.federalreserve.gov/boarddocs/SnLoanSurvey/.

[16] Every national bank, state member bank, and insured nonmember bank is required by its primary federal regulator to file consolidated Reports of Condition and Income as of the close of business on the last day of each calendar quarter (the report date). The specific reporting requirements depend upon the size of the bank and whether it has any foreign offices.

business loans for non-agricultural purposes increased at a relatively steady pace from June 30, 2005, to June 30, 2008, declined over the next several years, and has increased modestly since June 30, 2012. As of March 31, 2016, there was $609.4 billion in outstanding small business loans for non-agricultural purposes.

Figure 2. Outstanding Small Business Loans, Non-Agricultural Purposes, 2005-2015

(billions of $)



Source: Federal Deposit Insurance Corporation, "Statistics on Depository Institutions," at http://www2.fdic.gov/SDI/main.asp.

Notes: Data as of June 30th each year. The FDIC defines a small business loan as a loan of $1 million or less.

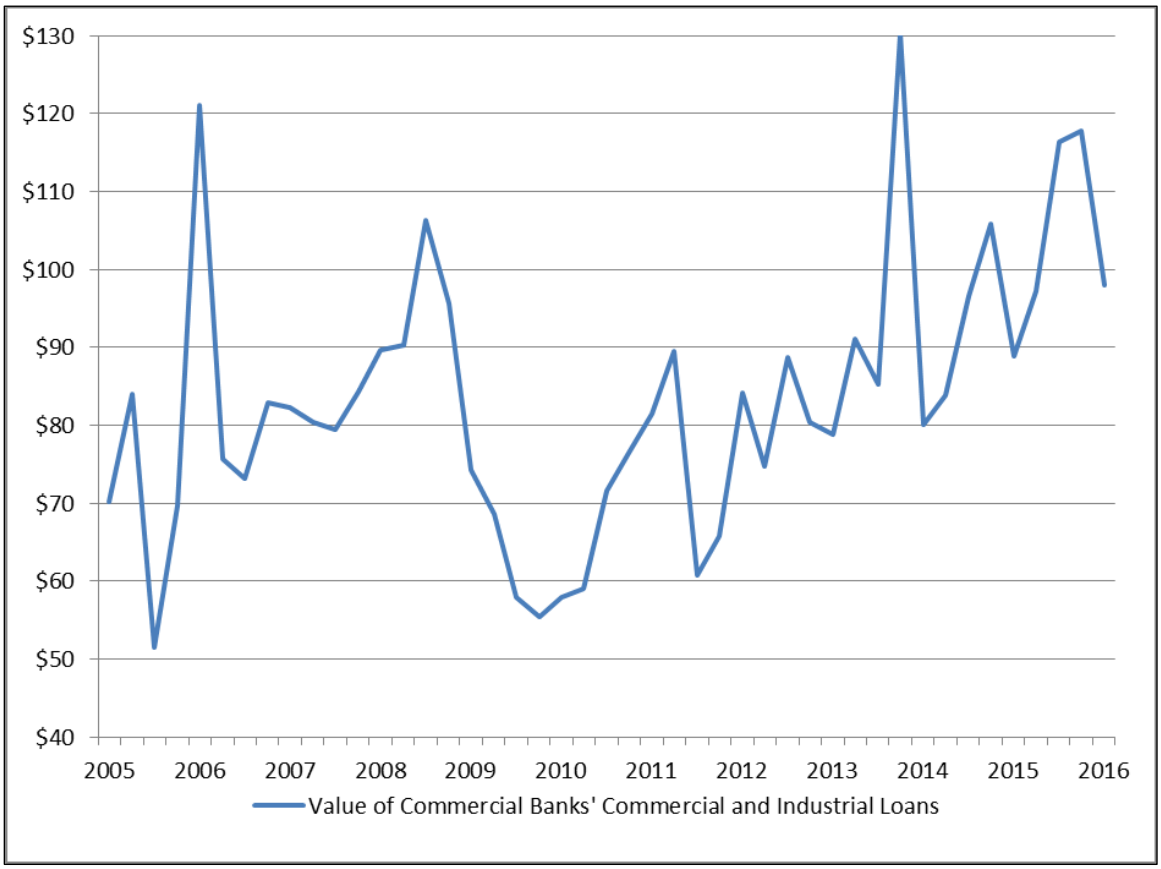
Although changes in small business outstanding debt are not necessarily a result of changes in the supply of small business loans, many, including the SBA, view a decline in small business outstanding debt as a signal that small businesses might be experiencing difficulty accessing sufficient capital to enable them to lead job growth during the current recovery.

Federal Reserve Board: Survey of Commercial Banks

The Federal Reserve Board conducts a quarterly "Survey of Terms of Business Lending," which provides information concerning the lending activity of commercial banks during the first full business week in the middle month of each quarter. As shown in **Figure 3**, the Federal Reserve Board data indicate that the total estimated value of commercial and industrial loans (hereinafter C&I loans) provided by commercial banks has experienced some volatility over the years, with relatively steep declines during the latter half of the December 2007-June 2009 recession and immediately following the recession. In addition, **Figure 3** shows the total estimated value of commercial banks' C&I loans has generally increased since the recession's end. During the week of May 2-6, 2016 (the latest available data), the estimated value of commercial banks' C&I loans was $97.9 billion.

Figure 3. Estimated Value of Commercial and Industrial Loans Made by Commercial Banks on a Quarterly Basis, Including Loans Under $1 Million, 2005-2016

(billions of $)



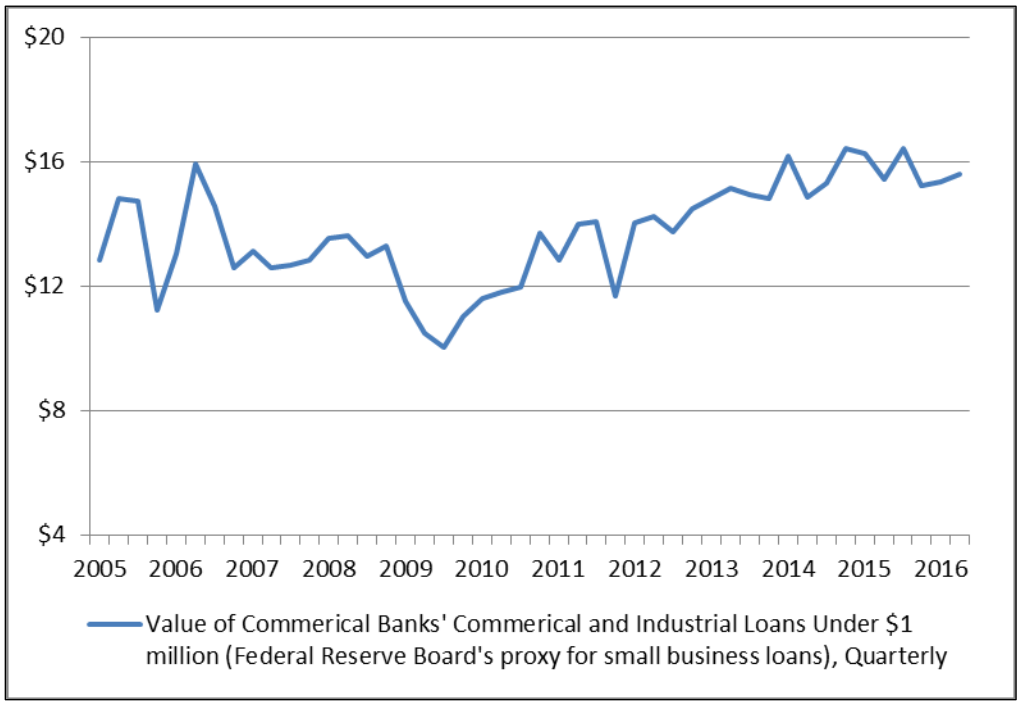
Source: Board of Governors of the Federal Reserve System, "Survey of Terms of Business Lending - E.2," at http://www.federalreserve.gov/releases/E2/default.htm.

Notes: Data were collected during the first full business week in the middle month of each quarter. Value is the amount borrowed.

As shown in **Figure 4**, the data also indicate that the estimated value of commercial banks' small business loans (defined by the Federal Reserve Board as a C&I loan under $1 million) has shown some volatility, ranging from a low of $10.0 billion during the third quarter of 2009 to a high of $16.4 billion during the week of August 3-7, 2015. The estimated value of commercial banks' small business loans during the week of May 2-6, 2016 (the latest available data) was $15.6 billion.

Figure 4. Estimated Value of Commercial and Industrial Loans Made By Commercial Banks in Amounts Under $1 Million, on a Quarterly Basis, 2005-2016

(billions of $)



Source: Board of Governors of the Federal Reserve System, "Survey of Terms of Business Lending - E.2," at http://www.federalreserve.gov/releases/E2/default.htm.

Notes: The data were collected during the first full business week in the middle month of each quarter. Value is the amount borrowed.

SBA Lending

Table 1 shows selected financial statistics for the SBA from FY2000 to FY2015. It provides an overview of the extent of the SBA's various programs to enhance small business access to capital.

The first column reports the total face value of non-disaster business loans that were disbursed by the SBA from FY2000 to FY2015. The second column indicates the number of non-disaster business loans approved by the SBA (after full cancellations) from FY2000 to FY2015. Each year, 7% to 10% of the loans approved by the SBA are subsequently canceled for a variety of reasons, typically by the borrower.

