

Calendar No. 158

118TH CONGRESS
1ST SESSION**S. 2482**

To amend the Small Business Act to authorize the Community Advantage Loan Program of the Small Business Administration, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 25, 2023

Mr. CARDIN, from the Committee on Small Business and Entrepreneurship, reported the following original bill; which was read twice and placed on the calendar

A BILL

To amend the Small Business Act to authorize the Community Advantage Loan Program of the Small Business Administration, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Community Advantage Loan Program Act of 2023”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

TITLE I—COMMUNITY ADVANTAGE LOAN PROGRAM

Sec. 101. Community Advantage Loan Program.

TITLE II—SMALL BUSINESS LENDING COMPANIES

- Sec. 201. Short title.
- Sec. 202. Findings.
- Sec. 203. Lending criteria.
- Sec. 204. Affiliation and franchise directory.
- Sec. 205. Loan authorization.
- Sec. 206. Oversight of small business lending companies.
- Sec. 207. Office of Credit Risk Management.
- Sec. 208. Denied loan or loan modification request.
- Sec. 209. Direct lending.
- Sec. 210. Restriction on refinancing debt.
- Sec. 211. GAO study.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) ADMINISTRATION.—The term “Administra-
4 tion” means the Small Business Administration.

5 (2) ADMINISTRATOR.—The term “Adminis-
6 trator” means the Administrator of the Administra-
7 tion.

8 **TITLE I—COMMUNITY**
9 **ADVANTAGE LOAN PROGRAM**

10 **SEC. 101. COMMUNITY ADVANTAGE LOAN PROGRAM.**

11 (a) IN GENERAL.—Section 7(a) of the Small Busi-
12 ness Act (15 U.S.C. 636(a)) is amended by adding at the
13 end the following:

14 “(38) COMMUNITY ADVANTAGE LOAN PRO-
15 GRAM.—

16 “(A) PURPOSES.—The purposes of the
17 Community Advantage Loan Program are—

1 “(i) to create a mission-oriented loan
2 guarantee program;

3 “(ii) to increase lending to small busi-
4 ness concerns in underserved and rural
5 markets, including to new businesses;

6 “(iii) to ensure that the program
7 under this subsection expands inclusion
8 and more broadly meets congressional in-
9 tent to reach borrowers who are unable to
10 get credit elsewhere on reasonable terms
11 and conditions;

12 “(iv) to help underserved small busi-
13 ness concerns become bankable by utilizing
14 the small dollar financing and business
15 support experience of mission-oriented
16 lenders;

17 “(v) to allow certain mission-oriented
18 lenders, primarily financial intermediaries
19 focused on economic development in under-
20 served markets, access to guarantees for
21 loans under this subsection (referred to in
22 this paragraph as ‘7(a) loans’) and provide
23 management and technical assistance to
24 small business concerns as needed; and

1 “(vi) to assist covered institutions
2 with providing business support services
3 and technical assistance to small business
4 concerns, when needed.

5 “(B) DEFINITIONS.—In this paragraph:

6 “(i) COMMUNITY ADVANTAGE NET-
7 WORK PARTNER.—The term ‘Community
8 Advantage Network Partner’—

9 “(I) means a nonprofit, mission-
10 oriented organization that acts as a
11 Referral Agent to covered institutions
12 in order to expand the reach of the
13 program to small business concerns in
14 underserved markets; and

15 “(II) does not include a covered
16 institution making loans under the
17 program.

18 “(ii) COVERED INSTITUTION.—The
19 term ‘covered institution’ means an entity
20 that—

21 “(I) is—

22 “(aa) a development com-
23 pany, as defined in section 103 of
24 the Small Business Investment
25 Act of 1958 (15 U.S.C. 662),

1 participating in the 504 Loan
2 Guaranty program established
3 under title V of that Act (15
4 U.S.C. 695 et seq.);

5 “(bb) a nonprofit inter-
6 mediary, as defined in subsection
7 (m)(11), participating in the
8 microloan program under sub-
9 section (m);

10 “(cc) a non-Federally regu-
11 lated entity certified as a commu-
12 nity development financial insti-
13 tution by the Community Devel-
14 opment Financial Institutions
15 Fund established under section
16 104(a) of the Community Devel-
17 opment Banking and Financial
18 Institutions Act of 1994 (12
19 U.S.C. 4703(a)); or

20 “(dd) an eligible inter-
21 mediary, as defined in subsection
22 (l)(1), participating in the small
23 business intermediary lending
24 program established under sub-
25 section (l)(2); and

1 “(II) has approved and disbursed
2 10 similarly sized loans in the pre-
3 ceding 24-month period and is serv-
4 icing not less than 10 similarly sized
5 loans to small business concerns in
6 the portfolio of the entity.

7 “(iii) EXISTING BUSINESS.—The term
8 ‘existing business’ means a small business
9 concern that has been in existence for not
10 less than 2 years on the date on which a
11 loan is made to the small business concern
12 under the program.

13 “(iv) NEW BUSINESS.—The term ‘new
14 business’ means a small business concern
15 that has been in existence for not more
16 than 2 years on the date on which a loan
17 is made to the small business concern
18 under the program.

19 “(v) PROGRAM.—The term ‘program’
20 means the Community Advantage Loan
21 Program established under subparagraph
22 (C).

23 “(vi) REFERRAL AGENT.—The term
24 ‘Referral Agent’ has the meaning given the
25 term in section 103.1(f) of title 13, Code

1 of Federal Regulations, or any successor
2 regulation.

3 “(vii) RURAL AREA.—The term ‘rural
4 area’ means any county that the Bureau of
5 the Census has defined as mostly rural or
6 completely rural in the most recent decen-
7 nial census.

8 “(viii) SMALL BUSINESS CONCERN IN
9 AN UNDERSERVED MARKET.—The term
10 ‘small business concern in an underserved
11 market’ means a small business concern—

12 “(I) that is located in—

13 “(aa) a low- to moderate-in-
14 come community;

15 “(bb) a HUBZone, as that
16 term is defined in section 31(b);

17 “(cc) a rural area;

18 “(dd) a community that has
19 been designated as an empower-
20 ment zone or enterprise commu-
21 nity under section 1391 of the
22 Internal Revenue Code of 1986;

23 “(ee) a community that has
24 been designated as a qualified
25 opportunity zone under section

1 1400Z-1 of the Internal Revenue
2 Code of 1986; or

3 “(ff) a community that has
4 been designated as a promise
5 zone by the Secretary of Housing
6 and Urban Development;

7 “(II) for which more than 50
8 percent of the employees reside in a
9 low- or moderate-income community;

10 “(III) that is a new business; or

11 “(IV) that is owned and con-
12 trolled by veterans or spouses of vet-
13 erans.

14 “(C) ESTABLISHMENT.—There is estab-
15 lished a Community Advantage Loan Program
16 under which the Administration may guarantee
17 loans closed by covered institutions under this
18 subsection, with an emphasis on loans made to
19 small business concerns in underserved mar-
20 kets.

21 “(D) PROGRAM LEVELS.—In fiscal year
22 2024 and each fiscal year thereafter, not more
23 than 10 percent of the number of loans guaran-
24 teed under this subsection may be guaranteed
25 under the program.

