Secured Finance Network

August 7, 2024

Via Electronic Mail

Small Business Administration
Washington, D.C. 20551
Attention: Isabella Guzman, Secretary

Re: 7(a) Working Capital Pilot Program Notice of Rule Making SBA-2024-0005

Dear Secretary Guzman:

It is our understanding that the Small Business Administration ("SBA") is currently accepting comments with respect to your agencies' proposed rulemaking introducing a new pilot loan program within the 7(a) Loan Program known as the "7(a) Working Capital Pilot" ("WCP" or "Proposed Rule"). We submit the following comments on behalf of the Secured Finance Network.

The Secured Finance Network ("SFNet") is the principal U.S. trade association for financial institutions that provide asset-based lending, factoring and trade finance services to commercial borrowers. SFNet's nearly 300 members include substantially all of the major money-center banks, various regional and community banks, and other large and small independent commercial lenders. Financing by SFNet members comprises a substantial portion of the United States credit market, exceeding $500 billion in outstanding committed loans in 2023[1] with much of this reaching small businesses to whom the Proposed Rule is designed to serve.

As the SBA is well aware, asset-based lending "ABL" (and other forms of working capital such as factoring) plays a critical role for many U.S. businesses. Much of the financing provided by SFNet's members goes to U.S. small and medium-sized businesses that form the backbone of the U.S. economy, providing them with vital working capital to run their business, create jobs, and grow. For many of these U.S. companies, asset-based lending is the only form of financing available to them. It offers a solution to companies that otherwise would not be able to obtain

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[1] Additional information about SFNet may be found at www.SFNet.com.

financing, and also provides lenders with a way to manage risk while continuing to provide essential working capital to borrowers that are temporarily distressed. Asset-based lending is also an important tool for companies that need debtor-in-possession financing in chapter 11 bankruptcy cases, allowing companies to restructure their troubled businesses and preserve jobs.

While SFNet applauds the SBA's intent, through the WCP, to provide capital to a greater number of unserved and underserved businesses, the unintended consequences of the Proposed Rule, without substantial revision, will be to put the SBA's Working Capital Pilot Program in direct competition with those existing private lenders, many of whom are our members, who presently lend in the identical marketplace which the Proposed Rule intends to serve. To be more specific, the interest rates available under the WCP, the relaxed collateral requirements of the WCP and the liberal financial covenants requirements, to name just a few of the terms of the Proposed Rule, not only compare favorably with our members' existing lending terms but, in many cases, are substantially more attractive. If it is the intent of the Proposed Rule to make capital available only to those borrowers who do not qualify for financing from the private sector and not displace capital already available to these small businesses and thereby not expose the taxpayer to unnecessary risk in the form of the SBA guarantee, we believe that those borrowers seeking credit under the Proposed Rule should first demonstrate that they have made reasonable efforts to secure financing from private sector lenders. Such disclosure could be submitted at the time of the application and in a form similar to those used in other federal programs.

ABL is a highly specialized product that requires expert processes, systems and experience to manage risks associated with nuanced collateral monitoring, underwriting, structuring, and fraud prevention. This expertise is evident in our member lenders history of low default rates (less than 0.5%) over multiple economic cycles with their small business borrowers, thanks to flexible and sustainable product structures that adjust with the client's needs. The providers of these solutions have the experience and wherewithal to support this important segment of our economy and have consistently served it well for many decades.

We are deeply concerned that by encouraging lenders to become SBA approved to provide the WCP product with its tax-payer subsidized guarantee, we will not only undermine the existing providers of this form of credit but the SBA, and therefore taxpayers, will incur unnecessary and costly losses. We need not repeat the mistakes of the PPP and EIDL programs which in addition to incurring unprecedented losses borne by taxpayers, caused material harm to the critically important asset-based lending industry, in some cases reducing outstanding loans by up to half of independent lender portfolios.

We urge the SBA to use this pilot program to ensure taxpayer-backed funding is made available only to those businesses which can demonstrate that they cannot secure working capital through existing commercial sources.

Furthermore, if it is the intention of the WCP to reach as many potential borrowers as possible, we believe that it is only logical that existing non-bank asset-based lenders and service providers should have access to the WCP program. SFNet members include hundreds of independent lenders who are intimately familiar with the market place the WCP is intending to serve and would jump at the chance to apply to the SBA for the right to make loans and advances and provide servicing under the WCP. Unfortunately, it is our understanding that the SBA has "closed the door" on the number of new WCP approved non-bank lenders. If a greater number of qualified lenders are licensed, it is our belief that it would have a direct effect with regard to making the WCP available to a greater number of potential borrowers. Similarly, we are advised that only a select few service providers have been approved under the WCP. Many of our members are currently servicing borrowers in the market place that WCP intends to serve. Wouldn't it make sense to allow for additional servicers, which would have the twofold effect of fostering competition among the service providers resulting in lower prices, as well as making the servicing product available to more WCP lenders and their clients? By increasing the number of SBA approved lenders and servicers the SBA will further ensure the success of the WCP.

We are available at your convenience to discuss these recommendations and thank you for considering our suggested changes to the Proposed Rule.

Sincerely,

Richard D. Gumbrecht
Chief Executive Officer
Secured Finance Network

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