

§ 120.420

- (a) State or imply that the Lender, or any of its Borrowers, has or will receive preferential treatment from SBA;
- (b) Be false or misleading; or
- (c) Make use of SBA's seal.

PLEDGING NOTES OR TRANSFERRING
UNGUARANTEED PORTION

§ 120.420 Financings by participating lenders.

(a) A lender may pledge the notes evidencing SBA guaranteed loans or sell the unguaranteed portions of such loans if SBA, notwithstanding the provisions of Sec. 120.453(c), in its sole discretion, gives its prior written consent. The Lender must be secure financially and have a history of compliance with SBA's regulations and any other applicable state or Federal statutory and regulatory requirements.

(b) The Lender, SBA, and any third party involvement in the transaction, as determined by SBA in its sole discretion, must enter into a written agreement satisfactory to SBA acknowledging SBA's interest as guarantor of the subject loans and accepting that all relevant third parties agree to recognize and uphold these interests under the Act, this part, and the contractual provisions of SBA's Loan Guarantee Agreement. In any such agreement, the parties must agree to the following conditions:

(1) The Lender, SBA, or third party custodian agreeable to SBA, will hold all pertinent Loan Instruments, and the Lender will continue to service the loans after the pledge or transfer is made; and

(2) The Lender must retain an economic risk in and bear the ultimate risk of loss on the unguaranteed portions. This must be demonstrated to SBA's satisfaction by establishing a sufficient reserve fund at the time of sale of the unguaranteed portions and, in the case of pledging notes, by retaining all of the economic interest in the unguaranteed portion of any loan which a note evidences.

(c) The Lender may not use SBA guaranteed loans or the collateral supporting such loans as collateral for any borrowing not related to financing of

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the guaranteed or unguaranteed portion of SBA loans.

[62 FR 15602, Apr. 2, 1997]

MISCELLANEOUS PROVISIONS

§ 120.430 SBA access to Lender files.

A Lender must allow SBA's authorized representatives, during normal business hours, access to its files to review, inspect and copy all records and documents relating to SBA guaranteed loans.

§ 120.431 Suspension or revocation of eligibility to participate.

SBA may suspend or revoke the eligibility of a Lender to participate in the 7(a) program because of a violation of SBA regulations, a breach of any agreement with SBA, a change of circumstance resulting in the Lender's inability to meet operational requirements, or a failure to engage in prudent lending practices. Proceedings for such purposes will be conducted in accordance with the provisions of part 134 of this chapter. A suspension or revocation will not invalidate a guarantee previously provided by SBA.

CERTIFIED LENDERS PROGRAM (CLP)

§ 120.440 What is the Certified Lenders Program?

Under the Certified Lenders Program (CLP), designated Lenders process, close, service, and may liquidate, SBA guaranteed loans. SBA gives priority to applications and servicing actions submitted by Lenders under this program, and will provide expedited loan processing or servicing. All other rules in this part 120 relating to the operations of Lenders apply to CLP Lenders.

[61 FR 3235, Jan. 31, 1996; 61 FR 7986, Mar. 1, 1996]

§ 120.441 How does a Lender become a CLP Lender?

(a) An SBA field office may nominate a Lender or a Lender may request a field office to consider it for CLP status. SBA district directors may approve and renew a Lender's CLP status. The district director will consider whether the Lender: