

Emergency Steel Guarantee Loan Board, Commerce

§ 400.215

the prior written approval of the Board.

(b) Upon notice to the Board and a certification by the assignor that the assignee is an Eligible Lender, and subject to the provisions of paragraphs (c) and (d) of this section and other provisions of this part, a Lender may assign or transfer its interest in the loan including the Loan documents and the Guarantee to a party that qualifies as an Eligible Lender pursuant to § 400.201. Any other assignment or transfer will require the prior written approval of the Board.

(c) The provisions of paragraph (b) of this section shall not apply to transfers which occur by operation of law.

(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 fifteen percent of the aggregate amount of the loan. In addition, the Agent must hold and may not assign or transfer an interest the Unguaranteed Portion of the loan equal to at least the minimum amount of the loan required to be held by the Agent under the preceding sentence multiplied by the percentage of the loan represented by the Unguaranteed Portion. A non-Agent Lender must hold and may not assign or transfer an interest in the Unguaranteed Portion of the loan representing no less than five percent of such Lender's total interest in the loan; provided, that a non-Agent Lender may transfer its interest in the Unguaranteed Portion after payment of the Guaranteed Portion has been made under the Guarantee.

[66 FR 53080, Oct. 19, 2001]

§ 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 distribute 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]

§ 400.215 Supplemental Guarantees.

The Board will allow the structure of a guaranteed loan to include one or more Supplemental Guarantees that

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cover the Unguaranteed Portion of the loan; provided that:

(a) There shall be no Supplemental Guarantee with respect to the Unguaranteed Portion required to be held by the Agent pursuant to § 400.210(c);

(b) The Loan Documents relating to any Supplemental Guarantee shall be

acceptable in form and substance to the Board; and

(c) In approving the issuance of a Guarantee, the Board may impose any conditions with respect to Supplemental Guarantee(s) relating to the loan that it considers appropriate.

[66 FR 53080, Oct. 19, 2001]