1 “(E) GRANDFATHERING OF EXISTING
2 LENDERS.—Any covered institution that was li-
3 censed by the Administrator as a Community
4 Advantage small business lending company, or
5 that participated in the Community Advantage
6 Pilot Program of the Administration, during
7 the period beginning on May 1, 2023, and end-
8 ing on September 30, 2023, and was in good
9 standing during that period, as determined by
10 the Administration—

11 “(i) shall be designated as partici-
12 pants in the program;

13 “(ii) shall not be required to submit
14 an application to participate in the pro-
15 gram; and

16 “(iii) for the purpose of determining
17 the loan loss reserve amount of the covered
18 institution, shall have participation in the
19 Community Advantage Pilot Program in-
20 cluded in the calculation under subpara-
21 graph (J).

22 “(F) REQUIREMENT TO MAKE LOANS TO
23 UNDERSERVED MARKETS.—Not less than 60
24 percent of loans closed by a covered institution
25 under the program shall consist of loans made

1 to small business concerns in underserved mar-
2 kets.

3 “(G) MAXIMUM LOAN AMOUNT; COLLAT-
4 ERAL.—

5 “(i) MAXIMUM LOAN AMOUNT.—

6 “(I) IN GENERAL.—Except as
7 provided in subclause (II), the max-
8 imum loan amount for a loan guaran-
9 teed under the program is \$350,000.

10 “(II) EXPERIENCED LENDERS.—

11 “(aa) IN GENERAL.—The
12 Administrator may approve not
13 more than 8 covered institutions
14 (referred to in this subclause as
15 the ‘experienced lenders’), each of
16 which has not less than 5 years
17 of experience making loans under
18 the Community Advantage Pilot
19 Program of the Administration
20 or the program established under
21 this paragraph, to be eligible to
22 make loans under this subclause.

23 “(bb) MAXIMUM LOAN
24 AMOUNT.—Subject to item (dd),
25 an experienced lender may make

1 a loan guaranteed under the pro-
2 gram in an amount that is not
3 more than \$750,000.

4 “(cc) PARTICIPATION BY
5 THE ADMINISTRATION.—With re-
6 spect to an agreement to partici-
7 pate in a loan made under this
8 subclause on a deferred basis, the
9 participation by the Administra-
10 tion shall be—

11 “(AA) 75 percent of the
12 balance of the financing out-
13 standing at the time of the
14 disbursement of the loan, if
15 that balance is more than
16 \$350,000;

17 “(BB) as described in
18 clause (i) of paragraph
19 (2)(G), if the balance of the
20 financing outstanding at the
21 time of the disbursement of
22 the loan is as described in
23 that clause; or

24 “(CC) as described in
25 clause (ii) of paragraph

1 (2)(G), if the balance of the
2 financing outstanding at the
3 time of the disbursement of
4 the loan is as described in
5 that clause.

6 “(dd) REQUIREMENTS TO
7 MAKE LOANS IN CERTAIN
8 AMOUNTS.—Not less than 60
9 percent of loans closed by each
10 experienced lender under the pro-
11 gram shall consist of loans in an
12 amount that is not more than
13 \$350,000.

14 “(ii) COLLATERAL.—

15 “(I) IN GENERAL.—A covered in-
16 stitution shall not be required to take
17 collateral with respect to a loan guar-
18 anteed under the program if the
19 amount of that loan is not more than
20 \$50,000.

21 “(II) POLICIES AND PROCE-
22 DURES OF COVERED INSTITUTION.—
23 In determining the amount of collat-
24 eral required with respect to a loan
25 guaranteed under the program, a cov-

1 ered institution may use the collateral
2 policies and procedures of the covered
3 institution with respect to similarly
4 sized commercial loans closed by the
5 covered institution that are not guar-
6 anteed by the Administration.

7 “(H) INTEREST RATES.—The maximum
8 allowable interest rate prescribed by the Admin-
9 istration on any financing made on a deferred
10 basis pursuant to the program shall not exceed
11 the maximum allowable interest rate under sec-
12 tions 120.213 and 120.214 of title 13, Code of
13 Federal Regulations, or any successor regula-
14 tions.

15 “(I) REFINANCING OF COMMUNITY ADVAN-
16 TAGE PROGRAM LOANS.—A loan guaranteed
17 under the program or guaranteed under the
18 Community Advantage Pilot Program of the
19 Administration may be refinanced into another
20 7(a) loan made by a lender that does not par-
21 ticipate in the program.

22 “(J) LOAN LOSS RESERVE REQUIRE-
23 MENTS.—

1 “(i) LOAN LOSS RESERVE ACCOUNT
2 FOR COVERED INSTITUTIONS.—A covered
3 institution—

4 “(I) with not more than 5 years
5 of participation in the program shall
6 maintain a loan loss reserve account
7 with an amount equal to 5 percent of
8 the outstanding amount of the
9 unguaranteed portion of the loan
10 portfolio of the covered institution
11 under the program; and

12 “(II) with more than 5 years of
13 participation in the program shall
14 maintain a loan loss reserve account
15 with an amount equal to the average
16 repurchase rate of the covered institu-
17 tion over the preceding 36-month pe-
18 riod, except that such amount shall
19 not be less than 3 percent of the out-
20 standing amount of the unguaranteed
21 portion of the loan portfolio of the
22 covered institution under the program.

23 “(ii) ADDITIONAL LOAN LOSS RE-
24 SERVE AMOUNT FOR SELLING LOANS ON
25 THE SECONDARY MARKET.—In addition to

1 the amount required in the loan loss re-
2 serve account under clause (i), a covered
3 institution that sells a program loan on the
4 secondary market shall be required to
5 maintain the following additional amounts
6 in the loan loss reserve account:

7 “(I) For a covered institution
8 with less than 5 years of experience
9 selling program loans on the sec-
10 ondary market, an amount equal to 3
11 percent of the guaranteed portion of
12 each program loan sold on the sec-
13 ondary market.

14 “(II) For a covered institution
15 with more than 5 years of experience
16 selling program loans on the sec-
17 ondary market, an amount equal to
18 the average repurchase rate for loans
19 sold by the covered institution on the
20 secondary market over the preceding
21 36 months, except that such amount
22 shall be not less than 2 percent of the
23 guaranteed portion of each program
24 loan sold into the secondary market.

1 “(iii) RECALCULATION.—On October
2 1 of each year, the Administrator shall re-
3 calculate the loan loss reserve required
4 under clauses (i) and (ii).

5 “(K) TRAINING.—The Administration—

6 “(i) shall provide accessible upfront
7 and ongoing training for covered institu-
8 tions making loans under the program to
9 support program compliance and improve
10 the interface between the covered institu-
11 tions and the Administration, which shall
12 include—

13 “(I) guidance for following the
14 regulations of the Administration; and

15 “(II) guidance specific to mis-
16 sion-oriented lending that is intended
17 to help lenders effectively reach and
18 support small business concerns in
19 underserved markets, including man-
20 agement and technical assistance de-
21 livery;

22 “(ii) may enter into a contract to pro-
23 vide the training described in clause (i)
24 with an organization—

1 “(I) with expertise in lending
2 under this subsection; and

3 “(II) primarily specializing in—
4 “(aa) mission-oriented lend-
5 ing; and

6 “(bb) lending to small busi-
7 ness concerns in underserved
8 markets; and

9 “(iii) shall provide training for the
10 employees and contractors of the Adminis-
11 tration that regularly engage with covered
12 institutions or borrowers under the pro-
13 gram.