The third column reports the number of bonds guaranteed under the SBA's surety bond guarantee program.[17] A surety bond is a three-party instrument between a surety (someone who agrees to be responsible for the debt or obligation of another), a contractor, and a project owner. The agreement binds the contractor to comply with the contract's terms and conditions. If the contractor is unable to successfully perform the contract, the surety assumes the contractor's responsibilities and ensures that the project is completed. It is designed to reduce the risk of contracting with small businesses that may not have the credit history or prior experience of

[17] For further information and analysis of the SBA's surety bond guarantee program, see CRS Report R42037, *SBA Surety Bond Guarantee Program*, by Robert Jay Dilger.

larger businesses. The SBA does not issue surety bonds. Instead, it provides and manages surety bond guarantees for qualified small and emerging businesses through its Surety Bond Guarantee (SBG) Program. The SBA reimburses a participating surety (within specified limits) for losses incurred due to a contractor's default on a bond.[18]

The fourth column shows the outstanding principal balance for the SBA's 7(a) secondary market guarantee program, which is discussed later in this report. The final column reports the SBA's outstanding principal balance of loans that have not been charged off as of the end of the fiscal year. It provides a measure of the SBA's scope of lending.

Table 1. Selected Small Business Administration Financial Statistics, FY2000-FY2015

(millions of $)

	SBA Business Loans				
Fiscal Year	Amount Disbursed[a]	Number Approved (after full cancellations)	Surety Bond Guarantees Number	7(a) Secondary Market Guarantee Program Outstanding Principal	Unpaid Principal Loan Balance[b]
2015	$25,065	65,168	11,480	$25,200	$118,767
2014	$22,518	53,028	12,384	$22,500	$114,433
2013	$21,669	48,400	12,866	$20,500	$109,758
2012	$19,662	48,343	9,503	$19,200	$104,443
2011	$19,690	53,439	8,638	$17,600	$99,704
2010	$15,083	52,371	8,348	$15,500	$93,519
2009	$12,493	44,963	6,135	$14,700	$90,454
2008	$18,308	69,131	6,055	$14,900	$88,244
2007	$19,098	97,379	5,809	$14,100	$84,522
2006	$18,843	94,965	5,214	$14,600	$78,119
2005	$18,663	92,157	5,678	$14,900	$71,497
2004	$15,381	78,387	7,803	$14,100	$64,362
2003	$13,281	65,056	8,974	$13,000	$59,181
2002	$12,847	49,904	7,372	$12,000	$56,219
2001	$11,245	41,903	6,320	$11,000	$53,116
2000	$12,231	41,514	7,034	$10,000	$52,227

Sources: U.S. Small Business Administration, correspondence with the author, November 18, 2015 (amount disbursed and number approved after full cancellations); U.S. Small Business Administration, *Agency Financial Report [various fiscal years]* (surety bonds and 7(a) secondary market guarantee program outstanding principal); and U.S. Small Business Administration, "Unpaid Principal Balance," at https://www.sba.gov/sites/default/files/WDS_Table1_UPB_Report.pdf.

a. The amount disbursed is the amount provided to the borrower. In recent years, the SBA has guaranteed about 84%-87% of the loan amount approved.

[18] SBA, "Surety Bonds," at https://www.sba.gov/category/navigation-structure/loans-grants/bonds/surety-bonds.

b. Includes unpaid principal loan balance for disaster loans: $5.8 billion in FY2000, $4.3 billion in FY2001, $3.6 billion in FY2002, $2.9 billion in FY2003, $3.0 billion in FY2004, $3.6 billion in FY2005, $6.8 billion in FY2006, $9.0 billion in FY2007, $8.6 billion in FY2008, $8.4 billion in FY2009, $7.9 billion in FY2010, $7.5 billion in FY2011, $7.2 billion in FY2012, $7.2 billion in FY2013, $6.8 billion in FY2014, and $6.3 billion in FY2015.

As shown in **Table 1**, the amount of non-disaster small business loans disbursed by the SBA declined in FY2008 and FY2009; increased, but remained below pre-recession levels in FY2010; and has generally exceeded pre-recession levels since FY2011.[19]

The decline in the amount of small business loans guaranteed by the SBA during FY2008 and FY2009 was, at least in part, due to the following three interrelated factors:

- many lending institutions become increasingly reluctant to lend to small businesses, even with an SBA loan guarantee, as loan defaults increased due to the recession, earnings fell and an increasing number of lending institutions failed;[20]
- the secondary market for small business loans, as with other secondary markets, began to contract in October 2008, reached its nadir in January 2009, and then began a relatively prolonged recovery.[21] The SBA estimates that about half of the lenders that make SBA guaranteed loans resell them to obtain additional capital to make additional loans; and
- the demand for small business loans declined as many small business owners (and entrepreneurs considering starting a new small business) became more risk adverse during the recession.

[19] The recession began in December 2007 and ended in June 2009.

[20] FDIC-insured lending institutions lost $12.9 billion in 2008, including a $37.8 billion loss in the fourth quarter, which more than erased $24.9 billion in profits during the previous three quarters. In 2009, FDIC-insured lending institutions had a net profit of $4.2 billion. See Federal Deposit Insurance Corporation, "Quarterly Banking Profile: Quarterly Net Income," at http://www2.fdic.gov/qbp/2009dec/chart1.htm. In 2010, FDIC-insured lending institutions had $85.4 billion in net profits. See Federal Deposit Insurance Corporation, "Quarterly Banking Profile: Quarterly Net Income," at http://www2.fdic.gov/qbp/2010dec/chart1.htm. The number of lending institutions which failed increased from 3 in 2007 to 26 in 2008, 140 in 2009 and 157 in 2010. In 2011, 92 lending institutions failed and in 2012 92 lending institutions failed. See Federal Deposit Insurance Corporation, "Failed Bank List," at http://www.fdic.gov/bank/individual/failed/banklist.html. Included in the list of failed lending institutions in 2009 was CIT Group, Inc., the nation's largest lender to small businesses at that time. See Patrice Hill, "Lender to small business bankrupt," *The Washington Post*, November 2, 2009, pp. A1, A10. CIT Group, Inc. failed on November 1, 2009.

[21] In a secondary market, loans are pooled together and packaged as securities for sale to investors. This practice makes more capital available by allowing lending institutions to remove existing loans from their balance sheets, freeing them to make new loans. When secondary credit markets constrict, lenders tend to become both less willing and less able to supply small business loans. The Federal Reserve Bank of New York, using authority provided under §13(3) of the Federal Reserve Act, created the Term Asset-Backed Securities Loan Facility (TALF) on March 3, 2009, to stabilize secondary credit markets by lending up to $200 billion to eligible owners of certain AAA-rated asset backed securities (ABS) backed by newly and recently originated auto loans, credit card loans, student loans, and SBA-guaranteed small business loans. The initial TALF subscription took place on March 19, 2009, and the last one took place in June 2010. There were 23 monthly ABS and Commercial Mortgage Backed Securities (CMBS) subscriptions. TALF supported about $58 billion of ABS and $12 billion of CMBS. See Federal Reserve Bank of New York, "Term Asset-Backed Securities Loan Facility: Terms and Conditions," New York, NY, at http://www.newyorkfed.org/markets/talf_terms.html; Federal Reserve Bank of New York, "New York Fed releases revised TALF Master Loan and Security Agreement and appendices," press release, New York, NY, at http://www.federalreserve.gov/newsevents/press/monetary/20090303a.htm; and U.S. Department of the Treasury, "Secretary of the Treasury Timothy F. Geithner, Written Testimony Congressional Oversight Panel," press release, June 22, 2010, at http://cop.senate.gov/documents/testimony-062210-geithner.pdf.

In 2009, the number and amount of small business loans guaranteed by the SBA declined sharply early in the year, followed by modest increases during the second and third quarters, and briefly surpassed pre-recession levels in the fourth quarter as small business owners took advantage of ARRA funded fee subsidies for the SBA's 7(a) and 504/CDC loan guaranty programs and an increase in the 7(a) program's maximum loan guaranty percentage to 90%, which were expected to end by the end of the year.[22]

The SBA argued that the increase in the number and amount of small business loans it guaranteed during FY2010 was primarily due to fee subsidies and loan enhancements first put in place under ARRA and later extended by law to cover most of the fiscal year.[23] The SBA noted that its average weekly loan volume for FY2010 ($333 million) was 29% higher than its average weekly loan volume for FY2009 ($258 million).[24] Another likely factor contributing to the higher loan volume was a general improvement in the economy as the recession ended (officially in June 2009) and the economic recovery began, albeit slowly in many parts of the nation.

The demand for SBA loans increased significantly during the first quarter of FY2011 (October-December 2010), as borrowers took advantage of SBA fee subsidies that were expected to expire at the end of the calendar year. The SBA announced, on January 3, 2011, that it "approved nearly 22,000 small business loans for $10.47 billion, supporting a total of $12.16 billion in lending" during the first quarter of FY2011, which "was the highest volume in a fiscal year's first quarter than at any time in the agency's history."[25] After the fee subsidies ended, SBA lending declined during the second quarter of FY2011, and then increased somewhat during the final two quarters of FY2011. As mentioned previously, the amount of non-disaster small business loans disbursed by the SBA has continued at or above pre-recession levels since FY2011.

Recent Laws Designed to Enhance the Supply of Small Business Loans

As mentioned previously, several laws were enacted during the 110th and 111th Congresses to enhance small business access to capital. The following laws were enacted largely in response to the contraction of financial credit markets which started in 2008, and reached its nadir in early 2009.

