



# CANADA SMALL BUSINESS FINANCING PROGRAM



## THE CSBFP BULLETIN

March 31 2009

### CHANGES TO THE CANADA SMALL BUSINESS FINANCING (CSBF) PROGRAM

The changes to the CSBF Program under the *Budget Implementation Act* and the changes to the regulations of the CSBF Program are in effect as of April 1, 2009. As a result of these changes updates have been made to the Guidelines as well as the various forms used in the program (e.g. registration and claim forms). The Interactive Guide in

PowerPoint format gives an overall view of the program and when viewed as a slideshow becomes interactive with many interesting hyperlink features. All of these documents are accessible on our website at [www.ic.gc.ca/csbfa](http://www.ic.gc.ca/csbfa). Below you will find an explanation of some of the more important changes.

#### 1. Increase in the maximum loan amount of \$250,000

The new maximum loan amount is \$500,000 of which the maximum amount of \$350,000 can be used to finance the purchase or improvement of equipment and the purchase of leasehold improvements. This amount includes outstanding loans under *Canada Small Business Financing Act* and the *Small Business Loans Act*.

#### 2. The Minister's liability is increased to 12% for lender loan portfolios in excess of \$500,000

For the two 5-year periods of April 1, 1999 to March 31, 2004 and April 1, 2004 to March 31, 2009, the liability of the Minister to each lender is calculated on the total amount of loans made and registered by a lender for each loan lending period as follows:

- 90% of the first \$250,000 in loans; plus
- 50% of the next \$250,000; plus
- 10% of the total loans in excess of \$500,000

For loans made and registered on or after April 1, 2009, the 10% of the total loans in excess of \$500,000 is increased to 12%. All other aspects of the calculation remain the same.

#### 3. The shareholder name(s) of incorporated borrower(s) and the name(s) of guarantor(s) are required in the registration form

The recording of these names in our database will make it easier to track different incorporated borrowers with the

same shareholders/guarantors and thereby detect and prevent potential abuse of the CSBF Program.

#### 4. Due diligence: Credit check on persons who are legally or financially responsible for the borrower

The current requirement of obtaining a credit check is not practical or brings little added value in cases of borrowers that are new businesses or incorporated companies that have no credit rating. The amendment allows for credit checks on persons who are legally or financially responsible for the borrower (instead of or in addition to the borrower).

#### 5. Flexibility for appraisals of leasehold improvements

Where an appraisal is required for leasehold improvements, the current regulations require an appraisal be made by an appraiser who is a member of a professional association. In cases where there are no professional associations of appraisers for leasehold improvements, the amendment allows appraisals to be made by a person qualified in the field (e.g., contractor, architect).

#### 6. Repeal of conversion and prepayment penalties

The current provisions for the calculation of prepayment penalties and of charges for converting interest rates are complex. These provisions are repealed and lenders can apply the same conversion and prepayment conditions as in their conventional loans.



**7. The base used for fixed interest rate is clarified**

The amendment sets out that the maximum interest rate for fixed rate loans is based set on the posted single family residential mortgage rate of the lender.

**8. Flexibility in cases of non-compliance for appraisals of equipment and leasehold improvements**

For leasehold improvements and equipment, there is no remedy for lenders who have inadvertently not complied with the appraisal requirements. The amendment allows the payment of claims where the lender can provide documentation that establishes the value of the assets at the time the loan was made. This does not apply in the case of real property.

**9. Overcharges on interest rates or non-allowable fees to borrowers**

Where lenders inadvertently charge borrowers an interest rate in excess of the maximum or charge non-allowable fees, lenders must reimburse borrowers for these overcharges before the Minister pays a claim. The amendment allows overcharges to be deducted from the calculation of the claim amount when it is not practical to reimburse borrowers (e.g., the borrowers cannot be located or are no longer operating).

**10. Loan term clarity and flexibility**

Under the current regulations, the loan term is restricted to 10 years from the date the loan is made. This restriction has proven problematic in cases where the lender and the borrower would like the loan term to be longer than 10 years.

The amended regulations provide that, despite the length of the loan term, the Minister will pay a claim if the default occurs within 10 years from the date of the first scheduled payment of principal/interest.

**11. Flexibility for notice of default**

The current regulations stipulate that a lender must send a notice of default to the borrower specifying a date within which the borrower needs to comply with the conditions of the loan agreement. This date in the notice of default is the date from which the 36-month period for claim submission begins.

Under the amendment to the regulations, sending of the notice of default is optional. In the event that a notice is not sent, the 36-month period for claim submission will begin on the day after a final payment amount is received from the borrower.

**12. Subrogation of monies recovered by lenders after claim payment**

The current regulations do not specify how monies recovered by lenders are to be split between the lender and the Minister after a claim has been paid. The amendment clarifies that monies received by a lender after the payment of a claim resulting from realization measures are split by the loan-loss ratio (85 percent to the Minister, 15 percent to the lender).

We welcome your comments and feedback on any points raised in this Bulletin. Please feel free to contact us.

**Canada Small Business Financing Program**

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