14 “(L) COMMUNITY ADVANTAGE OUTREACH
15 AND EDUCATION.—The Administrator—

16 “(i) shall develop and implement a
17 program to promote to, conduct outreach
18 to, and educate prospective covered institu-
19 tions about the program; and

20 “(ii) may enter into a contract with 1
21 or more nonprofit organizations experi-
22 enced in working with and training mis-
23 sion-oriented lenders to provide the pro-
24 motion, outreach, and education described
25 in clause (i).

1 “(M) COMMUNITY ADVANTAGE NETWORK
2 PARTNER PARTICIPATION.—

3 “(i) IN GENERAL.—A covered institu-
4 tion that uses a Community Advantage
5 Network Partner shall abide by policies
6 and procedures of the Administration con-
7 cerning the use of Referral Agent fees per-
8 mitted by the Administration and disclo-
9 sure of those fees.

10 “(ii) PAYMENT OF FEES.—Notwith-
11 standing any other provision of law, all
12 fees described in clause (i) shall be paid by
13 the covered institution to the Community
14 Advantage Network Partner upon dis-
15 bursement of the applicable program loan.

16 “(N) DELEGATED AUTHORITY.—A covered
17 institution is not eligible to receive delegated
18 authority from the Administration under the
19 program until the covered institution has satis-
20 fied the following applicable requirements:

21 “(i) For a covered institution actively
22 participating in the Community Advantage
23 Pilot Program of the Administration, as of
24 the day before the date of enactment of
25 this paragraph—

1 “(I) the covered institution has
2 approved and fully disbursed not
3 fewer than 10 loans under that Pilot
4 Program; and

5 “(II) the Administration has
6 evaluated the ability of the covered in-
7 stitution to fulfill program require-
8 ments.

9 “(ii) For any covered institution not
10 described in clause (i)—

11 “(I) the covered institution has
12 approved and fully disbursed not
13 fewer than 20 loans under the pro-
14 gram; and

15 “(II) the Administration has
16 evaluated the ability of the covered in-
17 stitution to fulfill program require-
18 ments.

19 “(O) REPORTING.—

20 “(i) WEEKLY REPORTS.—

21 “(I) IN GENERAL.—The Admin-
22 istration shall report on the website of
23 the Administration, as part of the
24 weekly reports on lending approvals
25 under this subsection—

1 “(aa) on and after the date
2 of enactment of this paragraph,
3 the number and dollar amount of
4 loans guaranteed under the Com-
5 munity Advantage Pilot Program
6 of the Administration; and

7 “(bb) on and after the date
8 on which the Administration be-
9 gins to approve loans under the
10 program, the number and dollar
11 amount of loans guaranteed
12 under the program.

13 “(II) SEPARATE ACCOUNTING.—
14 The number and dollar amount of
15 loans reported in a weekly report
16 under subclause (I) for loans guaran-
17 teed under the Community Advantage
18 Pilot Program of the Administration
19 and under the program shall include a
20 breakdown by the demographic infor-
21 mation of the owners of the small
22 business concerns, by whether the
23 small business concern is a new busi-
24 ness or an existing business, and by
25 whether the small business concern is

1 located in an urban or rural area, and
2 broken down by—

3 “(aa) loans of not more than
4 \$50,000;

5 “(bb) loans of more than
6 \$50,000 and not more than
7 \$150,000;

8 “(cc) loans of more than
9 \$150,000 and not more than
10 \$250,000;

11 “(dd) loans of more than
12 \$250,000 and not more than
13 \$350,000; and

14 “(ee) loans of more than
15 \$350,000 and not more than
16 \$750,000.

17 “(ii) ANNUAL REPORTS.—

18 “(I) IN GENERAL.—For each fis-
19 cal year in which the program is in ef-
20 fect, the Administration shall submit
21 to the Committee on Small Business
22 and Entrepreneurship of the Senate
23 and the Committee on Small Business
24 of the House of Representatives, and
25 make publicly available on the inter-

1 net, information about loans provided
2 under the program and under the
3 Community Advantage Pilot Program
4 of the Administration.

5 “(II) CONTENTS.—Each report
6 submitted and made publicly available
7 under subclause (I) shall include—

8 “(aa) the number and dollar
9 amounts of loans provided to
10 small business concerns under
11 the program, including a break-
12 down by—

13 “(AA) the demographic
14 information of the owners of
15 the small business concern;

16 “(BB) whether the
17 small business concern is lo-
18 cated in an urban or rural
19 area; and

20 “(CC) whether the
21 small business concern is an
22 existing business or a new
23 business, as provided in the
24 weekly reports on lending

1 approvals under this sub-
2 section;

3 “(bb) the proportion of loans
4 described in item (aa) compared
5 to—

6 “(AA) other 7(a) loans
7 of any amount;

8 “(BB) other 7(a) loans
9 of similar amounts;

10 “(CC) express loans
11 provided under paragraph
12 (31) of similar amounts; and

13 “(DD) other 7(a) loans
14 of similar amounts provided
15 to small business concerns
16 in underserved markets;

17 “(cc) the number and dollar
18 amounts of loans provided to
19 small business concerns under
20 each category described in
21 subitems (AA), (BB), and (CC)
22 of item (aa), which shall be bro-
23 ken down by—

24 “(AA) loans of not
25 more than \$50,000;

1 “(BB) loans of more
2 than \$50,000 and not more
3 than \$150,000;

4 “(CC) loans of more
5 than \$150,000 and not more
6 than \$250,000;

7 “(DD) loans of more
8 than \$250,000 and not more
9 than \$350,000; and

10 “(EE) loans of more
11 than \$350,000 and not more
12 than \$750,000;

13 “(dd) the number and dollar
14 amounts of loans provided to
15 small business concerns under
16 the program by State, and the
17 jobs created or retained within
18 each State; and

19 “(ee) a list of covered insti-
20 tutions participating in the pro-
21 gram and the Community Advan-
22 tage Pilot Program of the Ad-
23 ministration, including—

24 “(AA) the name, loca-
25 tion, and contact informa-

1 tion, such as the website and
2 telephone number, of each
3 covered institution; and

4 “(BB) a breakdown by
5 the number and dollar
6 amount of the loans ap-
7 proved for small business
8 concerns.

9 “(III) TIMING.—An annual re-
10 port required under this clause
11 shall—

12 “(aa) be submitted and
13 made publicly available not later
14 than December 1 of each year;
15 and

16 “(bb) cover the lending ac-
17 tivity for the fiscal year that
18 ended on September 30 of that
19 same year.

20 “(P) GAO REPORT.—Not later than 5
21 years after the date of enactment of this para-
22 graph, the Comptroller General of the United
23 States shall submit to the Administrator, the
24 Committee on Small Business and Entrepre-
25 neurship of the Senate, and the Committee on

1 Small Business of the House of Representatives
2 a report—

3 “(i) assessing—

4 “(I) the extent to which the pro-
5 gram fulfills the requirements of this
6 paragraph; and

7 “(II) the performance of covered
8 institutions participating in the pro-
9 gram; and

10 “(ii) providing recommendations on
11 the administration of the program and the
12 findings under subclauses (I) and (II) of
13 clause (i).

14 “(Q) REGULATIONS.—

15 “(i) IN GENERAL.—Not later than
16 180 days after the date of enactment of
17 this paragraph, the Administrator shall
18 promulgate regulations governing the pro-
19 gram, including metrics for lender per-
20 formance, metrics of success and bench-
21 marks of the program, and criteria for ap-
22 propriate management and technical as-
23 sistance.