P.L. 110-343, the Emergency Economic Stabilization Act of 2008, was designed to enhance the supply of loans to businesses of all sizes. The act authorized the Troubled Asset Relief Program (TARP) to "restore liquidity and stability to the financial system of the United States" by purchasing or insuring up to $700 billion in troubled assets from banks and other financial institutions.[26] TARP's purchase authority was later reduced from $700 billion to $475 billion by P.L. 111-203, the Dodd-Frank Wall Street Reform and Consumer Protection Act. The Department

[22] SBA, "Recovery Act Changes to SBA Loan Programs Sparked Major Mid-Year Turn-Around in Volume," October 1, 2009; and Nancy Waitz, "U.S. stimulus funds run out for lower SBA loan fees," *Reuters News*, November 24, 2009, at http://www.reuters.com/article/companyNewsAndPR/idUSN2431964620091125.

[23] SBA, "Recovery Loan Incentives Spurred Continued Rebound in SBA Lending in FY2010," October 4, 2010.

[24] Ibid.

[25] SBA, "Jobs Act Supported More Than $12 Billion in SBA Lending to Small Businesses in Just Three Months," January 3, 2011, at https://www.sba.gov/content/jobs-act-supported-more-12-billion-sba-lending-small-businesses-just-three-months.

[26] For further analysis, see CRS Report R41427, *Troubled Asset Relief Program (TARP): Implementation and Status*, by Baird Webel.

of the Treasury has disbursed $389 billion in TARP funds, including $337 million to purchase SBA 7(a) loan guaranty program securities.[27] The authority to make new TARP commitments expired on October 3, 2010.

P.L. 111-5 (ARRA) included several provisions to enhance the supply of loans to small businesses.[28] It

- authorized the SBA to establish a temporary secondary market guarantee authority to provide a federal guarantee for pools of first lien 504/CDC program loans that are to be sold to third-party investors. The SBA was granted emergency rulemaking authority to issue regulations for the program within 15 days after enactment (by March 4, 2009). After experiencing unanticipated delays in implementing the program due to "limited staff resources" and determining how to meet ARRA reporting requirements, the SBA issued regulations for its 504/CDC First Mortgage Loan Pooling program on October 30, 2009, and it became operational in June 2010.[29] The program was scheduled to end on February 16, 2011, or until $3 billion in new pools are created, whichever occurred first. As will be discussed, the Small Business Jobs Act of 2010 extended the program.[30]
- authorized the SBA to use emergency rulemaking authority to issue regulations within 30 days after enactment (by March 19, 2009), to make below market interest rate direct loans to SBA-designated "Systemically Important Secondary Market (SISM) Broker-Dealers." These broker-dealers would use the loan funds to purchase SBA-guaranteed loans from commercial lenders, assemble them into pools, and sell them to investors in the secondary loan market. The SBA experienced unanticipated delays in implementing the program primarily due to the need to determine "the extent to which broker-dealers, and perhaps small business lenders, would be required to share in the potential losses associated

[27] U.S. Department of the Treasury, *Troubled Assets Relief Program Monthly 105(a) Report—November 2010*, December 10, 2010, pp. 2-4, at https://fraser.stlouisfed.org/docs/historical/fct/treasury/treasury_tarp_105areport_20101130.pdf. On March 16, 2009, President Obama announced that the Department of the Treasury would use TARP funds to purchase up to $15 billion of SBA-guaranteed loans to "immediately unfreeze the secondary market for SBA loans and increase the liquidity of community banks." The plan was deferred after it met resistance from lenders. Some lenders objected to TARP's requirement that participating lenders comply with executive compensation limits and issue warrants to the federal government. Smaller, community banks objected to the program's paperwork requirements, such as the provision of a small-business lending plan and quarterly reports. See The White House, "Remarks by the President to Small Business Owners, Community Leaders, and Members of Congress," March 16, 2009.

[28] For further analysis, see CRS Report R40728, *Small Business Tax Benefits and the American Recovery and Reinvestment Act of 2009*, by Gary Guenther, and CRS Report R41385, Small Business Legislation During the 111th Congress, by Robert Jay Dilger and Gary Guenther (out of print; available upon request).

[29] SBA, "SBA Creates Secondary Market Guarantee Program for 504 First Mortgage Loan Pools," October 28, 2009; U.S. Government Accountability Office, *Recovery Act: Project Selection and Starts Are Influenced by Certain Federal Requirements and Other Factors*, GAO-10-383, February 10, 2010, p. 23, at http://www.gao.gov/new.items/d10383.pdf; and SBA, "New First Mortgage Loan Poolers Will Jump-Start Secondary Market for SBA 504 Loans, Make Credit More Available," June 24, 2010, at https://www.sba.gov/content/new-first-mortgage-loan-poolers-will-jump-start-secondary-market-sba-504-loans-make-credit.

[30] SBA, "The American Recovery and Reinvestment Act of 2009: Secondary Market First Lien Position 504 Loan Pool Guarantee," 74 *Federal Register* 56087, October 30, 2009; and SBA, "New First Mortgage Loan Poolers Will Jump-Start Secondary Market for SBA 504 Loans, Make Credit More Available, June 24, 2010, at https://www.sba.gov/content/new-first-mortgage-loan-poolers-will-jump-start-secondary-market-sba-504-loans-make-credit.

with extending the guarantee in the 504 loan program."[31] The SBA issued regulations to establish the Direct Loan Program for Systemically Important Secondary Market Broker-Dealers on November 19, 2009.[32]

- provided $255 million for a temporary, two-year small business stabilization program to guarantee loans of $35,000 or less to small businesses for qualified debt consolidation, later named the America's Recovery Capital (ARC) Loan program (the program ceased issuing new loan guarantees on September 30, 2010); $15 million for the SBA's surety bond program, and temporarily increased the maximum bond amount from $2 million to $5 million, and up to $10 million under certain conditions (the higher maximum bond amounts ended on September 30, 2010); $6 million for the SBA's Microloan program's lending program and $24 million for the Microloan program's technical assistance program; and increased the funds ("leverage") available to SBA-licensed Small Business Investment Companies (SBICs) to no more than 300% of the company's private capital or $150,000,000, whichever is less.
- authorized the SBA to guarantee 504/CDC loans used to refinance business expansion projects as long as the existing indebtedness did not exceed 50% of the project cost of the expansion and the borrower met specified requirements.

P.L. 111-240 was enacted after the financial credit markets had stabilized. It included several provisions designed to enhance the supply of loans to small businesses. For example, the act

- authorized the Secretary of the Treasury to establish a $30 billion Small Business Lending Fund (SBLF) to encourage community banks to provide small business loans ($4 billion was issued) and a $1.5 billion State Small Business Credit Initiative (SSBCI) to provide funding to participating states with small business capital access programs.[33]
- extended the SBA's secondary market guarantee authority from two years after the date of ARRA's enactment to two years after the date of the program's first sale of a pool of first lien position 504/CDC loans to a third-party investor (which took place on September 24, 2010).[34]
- authorized $22.5 million for a temporary, three-year Small Business Intermediary Lending Pilot Program to provide direct loans to intermediaries which provide loans to small business startups, newly established small businesses, and growing small businesses. On August 4, 2011, the SBA announced the first 20 community lenders which were selected to participate in the program.[35]

[31] U.S. Government Accountability Office, *Status of the Small Business Administration's Implementation of Administrative Provisions in the American Recovery and Reinvestment Act of 2009*, GAO-10-298R, January 19, 2010, p. 7, at http://www.gao.gov/new.items/d10298r.pdf.

[32] SBA, "American Recovery and Reinvestment Act: Loan Program for Systemically Important SBA Secondary Market Broker-Dealers," 74 *Federal Register* 59891, November 19, 2009.

[33] For further analysis of the Small Business Lending Fund, see CRS Report R42045, *The Small Business Lending Fund*, by Robert Jay Dilger. For a further analysis of the State Small Business Credit Initiative, see CRS Report R42581, *State Small Business Credit Initiative: Implementation and Funding Issues*, by Robert Jay Dilger.

[34] SBA, Office of Congressional and Legislative Affairs, correspondence with the author, January 4, 2010.

[35] SBA, "Small Businesses Have New Non-Profit Sources for SBA-financed Loans," August 4, 2011, at https://www.sba.gov/content/small-businesses-have-new-non-profit-sources-sba-financed-loans.

- authorized $15 million in additional funding for the SBA's 7(a) loan guaranty program.
- increased the loan guarantee limits for the SBA's 7(a) program from $2 million to $5 million, and for the 504/CDC program from $1.5 million to $5 million for "regular" borrowers, from $2 million to $5 million if the loan proceeds are directed toward one or more specified public policy goals, and from $4 million to $5.5 million for manufacturers.
- increased the SBA's Microloan program's loan limit for borrowers from $35,000 to $50,000 and for microlender intermediaries after their first year in the program from $3.5 million to $5 million.[36]
- temporarily increased for one year the SBA 7(a) Express Program's loan limit from $350,000 to $1 million (the temporary increase expired on September 26, 2011).
- required the SBA to establish an on-line lending platform listing all SBA lenders and information concerning their loan rates.
- authorized the SBA to temporarily guarantee for two years, under specified circumstances, 504/CDC loans that refinance existing business debt even if the project does not involve the expansion of the business.

For additional details concerning provisions in the Small Business Jobs Act of 2010, see **Table A-1** in the **Appendix**.

