## So What's New?  Small Business Lending Fund Program Underwriting and Application Guidelines

The federal banking agencies have issued guidance on underwriting standards for lending conducted under the Small Business Lending Fund ("SBLF") Program. Additionally, the US Department of Treasury ("Treasury") has published guidelines on applying for the program. Responding to the impact of the financial crisis on small businesses and their access to credit, Congress enacted the **Small Business Jobs Act of 2010** (the "Act"). The Act directs the Treasury to make capital investments in eligible financial institutions to stimulate small business lending.  To carry out this goal, the Act authorizes the Treasury to purchase up to $30 billion in preferred stock and other financial instruments from qualified financial institutions.

Captial received from the preferred stock issued under the SBLF program will qualify as Tier 1 capital and carry an interest rate as low as 1%. Unlike TARP funding, SBLF funds will not require restrictions on executive compensation or the issuance of warrants. Banks that are interested in the Program should review the Treasury's "Getting Started Guide" that can be found on the [Department of Treasury's website](). Applications are due March 31, 2011.

Much like the official interpretation of the Community Reinvestment Act, the federal banking agencies expect lenders to extend credit under the Act in a safe and sound manner, employing prudent risk selection and credit risk management processes.  A participating financial institution must adopt loan policies and procedures that ensure that its lending under the SBLF Program meet Program requirements.  Nevertheless, participating institutions will have latitude in formulating underwriting standards under the SBLF Program, allowing institutions to tailor products and services to the needs of their communities.

Since the *Interagency Guidelines Establishing Standards for Safety and Soundness*, the *Interagency Guidelines for Real Estate Lending Policies*, and the *Interagency Statement on Meeting the Needs of Credit worthy Small Business Borrowers* will continue to apply to small business lending, for banks that already employ good credit underwriting standards, there is really nothing new about the underwriting standards for the SBLF Program.

The recent guidance provides that "prudently underwritten small business loans should reflect all relevant credit factors," including:
- Capacity of the income from the business to adequately service the debt;
- Value and quality of the collateral;
- Overall creditworthiness of the borrower;
- Level of equity invested in the business;
- Any secondary sources of repayment;
- Any additional collateral or credit enhancements (such as guarantees or key-person insurance.

Treasury is currently developing guidance for mutual banks, Subchapter S corporation and community development loan funds. Terms for participation by these institutions may vary and separate application dates will apply.

Our clients may direct questions about the SBLF Program to Katie Edge at [kedge@millermartin.com]() or 615-744-8400, or one of these members of our Financial

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