24 “(ii) UPDATES.—The Administrator
25 shall consult the report submitted under

1 subparagraph (P) and, not later than 180
2 days after the date on which the Comp-
3 troller General of the United States sub-
4 mits the report, promulgate any necessary
5 changes to existing regulations of the Ad-
6 ministration based on the recommenda-
7 tions contained in the report.”.

8 (b) PARTICIPATION.—Section 7(a)(2) of the Small
9 Business Act (15 U.S.C. 636(a)(2)) is amended—

10 (1) in subparagraph (A), in the matter pre-
11 ceding clause (i), by striking “and (F)” and insert-
12 ing “(F), and (G)”; and

13 (2) by adding at the end the following:

14 “(G) PARTICIPATION IN THE COMMUNITY
15 ADVANTAGE LOAN PROGRAM.—Subject to sub-
16 paragraph (G)(i)(II)(cc) of paragraph (38), in
17 an agreement to participate in a loan on a de-
18 ferred basis under that paragraph, the partici-
19 pation by the Administration shall be—

20 “(i) 80 percent of the balance of the
21 financing outstanding at the time of the
22 disbursement of the loan, if that balance is
23 more than \$150,000 and not more than
24 \$350,000; or

1 “(ii) 90 percent of the balance of the
2 financing outstanding at the time of the
3 disbursement of the loan, if that balance is
4 not more than \$150,000.”.

5 **TITLE II—SMALL BUSINESS**
6 **LENDING COMPANIES**

7 **SEC. 201. SHORT TITLE.**

8 This title may be cited as the “Modernizing SBA’s
9 Business Loan Programs Act of 2023”.

10 **SEC. 202. FINDINGS.**

11 Congress finds that—

12 (1) in 1982, the Administration placed a mora-
13 torium on licensing new small business lending com-
14 panies because the Administration lacked the re-
15 sources to effectively service and supervise additional
16 small business lending companies;

17 (2) according to the Office of the Inspector
18 General of the Administration, the reduction in staff
19 in the Office of Credit Risk Management of the Ad-
20 ministration from 42 full-time employees to 29 full-
21 time employees could affect the fiscal year 2023
22 goals of the Administration for oversight reviews;

23 (3) the Administration has finalized a rule-
24 making to lift the moratorium on the licensing new
25 small business lending companies and establish a

1 new Community Advantage small business lending
2 company license, and there is no cap on the number
3 of small business lending companies licenses that
4 could be issued by the Administration;

5 (4) the increased costs and fees for an existing
6 Community Advantage lender in the Community Ad-
7 vantage Pilot Program of the Administration to ob-
8 tain and maintain a Community Advantage small
9 business lending company license could be cost pro-
10 hibitive for a majority of current Community Advan-
11 tage lenders to transition to a Community Advan-
12 tage small business lending company;

13 (5) on May 1, 2023, the Administration an-
14 nounced that the Community Advantage Pilot Pro-
15 gram would sunset on September 30, 2023, and the
16 authority of a Community Advantage lender to make
17 loans under section 7(a) of the Small Business Act
18 (15 U.S.C. 636(a)) under the pilot program will ter-
19minate;

20 (6) the Administration does not have adequate
21 resources to issue either more than 3 new small
22 business lending company licenses or new Commu-
23 nity Advantage small business lending company li-
24censes, as the Office of Credit Risk Management

1 does not have the capacity to assume additional
2 oversight responsibilities; and

3 (7) in order to increase small dollar lending in
4 underserved areas, the Community Advantage Pilot
5 Program should be made permanent, giving lenders
6 certainty to continue to make loans under section
7 7(a) of the Small Business Act (15 U.S.C. 636(a)).

8 **SEC. 203. LENDING CRITERIA.**

9 (a) 7(A) LOANS.—Section 7(a)(1) of the Small Busi-
10 ness Act (15 U.S.C. 636(a)(1)) is amended by adding at
11 the end the following:

12 “(D) UNDERWRITING REQUIREMENTS.—

13 “(i) IN GENERAL.—With respect to a
14 loan guaranteed under this subsection—

15 “(I) the applicant (including an
16 operating company) shall be credit-
17 worthy;

18 “(II) the loan must be so sound
19 as to reasonably assure repayment;
20 and

21 “(III) subject to the approval of
22 the Administrator, the Director of the
23 Office of Credit Risk Management
24 may require additional criteria.

1 “(ii) LENDING CRITERIA FOR LOANS
2 OF \$350,000 OR MORE.—With respect to a
3 loan guaranteed under this section that is
4 not less than \$350,000, the Administration
5 and lenders shall, as applicable, consider
6 the following:

7 “(I) Credit history of the appli-
8 cant (and the operating company, if
9 applicable), and the associates and
10 guarantors of the applicant.

11 “(II) Experience and depth of
12 management.

13 “(III) Strength of the business.

14 “(IV) Past earnings, projected
15 cash flow, and future prospects.

16 “(V) Ability to repay the loan
17 with earnings from the business of the
18 applicant.

19 “(VI) Sufficient invested equity
20 to operate on a sound financial basis.

21 “(VII) Potential for long-term
22 success.

23 “(VIII) Nature and value of col-
24 lateral (although inadequate collateral

1 may not be the sole reason for denial
2 of a loan application).

3 “(IX) The effect any affiliate of
4 the applicant may have on the ulti-
5 mate repayment ability of the appli-
6 cant.

7 “(iii) LENDING CRITERIA FOR LOANS
8 OF LESS THAN \$350,000.—With respect to a
9 loan guaranteed under this section that is
10 less than \$350,000—

11 “(I) lenders shall use appropriate
12 and generally acceptable commercial
13 credit analysis processes and proce-
14 dures consistent with those used for
15 similarly-sized commercial loans that
16 are not guaranteed by the Administra-
17 tion;

18 “(II) the Administration and
19 lenders may use a business credit
20 scoring model; and

21 “(III) the Administration and
22 lenders shall, as applicable, consider—

23 “(aa) the credit score or
24 credit history of the applicant
25 (and the operating company, if

1 applicable), and the associates
2 and guarantors of the applicant;

3 “(bb) the earnings or cash
4 flow of the applicant;

5 “(cc) any equity or collateral
6 of the applicant; and

7 “(dd) the effect any affili-
8 ates of the applicant may have on
9 the ultimate repayment ability of
10 the applicant.”.

11 (b) 504/CDC LOANS.—Section 502 of the Small
12 Business Investment Act of 1958 (15 U.S.C. 696) is
13 amended by adding at the end the following:

14 “(8) UNDERWRITING REQUIREMENTS.—

15 “(A) IN GENERAL.—With respect to a loan
16 made under this section—

17 “(i) the applicant (including an oper-
18 ating company) shall be creditworthy; and

19 “(ii) the loan must be so sound as to
20 reasonably assure repayment.

21 “(B) LENDING CRITERIA.—With respect to
22 a loan made under this section—

23 “(i) lenders and certified development
24 companies shall use appropriate and gen-
25 erally acceptable commercial credit analysis

1 processes and procedures consistent with
2 those used for similarly-sized commercial
3 loans that are not guaranteed by the Ad-
4 ministration;

5 “(ii) the Administration, lenders, and
6 certified development companies may use a
7 business credit scoring model; and

8 “(iii) the Administration, lenders, and
9 certified development companies shall, as
10 applicable, consider—

11 “(I) the credit score or credit his-
12 tory of the applicant (and the oper-
13 ating company, if applicable), and the
14 associates and guarantors of the ap-
15 plicant;

16 “(II) the earnings or cash flow of
17 the applicant; and

18 “(III) any equity or collateral of
19 the applicant.”.