During the 112th Congress, P.L. 112-106, the Jumpstart Our Business Startups Act (JOBS Act), established "a regulatory structure for startups and small businesses to raise capital through securities offerings using the Internet through crowdfunding."[37] The JOBS Act's crowdfunding provisions "were intended to help provide startups and small businesses with capital by making relatively low dollar offerings of securities, featuring relatively low dollar investments by the 'crowd,' less costly."[38]

On November 16, 2015, the Securities and Exchange Commission (SEC) published a final rule, effective May 16, 2016, to implement the JOBS Act's crowdfunding provisions (e.g., the SEC established limits on the amount of money an issuer can raise and individual investors can invest over a 12-month period under the crowdfunding exemption to the securities laws,[39] imposed disclosure requirements on the issuer's business and securities offering, and created a regulatory

[36] The act also temporarily allowed the SBA to waive, in whole or in part, for successive fiscal years, the non-federal share requirement for loans to the Microloan program's intermediaries and for grants made to Microloan intermediaries for small business marketing, management, and technical assistance under specified circumstances (e.g., the economic conditions affecting the intermediary). See, the Small Business Jobs Act of 2010, §1401. Matching Requirements Under Small Business Programs.

[37] Securities and Exchange Commission, "Crowdfunding," 80 *Federal Register* 71388, November 16, 2015.

[38] Ibid.

[39] The rule will "... Permit a company to raise a maximum aggregate amount of $1 million through crowdfunding offerings in a 12-month period; Permit individual investors, over a 12-month period, to invest in the aggregate across all crowdfunding offerings up to: If either their annual income or net worth is less than $100,000, than the greater of: $2,000 or 5% of the lesser of their annual income or net worth. If both their annual income and net worth are equal to or more than $100,000, 10% of the lesser of their annual income or net worth; and During the 12-month period, the aggregate amount of securities sold to an investor through all crowdfunding offerings may not exceed $100,000. See Securities and Exchange Commission, press release, "SEC Adopts Rules to Permit Crowdfunding," October 30, 2015, at http://www.sec.gov/news/pressrelease/2015-249.html.

framework for the broker-dealers and funding portals that facilitate the crowdfunding transactions).[40]

During the 113th Congress, P.L. 113-76, the Consolidated Appropriations Act, 2014, included a provision increasing the annual authorization amount for the SBA's Small Business Investment Company (SBIC) program to $4 billion from $3 billion. The SBIC program is designed to "improve and stimulate the national economy in general and the small business segment thereof in particular" by stimulating and supplementing "the flow of private equity capital and long term loan funds which small business concerns need for the sound financing of their business operations and for their growth, expansion, and modernization, and which are not available in adequate supply."[41]

As of June 30, 2016, there were 310 privately owned and managed SBA-licensed SBICs providing small businesses private capital the SBIC has raised (called regulatory capital) and funds the SBIC borrows at favorable rates (called leverage) because the SBA guarantees the debenture (loan obligation).[42] SBICs provide equity capital to small businesses in various ways, including by purchasing small business equity securities (e.g., stock, stock options, warrants), making loans to small businesses, purchasing debt securities from small businesses, and providing small businesses, subject to limitations, a guarantee of their monetary obligations to creditors not associated with the SBIC.[43]

In FY2013, the SBA committed to guarantee $2.15 billion in SBIC small business investments, and SBICs invested another $1.34 billion from private capital, for almost $3.5 billion in financing for 1,068 small businesses. Although the SBA's commitment of $2.15 billion in SBIC leverage in FY2013 was well below the new $4 billion threshold amount, advocates of the higher threshold argued that the increase would enable the program to grow, providing more capital to a larger number of small businesses in the future.

In FY2014, the SBA committed to guarantee nearly $2.55 billion in SBIC small business investments. SBICs invested another $2.92 billion from private capital for a total of almost $5.5 billion in financing for 1,085 small businesses.[44] In FY2015, the SBA committed to guarantee just over $2.55 billion in SBIC small business investments. SBICs invested another $3.73 billion from private capital for a total of nearly $6.3 billion in financing for 1,210 small businesses.[45]

During the 114th Congress, P.L. 114-38, the Veterans Entrepreneurship Act of 2015, increased the supply of 7(a) loans by increasing the program's FY2015 authorization limit of $18.75 billion (on disbursements) to $23.5 billion. The increased authorization amount was necessary to accommodate an unexpected increase in the demand for SBA loans. In addition, P.L. 114-113, the Consolidated Appropriations Act, 2016, further increased the 7(a) program's authorization limit to $26.5 billion for FY2016. The act also increased the supply of 504/CDC loans by expanding the projects eligible for refinancing under the program in any fiscal year in which the refinancing program and the 504/CDC program as a whole do not have credit subsidy costs. The act generally

[40] Ibid.

[41] 15 U.S.C. §661. For further information and analysis concerning the SBA's Small Business Investment Company program, see CRS Report R41456, *SBA Small Business Investment Company Program*, by Robert Jay Dilger.

[42] SBA, "SBIC Program Overview, as of June 30, 2016," at https://www.sba.gov/sites/default/files/files/Quarterly_Data_as_of_June_30_2016.pdf.

[43] 13 C.F.R. §107.820.

[44] SBA, "SBIC Program Overview, as of September 30, 2015," at https://www.sba.gov/sites/default/files/files/WebSBICProgramOverview_September2015.pdf.

[45] Ibid.

limited the expanded refinancing to no more than 50% of the dollars loaned under the 504/CDC program during the previous fiscal year. The act also increased the supply of SBIC financings by increasing the SBIC program's family of funds limit (the amount of outstanding leverage allowed for two or more SBIC licenses under common control) to $350 million from $225 million.

Recent Laws Designed to Enhance the Demand for Small Business Loans

ARRA provided the SBA $375 million to subsidize fees for the SBA's 7(a) and 504/CDC loan guaranty programs and to increase the 7(a) program's maximum loan guaranty percentage from up to 85% of loans of $150,000 or less and up to 75% of loans exceeding $150,000 to 90% for all regular 7(a) loans through September 30, 2010, or when appropriated funding for the subsidies and loan modification was exhausted. The fee subsidies were designed to increase the demand for SBA loans by reducing loan costs.

ARRA's funding for the fee subsidies and 90% maximum loan guaranty percentage was about to be exhausted in November 2009, when Congress passed the first of six laws to extend the loan subsidies and 90% maximum loan guaranty percentage:

- P.L. 111-118, the Department of Defense Appropriations Act, 2010, provided the SBA $125 million to continue the fee subsides and 90% maximum loan guaranty percentage through February 28, 2010.
- P.L. 111-144, the Temporary Extension Act of 2010, provided the SBA $60 million to continue the fee subsides and 90% maximum loan guaranty percentage through March 28, 2010.
- P.L. 111-150, an act to extend the Small Business Loan Guarantee Program, and for other purposes, provided the SBA authority to reprogram $40 million in previously appropriated funds to continue the fee subsides and 90% maximum loan guaranty percentage through April 30, 2010.
- P.L. 111-157, the Continuing Extension Act of 2010, provided the SBA $80 million to continue the SBA's fee subsides and 90% maximum loan guaranty percentage through May 31, 2010.
- P.L. 111-240, the Small Business Jobs Act of 2010, provided $505 million (plus an additional $5 million for administrative expenses) to continue the SBA's fee subsides and 90% maximum loan guaranty percentage from the act's date of enactment (September 27, 2010) through December 31, 2010.
- P.L. 111-322, the Continuing Appropriations and Surface Transportation Extensions Act, 2011, authorizes the SBA to use funds provided under the Small Business Jobs Act of 2010 to continue the SBA's fee subsides and 90% maximum loan guaranty percentage through March 4, 2011, or until available funding is exhausted.

On January 3, 2011, the SBA announced that funding for the fee subsidies and 90% maximum loan guaranty percentage had been exhausted.[46]

[46] SBA, "Jobs Act Supported More Than $12 Billion in SBA Lending to Small Businesses in Just Three Months," January 3, 2011, at https://www.sba.gov/content/jobs-act-supported-more-12-billion-sba-lending-small-businesses-just-three-months.

ARRA also included 11 tax relief provisions that have the potential to benefit small businesses in a broad range of industries.[47] By reducing costs, it could be argued that providing tax relief for small businesses may lead to increased demand for small business loans because small business owners have additional resources available to invest in their business. The following five ARRA tax provisions provided about $5.7 billion in tax relief and were targeted at small businesses, whereas the other ARRA tax provisions were available to businesses of all sizes:

- allowed businesses with $15 million or less in average annual gross receipts in the past three years to carry back net operating losses from 2008 for up to five years instead of two years.
- extended through 2009 the enhanced expensing allowance, which allows businesses to deduct up to $250,000 of the cost of eligible assets placed in service in 2009, within certain limits.
- increased the exclusion of the gain on the sale of small business stock to 75% (instead of 50%) of any gain realized on the sale of eligible small business stock acquired between February 18, 2009, and December 31, 2010.
- reduced the recognition period from 10 years to 7 years for corporate tax on sale of appreciated assets in 2009 or 2010 by S corporations that once were organized as C corporations.
- allowed individuals who had an adjusted gross income in 2008 of less than $500,000 and can prove that over half their income came from a small business to base their estimated tax payments for 2009 on 90% of their tax liability for 2008.

