

## Small Business Administration

## § 120.1800

with its efforts to determine if Seller is obligated to reimburse SBA pursuant to this subpart). A Seller's failure to provide the requested documentation may constitute a material failure to comply with the Program Rules and Regulations and may lead to an action for recovery under §120.1719. SBA will also evaluate a Seller's continued participation in the Program and may restrict further sales under the Program until SBA determines that the Seller has provided sufficient documentation.

### § 120.1721 SBA's right to investigate.

SBA may undertake such investigation as it deems necessary to determine whether it is entitled to seek recovery from the Seller and Seller agrees to take whatever actions are necessary to facilitate such investigation.

### § 120.1722 SBA's offset rights.

SBA shall have the right to offset any amount owed by Lender to SBA, including, without limitation, an offset against CSA's obligation to pay Lender pursuant to any Section 504 First Mortgage Loan Pool Guarantee Agreement.

### § 120.1723 Pool Loan receivables received by Seller.

Any Pool Loan Receivables received by Seller in connection with obligations under Seller's Pool Loan must be forwarded by Seller to CSA within two business days of receipt of collected funds.

### § 120.1724 Servicing and liquidation expenses.

All ordinary and reasonable expenses of servicing and liquidating Seller's Pool Loan shall be paid by, or be recoverable from, Obligor, and all such ordinary and reasonable expenses incurred by Seller or SBA which are not recoverable from Obligor shall be shared ratably by Seller, SBA, and the Pool Originator pursuant to the applicable percentages set forth in the First Lien Position 504 Loan Pool Guarantee Agreement.

### § 120.1725 No Program Preference by Seller or Pool Originator.

The Seller and the Pool Originator must not establish a Program Pref-

erence, which is defined in 13 CFR 120.10.

### § 120.1726 Pool Certificates a Seller cannot purchase.

Neither a Seller, nor any of its Program Associates or Affiliates, may purchase a Pool Certificate that is backed by a Loan Interest in a Pool Loan that the Seller, or any of its Program Associates or Affiliates, originated or owned, and, in the event such purchase occurs, SBA's guarantee shall not be in effect with respect to any such Pool Certificate.

## Subpart K—Establishment of an SBA Direct Loan Program for Systemically Important Secondary Market Broker-Dealers (SISMBD Loan Program)

SOURCE: 74 FR 59896, Nov. 19, 2009, unless otherwise noted.

### § 120.1800 Definitions used in subpart K.

(a) *Administrator*. The Administrator of the U.S. Small Business Administration.

(b) *Authority*. The Secondary Market Lending Authority defined herein.

(c) *Certificate*. The document the FTA issues representing a beneficial fractional interest in a Pool (Pool Certificate), or an undivided interest in the entire guaranteed portion of an individual 7(a) guaranteed loan (Individual Certificate).

(d) *Collateral (or Collateral for a SISMBD Loan)*. All Guaranteed Portions and Certificates (and proceeds thereof) that are purchased with SISMBD Loan proceeds, collateral assignments of the SBA Form 1086 (Secondary Market Participation Agreement) or SBA Form 1088 (Form of Detached Assignment for U.S. Small Business Administration Loan Pool or Guaranteed Interest Certificate) for all Guaranteed Portions and Certificates purchased with SISMBD Loan proceeds, the agreement for Lender/FTA payment of amounts due under the Guaranteed Portions and Certificates, and any other asset that is pledged to secure an SISMBD Loan.