20 **SEC. 204. AFFILIATION AND FRANCHISE DIRECTORY.**

21 (a) **AFFILIATION PRINCIPLES.—**

22 (1) **BUSINESS LOANS.—**Section 7(a)(1) of the
23 Small Business Act (15 U.S.C. 636(a)(1)), as
24 amended by section 203(a) of this Act, is amended
25 by adding at the end the following:

1 “(E) AFFILIATION PRINCIPLES.—Affili-
2 ation under any of the circumstances described
3 below is sufficient to establish affiliation for ap-
4 plicants for a loan guaranteed under this sub-
5 section:

6 “(i) AFFILIATION BASED ON OWNER-
7 SHIP.—

8 “(I) IN GENERAL.—For deter-
9 mining affiliation based on equity
10 ownership, a concern is an affiliate of
11 an individual, concern, or entity that
12 owns or has the power to control more
13 than 50 percent of the voting equity
14 of the concern.

15 “(II) OTHER OFFICERS.—If no
16 individual, concern, or entity is found
17 to control a concern under subclause
18 (I), the Administrator shall deem the
19 board of directors, president, or chief
20 executive officer (or other officers,
21 managing members, or partners who
22 control the management of the con-
23 cern) to be in control of the concern.

24 “(III) MINORITY SHARE-
25 HOLDER.—The Administrator shall

1 deem a minority shareholder of a con-
2 cern to be in control of the concern if
3 that individual or entity has the abil-
4 ity, under the charter, by-laws, or
5 shareholder agreement of the concern,
6 to prevent a quorum or otherwise
7 block action by the board of directors
8 or shareholders of the concern.

9 “(ii) AFFILIATION ARISING UNDER
10 STOCK OPTIONS, CONVERTIBLE SECURI-
11 TIES, AND AGREEMENTS TO MERGE.—

12 “(I) IN GENERAL.—In deter-
13 mining the size of a concern, the Ad-
14 ministrators shall—

15 “(aa) consider stock options,
16 convertible securities, and agree-
17 ments to merge (including agree-
18 ments in principle) to have a
19 present effect on the power to
20 control a concern; and

21 “(bb) treat options, convert-
22 ible securities, and agreements
23 described in item (aa) as though
24 the rights granted have been ex-
25 ercised.

1 “(II) AGREEMENTS TO OPEN OR
2 CONTINUE NEGOTIATIONS.—An agree-
3 ment to open or continue negotiations
4 towards the possibility of a merger or
5 a sale of stock at some later date is
6 not considered an ‘agreement in prin-
7 ciple’ and is not given present effect.

8 “(III) CONDITIONS PRECE-
9 DENT.—Stock options, convertible se-
10 curities, and agreements that are sub-
11 ject to conditions precedent that are
12 incapable of fulfillment, speculative,
13 conjectural, or unenforceable under
14 State or Federal law, or where the
15 probability of the transaction (or exer-
16 cise of the rights) occurring is shown
17 to be extremely remote, are not given
18 present effect.

19 “(IV) TERMINATION OF CON-
20 TROL.—

21 “(aa) IN GENERAL.—An in-
22 dividual, concern, or other entity
23 that controls 1 or more other
24 concerns cannot use stock op-
25 tions, convertible securities, or

1 agreements to appear to termi-
2 nate such control before actually
3 doing so.

4 “(bb) DIVESTING.—The Ad-
5 ministrator shall not give present
6 effect to the ability of an indi-
7 vidual, concern, or other entity to
8 divest all or part of their owner-
9 ship interest in a concern in
10 order to avoid a finding of affili-
11 ation.

12 “(iii) AFFILIATION BASED ON MAN-
13 AGEMENT.—Affiliation arises where—

14 “(I) the chief executive officer or
15 president of the applicant concern (or
16 other officers, managing members, or
17 partners who control the management
18 of the concern) also controls the man-
19 agement of 1 or more other concerns;

20 “(II) a single individual, concern,
21 or entity that controls the board of di-
22 rectors or management of 1 concern
23 also controls the board of directors or
24 management of 1 of more other con-
25 cerns; or

1 “(III) a single individual, con-
2 cern, or entity controls the manage-
3 ment of the applicant concern through
4 a management agreement.

5 “(iv) AFFILIATION BASED ON IDEN-
6 TITY OF INTEREST.—

7 “(I) DEFINITION.—In this
8 clause, the term ‘close relative’
9 means—

10 “(aa) a spouse, parent,
11 child, or sibling; and

12 “(bb) the spouse of any indi-
13 vidual described in item (aa).

14 “(II) CLOSE RELATIVES.—Affili-
15 ation arises when there is an identity
16 of interest between close relatives with
17 identical or substantially identical
18 business or economic interests, such
19 as where the close relatives operate
20 concerns in the same or similar indus-
21 try in the same geographic area.

22 “(III) AGGREGATED INTER-
23 ESTS.—If the Administrator deter-
24 mines that interests described in sub-
25 clause (II) should be aggregated, an

1 individual or firm may rebut that de-
2 termination with evidence showing
3 that the interests deemed to be affili-
4 ated are in fact separate.

5 “(v) AFFILIATION BASED ON FRAN-
6 CHISE AND LICENSE AGREEMENTS.—

7 “(I) IN GENERAL.—The re-
8 straints imposed on a franchisee or li-
9 censee by its franchise or license
10 agreement generally shall not be con-
11 sidered in determining whether the
12 franchisor or licensor is affiliated with
13 an applicant franchisee or licensee, if
14 the applicant franchisee or licensee
15 has the right to profit from its efforts
16 and bears the risk of loss commensu-
17 rate with ownership.

18 “(II) NATURE OF AGREEMENT.—
19 For purposes of subclause (I), the Ad-
20 ministrator shall only consider the
21 franchise or license agreements of the
22 applicant concern.

23 “(vi) DETERMINING THE CONCERN’S
24 SIZE.—In determining the size of a con-
25 cern, the Administrator counts the re-

1 receipts, employees, or the alternate size
2 standard (if applicable) of the concern
3 whose size is at issue and all of the domes-
4 tic and foreign affiliates of the concern, re-
5 gardless of whether the affiliates are orga-
6 nized for profit.

7 “(vii) EXCEPTIONS TO AFFILI-
8 ATION.—The exceptions to affiliation de-
9 scribed in section 121.103(b) of title 13,
10 Code of Federal Regulations, or any suc-
11 cessor regulation, shall apply.”.

12 (2) 504/CDC LOANS.—Section 502 of the Small
13 Business Investment Act of 1958 (15 U.S.C. 696),
14 as amended by section 203(b) of this Act, is amend-
15 ed by adding at the end the following:

16 “(9) AFFILIATION PRINCIPLES.—Affiliation
17 under any of the circumstances described below is
18 sufficient to establish affiliation for applicants for a
19 loan under this section:

20 “(A) AFFILIATION BASED ON OWNER-
21 SHIP.—

22 “(i) OWNERSHIP OF ANOTHER BUSI-
23 NESS.—When the applicant owns more
24 than 50 percent of another business, the

1 applicant and the other business are affili-
2 ated.