P.L. 111-240 was designed to increase the demand for SBA loans by providing $505 million (plus an additional $5 million for related administrative expenses) to temporarily subsidize SBA's fees and increase the 7(a) program's maximum loan guaranty percentage to 90%. The act also required the SBA to establish an alternative size standard for the SBA's 7(a) and 504/CDC loan guaranty programs that uses maximum net worth and average net income as an alternative to the use of industry standards. It also established the following interim alternative size standard for both the 7(a) and 504/CDC programs: the business qualifies as small if it does not have a tangible net worth in excess of $15 million and does not have an average net income after federal taxes (excluding any carry-over losses) in excess of $5 million for two full fiscal years before the date of application. These changes were designed to increase the demand for small business loans by increasing the number of small businesses that are eligible for SBA assistance.[48]

P.L. 111-240 also provided small businesses with about $12 billion in tax relief. The act

- raised the exclusion of gains on the sale or exchange of qualified small business stock from the federal income tax to 100%, with the full exclusion applying only to stock acquired the day after the date of enactment through the end of 2010;
- increased the deduction for qualified start-up expenditures from $5,000 to $10,000 in 2010, and raised the phaseout threshold from $50,000 to $60,000 for 2010;

[47] For further analysis, see CRS Report R40728, *Small Business Tax Benefits and the American Recovery and Reinvestment Act of 2009*, by Gary Guenther.

[48] For further analysis, see CRS Report R40860, *Small Business Size Standards: A Historical Analysis of Contemporary Issues*, by Robert Jay Dilger.

- placed limitations on the penalty for failure to disclose reportable transactions based on resulting tax benefits;
- allowed general business credits of eligible small businesses for 2010 to be carried back five years;
- exempted general business credits of eligible small businesses in 2010 from the alternative minimum tax;
- allowed a temporary reduction in the recognition period for built-in gains tax;
- increased expensing limitations for 2010 and 2011 and allows certain real property to be treated as Section 179 property;
- allowed additional first-year depreciation for 50% of the basis of certain qualified property; and
- removed cellular telephones and similar telecommunications equipment from listed property so their cost can be deducted or depreciated like other business property.[49]

As mentioned earlier, P.L. 114-38 authorized and made permanent the Obama Administration's waiver of the up-front, one-time loan guaranty fee for veteran loans under the SBAExpress loan guaranty program beginning on or after October 1, 2015, except during any upcoming fiscal year for which the President's budget, submitted to Congress, includes a credit subsidy cost for the 7(a) program, in its entirety, that is above zero.[50] The fee waiver is designed to encourage veterans to apply for a small business loan. In addition, P.L. 114-113, the Consolidated Appropriations Act, 2016, expanded the projects eligible for refinancing under the 504/CDC loan guaranty program in any fiscal year in which the refinancing program and the 504/CDC program as a whole do not have credit subsidy costs. The act also increased the SBIC program's family of funds limit (the amount of outstanding leverage allowed for two or more SBIC licenses under common control) to $350 million from $225 million and increased the 7(a) loan program's authorization limit to $26.5 billion for FY2016.

Discussion

As mentioned previously, congressional interest in the SBA's access to capital programs has increased in recent years, primarily because assisting small business in accessing capital is viewed as a means to enhance job creation and economic growth. Some, including President Obama, have argued that the SBA should be provided additional resources to assist small businesses in acquiring capital necessary to start, continue, or expand operations and create jobs.[51] Others worry about the long-term adverse economic effects of spending programs that

[49] For further analysis of the Small Business Jobs Act of 2010's, tax provisions, see CRS Report R41385, *Small Business Legislation During the 111th Congress*, by Robert Jay Dilger and Gary Guenther (out of print; available upon request).

[50] U.S. Congress, House Committee on Small Business, *Veterans Entrepreneurship Act of 2015*, report to accompany H.R. 2499, 114th Cong., 1st sess., June 25, 2015, (Washington: GPO, 2015), p. 9.

[51] Rep. Nydia Velázquez, "Small Business Financing and Investment Act of 2009," House debate, *Congressional Record*, daily edition, vol. 155, no. 159 (October 29, 2009), pp. H12074, H12075; Sen. Mary Landrieu, "Statements on Introduced Bills and Joint Resolutions," remarks in the Senate, *Congressional Record*, daily edition, vol. 155, no. 185 (December 10, 2009), p. S12910; and The White House, "Remarks by the President on Job Creation and Economic Growth," December 8, 2009, at https://www.whitehouse.gov/the-press-office/remarks-president-job-creation-and-economic-growth.

increase the federal deficit. They also point to surveys of small business firms conducted by the National Federation of Independent Business (NFIB) which suggest that small business owners consistently place financing issues near the bottom of their most pressing concerns.[52] Instead of increasing federal funding for the SBA, they advocate small business tax reduction, reform of financial credit market regulation, and federal fiscal restraint as the best means to assist small business and foster increased levels of economic growth and job creation.[53]

Some advocates of providing additional resources to the SBA have argued that the federal government should enhance small business access to capital by creating a SBA direct lending program for small businesses.[54] During the 111th Congress, H.R. 3854, the Small Business Financing and Investment Act of 2009, was passed by the House on October 29, 2009, by a vote of 389-32. It would have authorized a temporary SBA direct lending program.[55] Also, during the 112th Congress, H.R. 3007, the Give Credit to Main Street Act of 2011, introduced on September 21, 2011, and referred to the House Committee on Small Business, would have authorized the SBA to provide direct loans to small businesses that have been in operation as a small business for at least two years prior to its application for a direct loan. The maximum loan amount would have been the lesser of 10% of the firm's annual revenues or $500,000. Also, H.R. 5835, the Veterans Access to Capital Act of 2012, introduced on May 18, 2012, and referred to the House Committee on Small Business, would have authorized the SBA to provide up to 20% of the annual amount available for guaranteed loans under the 7(a) and 504/CDC loan guaranty programs, respectively, in direct loans to veteran-owned and -controlled small businesses.

During the 113th Congress, H.R. 2451, the Strengthening Entrepreneurs' Economic Development Act of 2013, introduced on June 20, 2013, and referred to the House Committee on Small Business, would have authorized the SBA to establish a direct lending program for small businesses that have fewer than 20 employees. Under the bill, each loan would be limited to $150,000 and have a term of six years or less. Before issuing a direct loan, the SBA would be required to make the loan available to eligible lenders within 50 miles of the applicant's principal office. If no local lenders agree to originate, underwrite, close, and service the loan within five business days, the SBA would make the loan available to lenders in the Preferred Lender program. If still no lenders agree to originate, underwrite, close, and service the loan, the SBA shall, within 10 business days, consider the application for a direct loan.

The SBA has authority to make direct loans, both for disaster relief and for business purposes. The SBA limited the eligibility for direct business loans in 1984, 1994, and 1996 as a means to reduce costs. Until October 1, 1985, the SBA provided direct business loans to qualified small businesses. From October 1, 1985, to September 30, 1994, SBA direct business loan eligibility

[52] Bruce D. Phillips and Holly Wade, Small Business Problems and Priorities (Washington, DC: NFIB Research Foundation, June 2008), p. 5, at http://www.nfib.com/Portals/0/ProblemsAndPriorities08.pdf; Holly Wade, Small Business Problems and Priorities (Washington, DC: NFIB Research Foundation, August 2012), pp. 2, 5, 14, at http://www.nfib.com/research-foundation/priorities; and NFIB, "Small Business Economic Trends," at http://www.nfib.com/surveys/small-business-economic-trends/.

[53] Susan Eckerly, "NFIB Responds to President's Small Business Lending Initiatives," Washington, DC, October 21, 2009, at http://www.nfib.com/newsroom/newsroom-item/cmsid/50080/; NFIB, "Government Spending," Washington, DC, at http://www.nfib.com/issues-elections/issues-elections-item/cmsid/49051/; and National Federation of Independent Business, "Payroll Tax Holiday," at http://www.nfib.com/issues-elections/issues-elections-item/cmsid/49039/.

[54] U.S. Congress, House Committee on Small Business, *Small Business Financing and Investment Act of 2009*, committee print, 111th Cong., 1st sess., October 26, 2009, (Washington: GPO, 2009), pp. 13-20, 26, 27.

[55] H.R. 3854, the Small Business Financing and Investment Act of 2009 (111th Congress), §111. Capital Backstop Program.

was limited to qualified small businesses owned by individuals with low income or located in an area of high unemployment, owned by Vietnam-era or disabled veterans, owned by the handicapped or certain organizations employing them, or certified under the minority small business capital ownership development program. Microloan program intermediaries were also eligible.[56] On October 1, 1994, SBA direct loan eligibility was limited to Microloan program intermediaries and to small businesses owned by the handicapped. Funding to support direct loans to the handicapped through the Handicapped Assistance (renamed the Disabled Assistance) Loan program ended in 1996. The last loan issued under the Disabled Assistance Loan program took place in FY1998.[57] The SBA currently offers direct business loans only to Microloan program intermediaries.

Advocates for a small business direct lending program have argued that such a program would provide "rapid access to much-needed capital without having to face the administrative delays posed by the current Small Business Administration lending process."[58] Advocates of a temporary SBA direct lending program argued that such a program was necessary during periods of economic difficulty because

> In prosperous times, small businesses are able to shop around to different lenders to find the best available terms and conditions for a loan. But in times of economic downturns, those same lenders aren't as willing to lend to small businesses. More than ever during these times, it's the government's responsibility to step in to help small businesses access the loans they need to keep their businesses running and workers employed.[59]

Opponents of a small business direct lending program argue that the SBA's mission is to augment the private sector by guaranteeing loans, not compete with it by providing direct loans to small businesses.[60] They also argue that these loans hold greater risk than most; otherwise the private sector would accept them. They worry that SBA defaults may increase, resulting in added expense, either to taxpayers in the form of additional appropriations or to other small business borrowers in the form of higher fees, to cover the defaults.[61] They argue that the SBA stopped offering direct loans in 1995, primarily because the subsidy rate was "10 to 15 times higher than that of our guaranty programs."[62] They also assert that providing direct loans to small businesses

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[56] U.S. Congress, House Committee on Small Business, *Summary of Activities*, 103rd Cong., 2nd sess., January 2, 1995, H.Rept. 103-885 (Washington: GPO, 1995), p. 8; and U.S. Congress, Senate Committee on Small Business, *Hearing on the Proposed Fiscal Year 1995 Budget for the Small Business Administration*, 103rd Cong., 2nd sess., February 22, 1994, S. Hrg. 103-583 (Washington: GPO, 1994), p. 20.

