

## § 400.201

lending institution other than the Lender to which the Borrower has applied for financial assistance dated within six months of submission of the application, indicating that the Borrower was denied for substantially the same loan it is now applying for, and the reasons the Borrower was unable to obtain the financing for which it applied. In addition, the Lender applying for a guarantee under this Program must certify that it would not make the loan without the Board's guarantee.

[64 FR 57933, Oct. 27, 1999, as amended at 65 FR 70293, Nov. 22, 2000]

### § 400.201 Eligible Lender.

(a) A lender eligible to apply to the Board for a Guarantee of a loan must be:

(1) A banking institution, such as a commercial bank or trust company, subject to regulation by the Federal banking agencies enumerated in 12 U.S.C. 1813; or

(2) An investment institution, such as an investment bank, commercial finance company, or insurance company, that is currently engaged in commercial lending in the normal course of its business.

(b)(1) If more than one banking or investment institution is applying to the Board for a Guarantee of a single loan, each one of the banking or investment institutions on the application must meet the requirements to be an eligible lender set forth in paragraph (a) of this section.

(2) An application for a Guarantee of a single loan submitted by a group of banking or investment institutions, as described in paragraph (b)(1) of this section, must identify one of the banking or investment institutions applying for such loan to act as agent for all. This agent is responsible for administering the loan and shall have those duties and responsibilities required of an agent, as set forth in the Guarantee.

(3) Each Lender, irrespective of any indemnities or other agreements between the Lenders and the Agent, shall be bound by all actions, and/or failures to act, of the Agent. The Board shall be entitled to rely upon such actions and/or failures to act of the Agent as binding the Lenders.

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(c) Status as a Lender under paragraph (a) of this section does not assure that the Board will issue the Guarantee sought, or otherwise preclude the Board from declining to issue a Guarantee. In addition to evaluating an application pursuant to § 400.207, in making a determination to issue a Guarantee to a Lender, the Board will assess:

(1) The Agent Lender's level of regulatory capital, in the case of banking institutions, or net worth, in the case of investment institutions;

(2) Whether the Agent Lender possesses the ability to administer the loan, as required by § 400.211(b), including its experience with loans to steel companies;

(3) The scope, volume and duration of the Agent Lender's activity in administering loans;

(4) The performance of the Agent Lender's loan portfolio, including its current delinquency rate;

(5) The Agent Lender's loss rate as a percentage of loan amounts for its current fiscal year; and

(6) Any other matter the Board deems material to its assessment of the Agent Lender.

(d) A proposed loan for the purpose, in whole or in part, of refinancing existing credit provided by the Agent will not be approved unless the Board is satisfied that the Agent retains at least a substantially equivalent level of risk as a result of the refinancing.

[64 FR 57933, Oct. 27, 1999, as amended at 65 FR 24104, Apr. 25, 2000; 66 FR 53079, Oct. 19, 2001]

### § 400.202 Loan amount.

(a) The aggregate amount of loan principal guaranteed under this Program to a single Qualified Steel Company may not exceed \$ 250 million.

(b) Of the aggregate amount of loans authorized to be guaranteed and outstanding at any one time, not more than \$30 million shall be loans to iron ore companies.

### § 400.203 Guarantee percentage.

A guarantee issued by the Board may not exceed 85 percent of the amount of the principal of a loan to a Qualified Steel Company. Subject to the provisions of this part, one or more third