3 “(ii) OWNERSHIP BY OTHER BUSI-
4 NESSES.—

5 “(I) IN GENERAL.—When a busi-
6 ness owns more than 50 percent of an
7 applicant, the business that owns the
8 applicant is affiliated with the appli-
9 cant.

10 “(II) OTHER BUSINESS OWNED
11 BY OWNER OF APPLICANT.—If a busi-
12 ness entity owner that owns more
13 than 50 percent of an applicant also
14 owns more than 50 percent of another
15 business that operates in the same 3-
16 digit North American Industry Classi-
17 fication System subsector as the appli-
18 cant, then the business entity owner,
19 the other business, and the applicant
20 are all affiliated.

21 “(iii) OWNERSHIP BY INDIVIDUALS.—
22 When an individual owns more than 50
23 percent of the applicant and the individual
24 also owns more than 50 percent of another
25 business entity that operates in the same

1 3-digit North American Industry Classi-
2 fication System subsector as the applicant,
3 the applicant and the individual owner's
4 other business entity are affiliated.

5 “(iv) LESS THAN 50 PERCENT.—When
6 an applicant does not have an owner that
7 owns more than 50 percent of the appli-
8 cant, if an owner of 20 percent or more of
9 the applicant also owns more than 50 per-
10 cent of another business entity that oper-
11 ates in the same 3-digit North American
12 Industry Classification System subsector
13 as the applicant, the applicant and the
14 owner's other business entity are affiliated.

15 “(v) SPOUSE AND MINOR CHIL-
16 DREN.—Ownership interests of spouses
17 and minor children shall be combined when
18 determining amount of ownership interest.

19 “(vi) PERCENTAGE OF OWNERSHIP.—
20 When determining the percentage of own-
21 ership that an individual owns in a busi-
22 ness, the Administrator shall consider the
23 pro rata ownership of entities.

1 “(B) AFFILIATION ARISING UNDER STOCK
2 OPTIONS, CONVERTIBLE SECURITIES, AND
3 AGREEMENTS TO MERGE.—

4 “(i) IN GENERAL.—The Administrator
5 shall—

6 “(I) consider stock options, con-
7 vertible securities, and agreements to
8 merge (including agreements in prin-
9 ciple) to have a present effect on the
10 ownership of an entity; and

11 “(II) treat options, convertible
12 securities, and agreements described
13 in subclause (I) as though the rights
14 granted have been exercised.

15 “(ii) AGREEMENTS TO OPEN OR CON-
16 TINUE NEGOTIATIONS.—An agreement to
17 open or continue negotiations towards the
18 possibility of a merger or a sale of stock at
19 some later date is not considered an
20 ‘agreement in principle’ and is not given
21 present effect.

22 “(iii) CONDITIONS PRECEDENT.—
23 Stock options, convertible securities, and
24 agreements that are subject to conditions
25 precedent that are incapable of fulfillment,

1 speculative, conjectural, or unenforceable
2 under State or Federal law, or where the
3 probability of the transaction (or exercise
4 of the rights) occurring is shown to be ex-
5 tremely remote, are not given present ef-
6 fect.

7 “(iv) ABILITY TO DIVEST.—The Ad-
8 ministrators shall not give present effect to
9 individuals’, concerns’, or other entities’
10 ability to divest all or part of their owner-
11 ship interest to avoid a finding of affili-
12 ation.

13 “(C) DETERMINING THE CONCERN’S
14 SIZE.—In determining the size of a concern, the
15 Administrator counts the receipts, employees, or
16 the alternate size standard (if applicable) of the
17 concern whose size is at issue and all of the do-
18 mestic and foreign affiliates of the concern, re-
19 gardless of whether the affiliates are organized
20 for profit.

21 “(D) EXCEPTIONS TO AFFILIATION.—The
22 exceptions to affiliation described in section
23 121.103(b) of title 13, Code of Federal Regula-
24 tions, or any successor regulation, shall apply.”.

1 (b) FRANCHISE DIRECTORY.—Not later than 30 days
2 after the date of enactment of this Act, the Administration
3 shall publish and maintain on the website of the Adminis-
4 tration a Franchise Directory, which shall contain a list
5 that lenders and certified development companies may use
6 in evaluating whether a franchise is eligible for financing
7 from the Administration.

8 **SEC. 205. LOAN AUTHORIZATION.**

9 (a) 7(A) LOANS.—Section 7(a)(1) of the Small Busi-
10 ness Act (15 U.S.C. 636(a)(1)), as amended by section
11 204(a) of this Act, is amended by adding at the end the
12 following:

13 (F) LOAN AUTHORIZATION.—

14 (i) IN GENERAL.—With respect to a
15 loan made or guaranteed under this sub-
16 section, the Administration shall issue a
17 written agreement providing the terms and
18 conditions under which the Administration
19 will make or guarantee the loan.

20 (ii) NOT A CONTRACT.—A written
21 agreement issued under clause (i) is not a
22 contract to make a loan.”.

23 (b) 504/CDC LOANS.—Section 502 of the Small
24 Business Investment Act of 1958 (15 U.S.C. 696), as

1 amended by section 204(b) of this Act, is amended by add-
 2 ing at the end the following:

3 “(10) LOAN AUTHORIZATION.—

4 “(A) IN GENERAL.—With respect to a loan
 5 made under this section, the Administration
 6 shall issue a written agreement providing the
 7 terms and conditions under which the Adminis-
 8 tration will make the loan.

9 “(B) NOT A CONTRACT.—A written agree-
 10 ment issued under subparagraph (A) is not a
 11 contract to make a loan.”.

12 **SEC. 206. OVERSIGHT OF SMALL BUSINESS LENDING COM-**
 13 **PANIES.**

14 (a) DEFINITION.—Section 3(r) of the Small Business
 15 Act (15 U.S.C. 632(r)) is amended, in the matter pre-
 16 ceding paragraph (1), by striking “As used in section 23
 17 of this Act” and inserting “In this Act”.

18 (b) CAPITAL REQUIREMENTS; MAXIMUM NUMBER.—
 19 Section 7(a)(1) of the Small Business Act (15 U.S.C.
 20 636(a)(1)), as amended by section 205(a) of this Act, is
 21 amended by adding at the end the following:

22 “(G) ADDITIONAL PROVISIONS RELATING
 23 TO SMALL BUSINESS LENDING COMPANIES.—

24 “(i) MAXIMUM NUMBER.—

1 “(I) IN GENERAL.—Not more
2 than 17 small business lending com-
3 panies may be authorized to make
4 loans under this subsection at any
5 time.

6 “(II) EXISTING SMALL BUSINESS
7 LENDING COMPANIES.—

8 “(aa) IN GENERAL.—Except
9 as provided in subclause (III),
10 each of the 14 small business
11 lending companies authorized to
12 make loans under this subsection
13 as of June 1, 2023 shall retain
14 such authorization on and after
15 the date of enactment of this
16 subparagraph.

17 “(bb) LOSS OF AUTHORIZA-
18 TION.—With respect to a lender
19 that, as of the date of enactment
20 of this subparagraph, is author-
21 ized as a Community Advantage
22 small business lending company,
23 that lender shall, beginning on
24 that date of enactment—

1 “(AA) no longer have
2 that authorization; and

3 “(BB) be designated as
4 a lender under the Commu-
5 nity Advantage Loan Pro-
6 gram established under
7 paragraph (38).