[57] U.S. Congress, House Committee on Small Business, *Summary of Activities*, 105rd Cong., 2nd sess., January 2, 1999, H.Rept. 105-849 (Washington: GPO, 1999), p. 8.

[58] Dan Gerstein, "Big Stimulus For Small Business, A new direct lending program would benefit millions," *Forbes.com*, January 14, 2009; Sharon McLoone, "Landrieu: Small Business to Benefit from Economic Plan," *The Washington Post*, February 6, 2009; George Dooley, "ASTA Renews Call For SBA Direct Lending Program," American Society of Travel Agents, Washington, DC, February 18, 2009; and Anne Kim, Ryan McConaghy, and Tess Stovall, "Federal Direct Loans to Small Businesses," *Third Way Idea Brief*, Washington, DC, April 2009.

[59] Anne Kim, Ryan McConaghy, and Tess Stovall, "Federal Direct Loans to Small Businesses," *Third Way Idea Brief*, Washington, DC, April 2009.

[60] Sue Malone, *Myth: The SBA will make direct loans under the stimulus bill*, Strategies For Small Business, Danville, CA, March 12, 2009.

[61] Representative Jeff Flake, "Providing for Consideration of H.R. 3854, Small Business Financing and Investment Act of 2009," House debate, *Congressional Record*, daily edition, vol. 155, no. 159 (October 29, 2009), pp. H12070, H 12072.

[62] U.S. Congress, Senate Committee on Small Business, *Hearing on the Proposed Fiscal Year 1995 Budget for the Small Business Administration*, 103rd Cong., 2nd sess., February 22, 1994, S. Hrg. 103-583 (Washington: GPO, 1994), p. 20.

might invite corruption. They note that the Reconstruction Finance Corporation (RFC), the SBA's predecessor, made direct loans to business and was accused of awarding loans based on the applicant's political connections or personal ties with RFC loan officers.[63] Opponents also argue that the SBA does not have the human, physical, and technical resources to make direct loans.

Still others argue that providing additional funding for SBA programs is largely a symbolic gesture because the SBA's guaranteed loan programs account for a relatively small fraction of small business lending.[64] They argue that, in a typical year, no more than 1% of small businesses receive an SBA-guaranteed loan, and those loans account for less than 3% or 4% of the total amount loaned to small businesses.[65] They assert that "these numbers show that the private banking system finances most loans and that the SBA is therefore largely irrelevant in the capital market."[66]

SBA Funding

As mentioned previously, some, including President Obama, have argued that the SBA should be provided additional funding to assist small businesses in acquiring capital necessary to start, continue, or expand operations and create jobs. Others worry about the long-term adverse economic effects of spending programs that increase the federal deficit. They advocate fiscal restraint as the best means to assist small business and foster increased levels of economic growth and job creation. Both of these views have been reflected in recent SBA budget discussions as Congress has focused on ways to reduce the SBA's budget while not compromising the SBA's ability to assist small businesses access capital and assist individuals and businesses of all sizes cope with damages caused by natural disasters.

As shown in **Table 2**, the SBA's appropriations have varied significantly since FY2000, ranging from a high of $2.233 billion in FY2006 to a low of $571.8 million in FY2007.[67] Much of this volatility has resulted from significant increases in appropriations for disaster assistance in response to major hurricanes; increases in appropriations for business loan credit subsidies following recessions; and significant, temporary increases in appropriations for the SBA's other programs in FY2009 ($724.0 million) and FY2010 ($962.5 million) that were designed to enhance small businesses' access to capital following the Great Recession.

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[63] Representative Jeff Flake, "Providing for Consideration of H.R. 3854, Small Business Financing and Investment Act of 2009," House debate, *Congressional Record*, daily edition, vol. 155, no. 159 (October 29, 2009), pp. H12070, H 12072.

[64] U.S. Congress, Senate Committee on Homeland Security and Governmental Affairs, Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security, *The Effectiveness of the Small Business Administration*, 109th Cong., 2nd sess., April 6, 2006, S. Hrg. 109-492 (Washington: GPO, 2006), p. 92; and Discover Financial Services, "Discover® Small Business WatchSM: Small Business Economic Outlook Remains Cautious," Riverwoods, IL, October 26, 2009, at http://investorrelations.discoverfinancial.com/phoenix.zhtml?c=204177&p=irol-newsArticle&ID=1346088&highlight=.

[65] Raymond J. Keating, "Keating: Obama's policies will hurt, not help," *Long Island Business News, The Debate Room*, October 30, 2009, at http://libn.com/thedebateroom/2009/10/30/keating-obama%e2%80%99s-policies-will-hurt-not-help/.

[66] U.S. Congress, Senate Committee on Homeland Security and Governmental Affairs, Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security, *The Effectiveness of the Small Business Administration*, 109th Cong., 2nd sess., April 6, 2006, S.Hrg. 109-492 (Washington: GPO, 2006), p. 92.

[67] Program costs and expenditures typically differ from new budget authority provided by appropriations due to the carryover of budget authority either from the previous fiscal year or into the next fiscal year or to program transfers.

The SBA's appropriations are separated into three categories in **Table 2** (disaster assistance, business loan credit subsidies, and other programs) because the need for disaster assistance is largely beyond congressional control and expenditures for business loan credit subsidies tend to vary with changes in the national economy. As a result, it could be argued that comparisons of SBA appropriations over time can be made more meaningful if those comparisons include appropriations for all three categories of spending.

For example, the SBA's FY2016 appropriation of $871.0 million is less than the appropriation provided to the agency in FY2012, FY2013, FY2014, and FY2015.[68] It could be argued that the reduction in the SBA's appropriation in recent years could be evidence of a possible decline in congressional support for the SBA's programs. However, the SBA's appropriation for other programs in FY2016 of $680.8 million is higher than the SBA's appropriation for other programs in FY2012, FY2013, FY2014, and FY2015. It could be argued that the increased appropriation for the SBA's other programs is evidence of a possible increase in congressional support for the SBA's programs, not a decrease.

Table 2. Small Business Administration Appropriations, FY2000-FY2016

(millions of $)

Fiscal Year	Disaster Assistance	Business Loan Credit Subsidies	Other Programs	Appropriation
2016	$186.9	$3.3	$680.8	$871.0
2015	$186.9	$47.5	$653.2	$887.6
2014	$191.9	$111.6	$625.4	$928.9
2013	$851.2	$319.7	$583.6	$1,754.5[a]
2012	$117.3	$210.8	$590.7	$918.8
2011	$45.4	$82.8	$601.5	$729.7[b]
2010	$78.2	$83.0	$1,625.3[c]	$1,786.5
2009	$0.0[d]	$8.5[e]	$1,336.7[f]	$1,345.2
2008	$1,052.8	$2.0	$579.9	$1,634.7
2007	$114.9	$1.3	$455.6	$571.8[g]
2006	$1,700.0	$1.3	$532.1	$2,233.4[h]
2005	$1,040.8	$1.4	$498.0	$1,540.2[i]
2004	$198.9	$80.2	$507.1	$786.2[j]
2003	$190.3	$88.5	$507.5	$786.3[k]
2002	$284.7	$154.9	$478.4	$918.0[l]
2001	$284.1	$165.0	$550.4	$999.5[m]
2000	$317.3	$137.8	$459.5	$914.6[n]

Sources: U.S. Small Business Administration (SBA), Congressional Budget Justification, [FY2002-FY2009]; SBA, Congressional Budget Justification, [FY2010-FY2016], at https://www.sba.gov/about-sba/sba-performance/performance-budget-finances/congressional-budget-justification-annual-performance-reports; P.L. 106-113, the

[68] P.L. 114-53, the Continuing Appropriations Act, 2016, provided, on an annualized basis, $885.7 million to the SBA to continue operations through December 11, 2015.

