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loan in full compliance with the requisite standard of care set forth in § 400.211(b).

(c) *Decisions by the Board.* Upon completion of the evaluation of an application and as soon as possible after its receipt, the Board will approve or deny an eligible application that is timely received under this Program. The Board shall notify the Applicants and the Borrower in writing of the approval or denial of an application as soon as possible. Approvals for loan Guarantees shall be conditioned upon compliance with § 400.208.

[64 FR 57933, Oct. 27, 1999, as amended at 65 FR 70294, Nov. 22, 2000]

§ 400.208 Issuance of the Guarantee.

(a) The Board's decisions to approve any application for, and extend an offer of, guarantee under § 400.207 is conditioned upon:

(1) The Lender and Borrower obtaining any required regulatory or judicial approvals;

(2) The Lender and Borrower being legally authorized to enter into the loan under the terms and conditions submitted to the Board in the application;

(3) The Board's receipt of the Loan documents and any related instruments, in form and substance satisfactory to the Board, and the Guarantee, all properly executed by the Lender, Borrower, and any other required party other than the Board; and

(4) No material adverse change in the Borrower's ability to repay the loan between the date of the Board's approval and the date the Guarantee is to be issued.

(b) The Board may withdraw its approval of an application and rescind its offer of Guarantee if the Board determines that the Lender or the Borrower cannot, or is unwilling to, provide adequate documentation and proof of compliance with paragraph (a) of this section within the time provided for in the offer.

(c) Only after receipt of all the documentation, required by this section, will the Board sign and deliver the Guarantee.

(d) A Borrower receiving a loan guaranteed by the Board under this Program shall pay a one-time guarantee fee of 0.5 percent of the amount of the

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principal of the loan. This fee must be paid no later than one year from the issuance of the Guarantee.

[64 FR 57933, Oct. 27, 1999, as amended at 65 FR 70294, Nov. 22, 2000]

§ 400.209 Funding for the Program.

The Act provides funding for the costs incurred by the Government as a result of granting Guarantees under the Program. While pursuing the goals of the Act, it is the intent of the Board to minimize the cost of the Program to the Government. The Board will estimate the risk posed by the guaranteed loans to the funds appropriated for the costs of the Guarantees under the Program and operate the Program accordingly.

§ 400.210 Assignment or transfer of loans.

(a) Neither the Loan Documents nor the Guarantee of the Board, or any interest therein, may be modified, assigned, conveyed, sold or otherwise transferred by the Lender, in whole or in part, without the prior written approval of the Board.

(b) Under no circumstances will the Board permit an assignment or transfer of less than 100 percent of a Lender's interest in the Loan Documents and Guarantee, nor will it permit an assignment or transfer to be made to a party which the Board determines not to be an Eligible Lender pursuant to § 400.201.

(c) The proscription under paragraph (a) of this section shall not apply to:

(1) Transfers which occur by operation of law, unless a primary purpose of the transaction leading to such a transfer was to assign, convey or sell the loan note or Guarantee without the necessity of securing the Board's prior written approval; or

(2) Transfers by a non-Agent Lender of the non-guaranteed portion of the loan after payment of the guaranteed portion of the loan has been made under the Guarantee.

(d) The Agent must hold and may not assign or transfer an interest in a loan guaranteed under the Program equal to at least the lesser of \$25 million or 15 percent of the aggregate amount of the loan. The Agent must hold and may not assign or transfer an interest in the

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unguaranteed portion of the loan which as a percentage of the Agent's overall interest in the loan is no less than the aggregate percentage of the loan which is not guaranteed. A non-Agent Lender must hold and may not transfer or assign an interest in the unguaranteed portion of the loan representing no less than five percent of such Lender's total interest in the Loan, except as provided paragraph (c)(2) of this section.

[64 FR 57933, Oct. 27, 1999, as amended at 65 FR 24104, Apr. 25, 2000; 65 FR 70294, Nov. 22, 2000]

§ 400.211 Lender responsibilities.

The Lender shall have such obligations and duties to the Board as are set forth in the Guarantee.

[65 FR 70294, Nov. 22, 2000]

§ 400.212 Guarantee.

The Board shall adopt a form of Guarantee to be used by the Board under the Program, and shall publish the Guarantee on its website. Modifications to the provisions of the form of Guarantee must be approved and adopted by the Board.

[65 FR 70294, Nov. 22, 2000]

§ 400.213 Termination of obligations.

The Board shall have such rights to terminate the Guarantee as are set forth in the Guarantee.

[65 FR 70294, Nov. 22, 2000]

§ 400.214 Participations in guaranteed loans.

(a) Subject to paragraphs (b), (c) and (d) of this section, a Lender may dis-

tribute the risk of a portion of a loan guaranteed under the Program by sale of participations therein if:

(1) Neither the loan note nor the Guarantee is assigned, conveyed, sold, or transferred in whole or in part;

(2) The Lender remains solely responsible for the administration of the loan; and

(3) The Board's ability to assert any and all defenses available to it under the Guarantee and the law is not adversely affected.

(b) The following categories of entities may purchase participations in loans guaranteed under the Program:

(1) Eligible Lenders;

(2) Private investment funds and insurance companies that do not usually invest in commercial loans;

(3) Steel company suppliers or customers, who are interested in participating as a means of commencing or solidifying the supplier or customer relationship with the borrower; or

(4) Any other entity approved by the Board on a case-by-case basis.

(c) The Agent may not grant participations in that portion of its interest in a loan that may not be assigned or transferred under § 400.210(d). A Lender, other than the Agent, may not grant participations in that portion of its interest in a loan that may not be assigned or transferred under § 400.210(d).

(d) At least 5 percent of any participation interest in a loan must be unguaranteed.

[65 FR 70294, Nov. 22, 2000]