8 “(III) TRANSFER OR SALE.—The
9 Administrator shall have the discre-
10 tion to authorize the transfer or sale
11 of a license of a small business lend-
12 ing company to make loans under this
13 subsection to another small business
14 lending company.

15 “(IV) LIMITATION OF DELE-
16 GATED AUTHORITY.—

17 “(aa) IN GENERAL.—Not-
18 withstanding paragraph (31), any
19 small business lending company
20 that the Administration author-
21 izes after June 1, 2023 to make
22 loans under this subsection shall
23 be ineligible for delegated author-
24 ity from the Administration to
25 process, close, service, and liq-

1 update certain loans made under
2 this subsection for the 5-year pe-
3 riod beginning on the date on
4 which the Administration author-
5 izes the small business lending
6 company to make loans under
7 this subsection.

8 “(bb) EXISTING SBLCS.—
9 Item (aa) shall not apply with re-
10 spect to each of the 14 small
11 business lending companies au-
12 thorized to make loans under this
13 subsection as of June 1, 2023.

14 “(ii) MINIMUM CAPITAL REQUIRE-
15 MENTS.—

16 “(I) IN GENERAL.—Except as
17 provided in subclauses (II) and (III),
18 to be authorized to make loans under
19 this subsection, a small business lend-
20 ing company shall comply with the
21 minimum capital requirements in ef-
22 fect on January 3, 2021.

23 “(II) APPROVED ON OR AFTER
24 JANUARY 4, 2021.—Any small business
25 lending company authorized by the

1 Administration to make loans under
2 this subsection on or after January 4,
3 2021, including in the event of a
4 change of ownership or control, shall
5 maintain, at a minimum, the greater
6 of—

7 “(aa) unencumbered paid-in
8 capital and paid-in surplus of not
9 less than \$5,000,000; or

10 “(bb) an amount equal to 10
11 percent of the aggregate of its
12 share of all outstanding loans.

13 “(III) REQUIREMENTS ON AND
14 AFTER JANUARY 4, 2024.—On and
15 after January 4, 2024, each small
16 business lending company that makes
17 or acquires a loan under this sub-
18 section shall maintain, at a minimum,
19 the greater of—

20 “(aa) unencumbered paid-in
21 capital and paid-in surplus of not
22 less than \$5,000,000; or

23 “(bb) an amount equal to 10
24 percent of the aggregate of its
25 share of all outstanding loans.

1 “(iii) CRITERIA FOR LICENSING
 2 SMALL BUSINESS LENDING COMPANIES.—
 3 The Administrator shall use uniform terms
 4 for the licensing of business concerns as
 5 small business lending companies and the
 6 participation of those companies in the
 7 programs under this subsection.”.

8 (c) ANNUAL STRESS TESTING AND REVIEWS.—Sec-
 9 tion 23(d) of the Small Business Act (15 U.S.C. 650(d))
 10 is amended—

11 (1) in paragraph (1), by inserting “IN GEN-
 12 ERAL.—” after “(1)”;

13 (2) in paragraph (2), by inserting “HEARING.—
 14 ” after “(2)”;

15 (3) by redesignating paragraphs (3) and (4) as
 16 paragraphs (4) and (5), respectively;

17 (4) by inserting after paragraph (2) the fol-
 18 lowing:

19 “(3) SPECIAL SUPERVISORY AUTHORITIES RE-
 20 LATED TO SMALL BUSINESS LENDING COMPANIES.—

21 “(A) REVIEW AND REVOCATION OF AU-
 22 THORITY.—

23 “(i) IN GENERAL.—The Director of
 24 the Office of Credit Risk Management (in

1 this paragraph referred to as the ‘Direc-
2 tor’)—

3 “(I) may review and revoke the
4 authority of a small business lending
5 company to make, service, or liquidate
6 business loans under section 7(a) for
7 performance, excessive losses, or pred-
8 atory lending;

9 “(II) shall review and may revoke
10 the authority of a small business lend-
11 ing company to make, service, or liq-
12 uidate business loans under section
13 7(a) if—

14 “(aa) the early default rate
15 for the small business lending
16 company exceeds the average de-
17 fault rate for all small business
18 lending companies participating
19 in the loan program under sec-
20 tion 7(a);

21 “(bb) the small business
22 lending company fails to comply
23 with the requirements under sub-
24 paragraph (B); or

1 “(cc) the Director finds in
2 an audit conducted under sub-
3 paragraph (C)(ii) that the small
4 business lending company is not
5 in compliance with 1 or more of
6 the requirements described in
7 subparagraph (C); and

8 “(III) shall revoke the authority
9 of a small business lending company
10 to make, service, or liquidate business
11 loans under section 7(a) if the Direc-
12 tor has determined the small business
13 lending company has failed to comply
14 with the requirements in subclause
15 (II) or (III) of subparagraph (B)(ii)
16 for 2 or more years in a row.

17 “(ii) REPORTING REQUIREMENT.—If
18 the Director revokes the authority of a
19 small business lending company to make,
20 service, or liquidate business loans under
21 section 7(a), the Director shall report the
22 revocation, along with details and informa-
23 tion describing why that decision was
24 made, to the Office of the Inspector Gen-
25 eral of the Administration.

1 “(B) ANNUAL STRESS TESTS.—

2 “(i) IN GENERAL.—Each small busi-
3 ness lending company shall—

4 “(I) conduct an annual stress
5 test of the portfolio of the small busi-
6 ness lending company under section
7 7(a) in accordance with the require-
8 ments under clause (ii); and

9 “(II) report to the Director the
10 findings of each annual stress test
11 conducted under subclause (I).

12 “(ii) REQUIREMENTS.—Each stress
13 test conducted under clause (i) shall com-
14 ply with the following requirements:

15 “(I) The small business lending
16 company shall use financial data as of
17 December 31 of the calendar year
18 prior to the reporting year.

19 “(II) The small business lending
20 company shall use the scenarios pro-
21 vided by the Director, which shall re-
22 flect a minimum of 2 sets of economic
23 and financial conditions, including
24 baseline and severely adverse sce-
25 narios that incorporate consideration

1 of interest rate risk. The Director
2 shall provide a description of the sce-
3 narios required to be used by each
4 small business lending company not
5 later than February 15 of the report-
6 ing year.

7 “(III) The board of directors and
8 senior management of each small
9 business lending company shall con-
10 sider the results of the stress tests
11 conducted under this subsection in the
12 normal course of business, including
13 capital planning, assessment of capital
14 adequacy, and risk management prac-
15 tices of the small business lending
16 company.

17 “(C) COMPLIANCE WITH BANK SECRECY
18 ACT AND ANTI-MONEY LAUNDERING REQUIRE-
19 MENTS.—

20 “(i) DEFINITION.—In this subpara-
21 graph, the term ‘Bank Secrecy Act’
22 means—

23 “(I) section 21 of the Federal
24 Deposit Insurance Act (12 U.S.C.
25 1829b);

1 “(II) chapter 2 of title I of Pub-
2 lic Law 91–508 (12 U.S.C. 1951 et
3 seq.); and

4 “(III) subchapter II of chapter
5 53 of title 31, United States Code.

6 “(ii) ANNUAL REVIEWS.—The Direc-
7 tor—

8 “(I) shall conduct annual reviews
9 to ensure that small business lending
10 companies are in compliance with the
11 requirements contained in the regula-
12 tions issued under clause (iii); and

13 “(II) in conducting a review
14 under subclause (I), may not rely on
15 self-certification by a small business
16 lending company that the small busi-
17 ness lending company is in compliance
18 with those requirements.

19 “(iii) REGULATIONS.—Not later than
20 1 year after the date of enactment of the
21 Modernizing SBA’s Business Loan Pro-
22 grams Act of 2023, the Administrator
23 shall, in consultation with other appro-
24 priate Federal agencies, issue regulations
25 to provide a framework to ensure that

1 small business lending companies are in
2 compliance with the requirements under
3 the Bank Secrecy Act, including Know
4 Your Customer and anti-money laundering
5 requirements, and any applicable consumer
6 protection laws, including the Truth in
7 Lending Act (15 U.S.C. 1601 et seq.), the
8 Equal Credit Opportunity Act (15 U.S.C.
9 1691 et seq.), and the Gramm-Leach-Bliley
10 Act (Public Law 106–102; 113 Stat.
11 1338).”;

12 (5) in paragraph (4), as so redesignated, by in-
13 serting “NOTIFICATION.—” after “(4)”; and

14 (6) in paragraph (5), as so redesignated, by in-
15 serting “DELEGATION.—” after “(5)”.

16 **SEC. 207. OFFICE OF CREDIT RISK MANAGEMENT.**

17 Section 47 of the Small Business Act (15 U.S.C.
18 657t) is amended—

19 (1) in subsection (c)—

20 (A) in paragraph (1), by inserting before
21 the period at the end the following: “with a
22 demonstrated career in or outstanding quali-
23 fications or expertise related to finance and fi-
24 nancial risk management. The Director shall re-
25 port directly to the Administrator”; and

1 (B) by adding at the end the following:

2 “(3) COMPENSATION.—The Administrator shall
3 fix the compensation of the Director—

4 “(A) as necessary to carry out the duties
5 of the Office; and

6 “(B) in an amount that is not less than
7 the highest rate of basic pay for the Senior Ex-
8 ecutive Service under section 5382(b) of title 5,
9 United States Code.”; and
10 (2) in subsection (h)(2)—

11 (A) in subparagraph (I), by striking “and”
12 at the end;

13 (B) in subparagraph (J), by striking the
14 period at the end and inserting a semicolon;
15 and

16 (C) by adding at the end the following:

17 “(K) the number of 7(a) lenders that had
18 an early default rate of more than 3 percent;
19 and

20 “(L) an analysis of the median and aver-
21 age credit scores of borrowers relating to early
22 default rates, purchase rates, and charge offs.”.

23 **SEC. 208. DENIED LOAN OR LOAN MODIFICATION REQUEST.**

24 (a) 7(A) LOANS.—Section 7(a)(1) of the Small Busi-
25 ness Act (15 U.S.C. 636(a)(1)), as amended by section

1 206(b) of this Act, is amended by adding at the end the
2 following:

3 “(H) DENIED LOAN OR LOAN MODIFICA-
4 TION REQUEST.—

5 “(i) ROLE OF ADMINISTRATOR.—The
6 Administrator may not intervene or make
7 a final decision with respect to a request
8 for reconsideration of a denied loan or loan
9 modification request made by an applicant
10 or recipient of a loan under this sub-
11 section.

12 “(ii) FINAL DECISION.—Only the Di-
13 rector of the Office of Financial Assistance
14 may make a final decision with respect to
15 a request for reconsideration of a denied
16 loan or loan modification request made by
17 an applicant or recipient of a loan under
18 this subsection.”.

19 (b) 504/CDC LOANS.—Section 502 of the Small
20 Business Investment Act of 1958 (15 U.S.C. 696), as
21 amended by section 205(b) of this Act, is amended by add-
22 ing at the end the following:

23 “(11) DENIED LOAN OR LOAN MODIFICATION
24 REQUEST.—

1 “(A) ROLE OF ADMINISTRATOR.—The Ad-
2 ministrators may not intervene or make a final
3 decision with respect to a request for reconsid-
4 eration of a denied loan or loan modification re-
5 quest made by an applicant or recipient of a
6 loan under this section.

7 “(B) FINAL DECISION.—Only the Director
8 of the Office of Financial Assistance may make
9 a final decision with respect to a request for re-
10 consideration of a denied loan or loan modifica-
11 tion request made by an applicant or recipient
12 of a loan under this section.”.

13 **SEC. 209. DIRECT LENDING.**

14 Section 7(a)(1) of the Small Business Act (15 U.S.C.
15 636(a)(1)), as amended by section 208(a) of this Act, is
16 amended by adding at the end the following:

17 “(I) NOTIFICATION REQUIRED BEFORE DI-
18 RECT LENDING.—Not later than 60 days before
19 the Administration implements any policy or
20 pilot program that would allow the Administra-
21 tion to directly make a loan under this sub-
22 section, the Administrator shall submit a notifi-
23 cation to Congress for review.”.

1 **SEC. 210. RESTRICTION ON REFINANCING DEBT.**

2 Section 7(a)(1) of the Small Business Act (15 U.S.C.
3 636(a)(1)), as amended by section 209 of this Act, is
4 amended by adding at the end the following:

5 “(J) RESTRICTION ON REFINANCING
6 DEBT.—

7 “(i) DEFINITION.—In this subpara-
8 graph, the term ‘delegated authority’
9 means status granted by the Administra-
10 tion to a lender to allow the lender to proc-
11 ess, close, service, and liquidate certain
12 loans made under this subsection without
13 prior review by the Administration.

14 “(ii) RESTRICTION.—A lender shall be
15 prohibited from using any delegated au-
16 thority under this subsection to refinance
17 any debt held by the lender, including any
18 loan made under this subsection.”.

19 **SEC. 211. GAO STUDY.**

20 Not later than 2 years after the date of enactment
21 of this Act, the Comptroller General of the United States
22 shall conduct a study and submit to the Administrator,
23 the Committee on Small Business and Entrepreneurship
24 of the Senate, and the Committee on Small Business of
25 the House of Representatives a report that includes—

1 (1) an analysis of the use of alternative credit
2 models for loans made under section 7(a) of the
3 Small Business Act (15 U.S.C. 636(a)) in an
4 amount of less than \$350,000, including—

5 (A) an analysis of whether appropriate
6 guardrails are in place to prevent fraud, waste,
7 and abuse and provide protections for the bor-
8 rower;

9 (B) an evaluation of the effectiveness of
10 those credit models in reducing barriers to ac-
11 cess to capital to underserved and rural commu-
12 nities; and

13 (C) recommendations as to whether im-
14 provements can be made by Administration in
15 its use of alternative credit models to prevent
16 waste, fraud, and abuse and to improve access
17 to capital to underserved and rural commu-
18 nities;

19 (2) an audit of the operations, staffing, and re-
20 sources of the Office of Credit Risk Management of
21 the Administration, including the efforts of the Of-
22 fice to implement the new oversight provisions under
23 the amendments made by this title; and

24 (3) a survey of the practices of lenders under
25 section 7(a) of the Small Business Act (15 U.S.C.

1 636(a)) relating to the use of criminal history when
2 determining whether to approve a loan under that
3 section or a similarly sized commercial loan that is
4 not guaranteed by the Administration.

Calendar No. 158

118TH CONGRESS
1ST Session
S. 2482

A BILL

To amend the Small Business Act to authorize the Community Advantage Loan Program of the Small Business Administration, and for other purposes.

JULY 25, 2023

Read twice and placed on the calendar