Consolidated Appropriations Act, 2000; P.L. 106-554, the Consolidated Appropriations Act, 2001; P.L. 107-206, the 2002 Supplemental Appropriations Act for Further Recovery From and Response to Terrorist Attacks on the United States; P.L. 108-7, the Consolidated Appropriations Resolution, 2003; P.L. 108-199, the Consolidated Appropriations Act, 2004; P.L. 108-447, the Consolidated Appropriations Act, 2005; P.L. 109-108, the Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006; P.L. 109-148, the Department of Defense, Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act, 2006; P.L. 110-5, the Revised Continuing Appropriations Resolution, 2007; P.L. 110-161, the Consolidated Appropriations Act, 2008; P.L. 111-5, the American Recovery and Reinvestment Act of 2009; P.L. 111-118, the Department of Defense Appropriations Act, 2010; P.L. 111-144, the Temporary Extension Act of 2010; P.L. 111-157, the Continuing Extension Act of 2010; P.L. 111-240, the Small Business Jobs and Credit Act of 2010; P.L. 111-150, to permit the use of previously appropriated funds to extend the Small Business Loan Guarantee Program; P.L. 112-10, the Department of Defense and Full-Year Continuing Appropriations Act, 2011; P.L. 112-25, the Budget Control Act of 2011; P.L. 112-74, the Consolidated Appropriations Act, 2012; P.L. 112-175, the Continuing Appropriations Resolution, 2013; P.L. 113-2, the Disaster Relief Appropriations Act, 2013; P.L. 113-6, the Consolidated and Further Continuing Appropriations Act, 2013; P.L. 113-76, the Consolidated Appropriations Act, 2014; P.L. 113-235, the Consolidated and Further Continuing Appropriations Act, 2015; and P.L. 114-113, the Consolidated Appropriations Act, 2016.

a. Implementation of P.L. 112-25 and P.L. 113-6 imposed a federal government-wide sequestration process and a required 0.2% across-the-board rescission in FY2013. The SBA's FY2013 appropriation was reduced by $92.681 million under sequestration and $2.091 million by the rescission. Prior to these reductions, the SBA's FY2013 appropriation was $897.3 million for disaster assistance, $337.3 million for loan credit subsidies, $615.7 million for other programs, and $1,850.3 million in total.

b. The SBA's FY2011 appropriation of $731.201 million ($45.5 million for SBA disaster assistance, $83.0 million for business loan subsidies, and $602.7 million for other SBA programs) was reduced to $729.738 million by a 0.2% across-the-board rescission imposed on most appropriations accounts by P.L. 112-10.

c. The initial appropriation for other programs in FY2010 was $662.8 million. An additional $962.5 million was provided: $775.0 million in temporary funding for 7(a) and 504/Certified Development Company (CDC) loan guaranty program fee subsidies and loan modifications and $187.5 million for other SBA programs. P.L. 111-118 provided $125 million; P.L. 111-144 provided $60 million; P.L. 111-157 provided $80 million; and P.L. 111-240 provided $510 million to provide temporary fee subsidies for the SBA's 7(a) and 504/CDC loan guaranty programs and to temporarily increase the 7(a) program's maximum loan guaranty percentage from up to 85% of loans of $150,000 or less and up to 75% of loans exceeding $150,000 to 90% for all 7(a) loans. P.L. 111-240 extended the subsidies and 90% loan guaranty through December 31, 2010, and provided $187.5 million for other SBA programs that remained available through FY2011. Also, P.L. 111-150 authorized the SBA to use $40 million in previously appropriated funds for fee subsidies and the 7(a) loan modification.

d. SBA disaster assistance funding in FY2009 was carried over from the previous fiscal year.

e. The initial appropriation for business loan credit subsidies in FY2009 was $2.5 million for direct (Microloan) lending. P.L. 111-5 provided another $6 million for credit subsidies for the Microloan program to remain available through September 30, 2010.

f. The initial appropriation for other programs in FY2009 was $612.7 million. P.L. 111-5 provided $6 million for Microloan credit subsidies and $724 million for other SBA programs, including $375 million for loan fee subsidies and loan modifications for the 7(a) and 504/CDC programs and $255 million for a new, temporary small business stabilization program, later named the America's Recovery Capital (ARC) Loan program.

g. Includes reductions by P.L. 109-108 and P.L. 110-5, which rescinded $13.5 million of unobligated balances from the SBA ($6.192 million from unobligated disaster assistance administrative expenses, $5.031 million from unobligated balances in the (7a) general business loan guaranty program, and $2.323 million from unobligated balances in the direct loans program).

h. Includes reductions by P.L. 109-148, which imposed a rescission of 1.0% on federal agencies, resulting in a reduction of $6.992 million from the SBA ($0.017 million from business loan subsidies, $5.160 million from salaries and expenses, $1.600 from business loan administration, $0.178 million from the OIG, and $0.037 million from the surety bond program).

i. Includes reductions by P.L. 108-447, which imposed a 0.8% rescission on federal agencies, resulting in a reduction of $8.277 million from the SBA ($1.395 million from disaster assistance, $0.019 million from business loan subsidies, $4.951 million from salaries and expenses, $1.692 from business loan administration, $0.181 million from the OIG, and $0.039 million from the surety bond program).

j. Includes reductions by P.L. 108-199, which imposed a rescission of 0.59% on federal agencies, resulting in a reduction of $8.042 million from the SBA ($1.700 million from disaster assistance, $0.853 million from

business loan subsidies, $4.001 million from salaries and expenses, $1.347 from business loan administration, and $0.141 million from the OIG).

k. Includes reductions by P.L. 108-7, which imposed a rescission of 0.65% on federal agencies, resulting in a reduction of $5.144 million from the SBA ($1.244 million from disaster assistance, $0.579 million from business loan subsidies, $2.401 million from salaries and expenses, $0.839 from business loan administration, and $0.081 million from the OIG).

l. Includes reductions by P.L. 107-206, which imposed a rescission on federal agencies' administrative and travel accounts, resulting in a reduction of $0.485 million from the SBA ($0.164 million from disaster assistance, $0.315 million from salaries and expenses, and $0.006 million from the OIG).

m. Includes reductions by P.L. 106-554, which imposed a rescission of 0.22% on federal agencies, resulting in a reduction of $1.983 million from the SBA ($0.406 million from disaster assistance, $0.364 million from business loan subsidies, 0.903 million from salaries and expenses, $0.284 million from business loan administration, and $0.026 million from the OIG).

n. Includes reductions by P.L. 106-113, which imposed a rescission of 0.38% on federal agencies, resulting in a reduction of $3.280 million from the SBA ($3.185 million from salaries and expenses and $0.095 million from the OIG).

As shown in **Table 2**, the SBA's FY2016 appropriation of $871.0 million includes $186.9 million for the SBA's disaster loan programs, $3.3 million for business loan credit subsidies (for the Microloan program), and $680.8 million for all other SBA programs ($268.0 million for salaries and expenses; $231.1 million for entrepreneurial development programs, such as SCORE, Small Business Development Centers, and Women Business Centers; $152.7 million for administrative expenses related to the SBA's business loan programs; $19.9 million of the Office of Inspector General; and $9.1 million for the Office of Advocacy).

Concluding Observations

Congress approved many changes during the 111th Congress to enhance small business access to capital. For example, P.L. 111-240 authorized the Secretary of the Treasury to establish a $30 billion Small Business Lending Fund (SBLF) to make capital investments in eligible community banks ($4 billion was issued).[69] It authorized a $1.5 billion State Small Business Credit Initiative Program to be administered by the Department of the Treasury.[70] It made numerous changes to SBA programs in an attempt to make them more accessible to small businesses, such as increasing maximum loan amounts, creating an alternative size standard so more businesses can qualify for assistance, waiving some matching requirements, and temporarily expanding refinancing options under the 504/CDC program. It provided funding to extend SBA fee subsidies and the 7(a) program's 90% maximum loan guaranty percentage, made several changes to federal contracting law to increase small business opportunities in federal contracting, and provided about $12 billion in tax relief for small businesses. In addition, Congress approved legislation to temporarily reduce, for calendar years 2011 and 2012, payroll taxes by two percentage points for workers (including self-employed small business owners) who pay into Social Security.[71] The

[69] P.L. 111-240, the Small Business Jobs Act of 2010, §4103. Small Business Lending Fund.

[70] For further analysis, see CRS Report R41385, *Small Business Legislation During the 111th Congress*, by Robert Jay Dilger and Gary Guenther (out of print; available upon request).

[71] P.L. 111-312, the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, temporarily reduced the payroll tax by two percentage points for calendar year 2011. P.L. 112-78, the Temporary Payroll Tax Cut Continuation Act of 2011, extended the two percentage point payroll tax reduction through the first two months of 2012. P.L. 112-96, the Middle Class Tax Relief and Job Creation Act of 2012, extended the two percentage point payroll tax reduction through the end of calendar year 2012.

NFIB has long advocated a reduction of federal payroll taxes as a means to reduce small business expenses.[72]

During the 112th Congress, Congress passed legislation designed to enhance small business contracting opportunities, expand access to the SBA's surety bond guarantee program, amend the SBA's size standard practices, require a review and reassessment of the federal procurement small business goaling program, expand small business mentor-protégé programs, and establish a regulatory structure for startups and small businesses to raise capital through securities offerings using the Internet through crowdfunding.[73]

During the 113th and 114th Congresses, Congress approved legislation that increased the annual authorization amount for the SBA's SBIC program to $4 billion from $3 billion, authorized and made permanent the Obama Administration's waiver of the up-front, one-time loan guaranty fee for veteran loans under the SBAExpress loan guaranty program, expanded the projects eligible for refinancing under the 504/CDC loan guarantee program, and increased the SBIC program's family of funds limit (the amount of outstanding leverage allowed for two or more SBIC licenses under common control) to $350 million from $225 million.

The question for the remainder of the 114th Congress is what, if any, additional action should the federal government take to enhance small business access to capital? Should Congress decide to take further action, three not necessarily mutually exclusive options are readily apparent.

First, Congress could adopt a wait-and-see strategy that focuses on congressional oversight of the programmatic changes to the SBA's programs that were enacted during recent Congresses. Advocates of this approach could argue that small business credit markets have generally improved over the past several years, the SBA's lending now exceeds pre-recession levels, and the demand for small business loans is increasing. Therefore, it could be argued that evaluating the impact of the programmatic changes to the SBA's programs that have been enacted over the past several years, especially given that economic conditions appear to be improving, should take place before taking further congressional action to improve small business access to capital.

Second, Congress could consider additional changes to the SBA's programs in an effort to enhance small business access to capital, such as considering a direct lending program, providing additional funding for SBA fee subsidies and loan modifications, modifying the Microloan program, or increasing funding for SBA programs. Advocates of this approach could argue that although small business credit markets have generally improved over the past several years, job growth is still a concern. In their view, assisting small businesses access capital would help to create and retain jobs.

Third, Congress could consider the repeal of portions of the Small Business Jobs Act of 2010, or other SBA programs. For example, on March 15, 2011, the House Committee on Small Business approved its views and estimates for the concurrent resolution on the budget for FY2012. The committee recommended that the SBA's budget be "cut nearly $100 million."[74] The committee recommended that 14 programs, including several management and technical assistance training

[72] National Federation of Independent Business, "Payroll Tax Holiday," Washington, DC, at http://www.nfib.com/issues-elections/issues-elections-item/cmsid/49039/; and National Federation of Independent Business, "Tax Package Compromise Represents a Big Victory for Small Business," Washington, DC, at http://www.nfib.com/issues-elections/issues-elections-item?cmsid=55506.

[73] P.L. 112-239, the National Defense Authorization Act for Fiscal Year 2013; and P.L. 112-106, the Jumpstart Our Business Startups Act (JOBS Act).

[74] Representative Sam Graves, "Opening Statement for Views and Estimates Markup," Washington, DC, March 15, 2011, at http://www.smallbusiness.house.gov/Calendar/EventSingle.aspx?EventID=227626.

programs, be defunded "because they duplicate existing programs at the SBA or at other agencies" or "where there is an absence of any evidence that they will help small businesses create new jobs."[75] In its views and estimates letter for the FY2013 budget, the House Committee on Small Business recommended, on March 7, 2012, that funding be reduced for several SBA programs, including funding for 7(j) technical assistance, microloan technical assistance, and the National Women's Business Council. It also recommended that funding be eliminated for Women's Business Centers, Veterans Business Centers, Prime Technical Assistance, HUBZone outreach, the Office of Native American Affairs, and the Office of International Trade. It also recommended that funding be eliminated for several SBA initiatives, including the Drug-Free Workplace, Clusters, and National Veterans Entrepreneurial Training Program.[76]

Advocates of this option argue that instead of increasing federal funding for the SBA, the federal government should focus on small business tax reduction and federal fiscal restraint as the best means to assist small business and foster increased levels of economic growth and job creation.[77]

[75] Ibid. For further information concerning the funding recommendations contained in the House Committee on Small Business views and estimates for the concurrent resolution on the budget for FY2012 see U.S. Congress, House Committee on Small Business, "Views and Estimates of the Committee on Small Business on Matters to be set forth in the Concurrent Resolution on the Budget for FY2012, communication to the Chairman, House Committee on the Budget," 112th Cong., 1st sess., March 17, 2011, at http://smbiz.house.gov/UploadedFiles/March_17_Views_and_Estimates_Letter.pdf.

[76] U.S. Congress, House Committee on Small Business, "Views and Estimates of the Committee on Small Business on Matters to be set forth in the Concurrent Resolution on the Budget for FY2013, communication to the Chairman, House Committee on the Budget," 112th Cong., 1st sess., March 7, 2012 at http://smallbusiness.house.gov/uploadedfiles/views_and_estimates_fy_2013.pdf.

[77] Susan Eckerly, "NFIB Responds to President's Small Business Lending Initiatives," Washington, DC, October 21, 2009, at http://www.nfib.com/newsroom/newsroom-item/cmsid/50080/; NFIB, "Government Spending," Washington, DC, at http://www.nfib.com/issues-elections/issues-elections-item/cmsid/49051/; and National Federation of Independent Business, "Payroll Tax Holiday," at http://www.nfib.com/issues-elections/issues-elections-item/cmsid/49039/.

Appendix. Selected Provisions in the Small Business Jobs Act of 2010

Table A-1. Selected Provisions, the Small Business Jobs Act of 2010

Issue/Program	The Small Business Jobs Act of 2010
SBA 7(a) Program	increased the 7(a) Program's loan limit from $2 million to $5 million.
SBA 504 Program	increased the 504/CDC Program's loan limits from $1.5 million to $5 million for "regular" borrowers, from $2 million to $5 million if the loan proceeds are directed toward one or more specified public policy goals, and from $4 million to $5.5 million for manufacturers; and temporarily expanded for two years the eligibility for low-interest refinancing under the SBA's 504/CDC program for qualified debt.
SBA Express Program	temporarily increased for one year the Express Program's loan limit from $350,000 to $1 million (expired on September 26, 2011).
SBA Microloan Program	increased the Microloan Program's loan limit for borrowers from $35,000 to $50,000; and increased the loan limits for Microloan intermediaries after their first year in the program from $3.5 million to $5 million.
Temporary SBA fee subsidies and loan modifications	temporarily increased the SBA's guaranty on 7(a) loans to 90% and provided for the elimination of selected fees on the SBA's 7(a) and 504 loans through December 31, 2010.
SBA secondary market	extended the SBA's secondary market lending authority under ARRA from 2 years from enactment to 2 years from the first sale of a pool of first lien position 504 loans guaranteed under this authority investor (which took place on September 24, 2010).
SBA size standards	authorized the SBA to establish an alternative size standard for the SBA's 7(a) and 504 programs that would use maximum tangible net worth and average net income; and to established an interim alternative size standard of not more than $15 million in tangible net worth and not more than $2 million in average net income for the two full fiscal years before the date of the application.
SBA International Trade Finance Program	increased the International Trade Finance Program's loan limit from $1.75 million, of which not more than $1.25 million may be used for working capital, supplies, or financings, to $4.5 million.
State Trade and Export Promotion Grant Program	established an associate administrator for the SBA's Office of International Trade and a state trade and export promotion grant program.

Issue/Program	The Small Business Jobs Act of 2010
Federal contracting	imposed contract bundling accountability measures directing federal agencies to include in each solicitation for any contract award above the agency's substantial bundling threshold a provision soliciting bids by small business teams and joint ventures; required federal agencies to publish on its website its policy on contract bundling and consolidation, as well as a rationale for any bundled contract solicited or awarded; repealed the small business competitiveness demonstration program; and provided parity among the small business contracting programs (including striking "shall" and inserting "may" in 15 U.S.C. 657a(b)(2)(B), which refers to the agency's discretion to provide contracting preference to HUBZone small businesses).
Small Business Lending Fund	authorized the U.S. Treasury to make up to $30 billion of capital investments ($4 billion was issued); CBO estimated the program would raise $1.1 billion over 10 years.
State Small Business Credit Initiative Program	authorized $1.5 billion for the State Small Business Credit Initiative Program.
SBA Intermediary Lending Pilot Program	authorized a three-year Intermediary Lending Pilot Program to allow the SBA to make direct loans to not more than 20 eligible nonprofit lending intermediaries each year totaling not more than $20 million. The intermediaries, in turn, would be allowed to make loans to new or growing small businesses, not to exceed $200,000 per business.
Capital gains taxation	temporarily raised to 100% the exclusion of gains on certain small business stock from enactment to end of calendar year.
Limitation on penalties for failure to disclose reportable transactions	placed limitations on the penalty for failure to disclose reportable transactions based on resulting tax benefits.
Deduction for start-up expenditures	increased the deduction for qualified start-up expenditures from $5,000 to $10,000 in 2010, and the phaseout threshold from $50,000 to $60,000 for 2010.
Business carry back	allowed general business credits of eligible small businesses for 2010 to be carried back 5 years.
Alternative Minimum Tax	exempted general business credits of eligible small businesses in 2010 from the alternative minimum tax.
Recognition period for built-In gains tax	allowed a temporary reduction in the recognition period for built-in gains tax.
Expensing and Section 179 property	increased expensing limitations for 2010 and 2011; and allowed certain real property to be treated as Section 179 property.
Depreciation	allowed additional first-year depreciation for 50% of the basis of certain qualified property.
Deduction for health insurance costs	allowed the deduction for health insurance costs in computing self-employment taxes in 2010.

Issue/Program	The Small Business Jobs Act of 2010
Deduction for cellular telephones	removed cellular telephones and similar telecommunications equipment from listed property so their cost can be deducted or depreciated like other business property.
Crude tall oil	made crude tall oil ineligible for the cellulosic biofuel producer credit.
Section 561 of the Hiring Incentives to Restore Employment Act	increased the percentage under Section 561 of the Hiring Incentives to Restore Employment Act by 36 percentage points.
Rental income reporting	required taxpayers that receive rental income from leasing real property to file information returns to the IRS and to service providers that report receiving payments of $600 or more during the tax year for rental property expenses (repealed by P.L. 112-9, the Comprehensive 1099 Taxpayer Protection and Repayment of Exchange Subsidy Overpayments Act of 2011).
Penalties for failing to file information returns to the IRS	increased the penalties for failing to file information returns to the IRS and to payees in a timely manner.
Treasury Department authority to apply a continuous levy on federal contractors	expanded the Treasury Department's authority to apply a continuous levy to government payments to federal contractors that owe the IRS for unpaid taxes to include payments for property such as a new office building. Current law allows the levy to be applied to payments for goods and services only.
Predictive modeling to identify Medicaid waste, fraud, and abuse	authorized the use of predictive modeling to identify and prevent waste, fraud, and abuse in the Medicare fee-for-service program.
Roth Retirement Accounts	allowed participants in government Section 457 plans to treat elective deferrals as Roth contributions; and allowed rollovers from elective deferral plans to designated Roth accounts.
Nonqualified annuities	allowed holders of nonqualified annuities (i.e., annuity contracts held outside of a tax-qualified retirement plan or IRA) to elect to receive a portion of the contract in the form of a stream of annuity contracts, leaving the remainder of the contract to accumulate income on a tax-deferred basis.

Source: P.L. 111-240, the Small Business Jobs Act of 2010.

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