

Proposed Rules

Federal Register

Vol. 89, No. 173

Friday, September 6, 2024

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FARM CREDIT ADMINISTRATION

12 CFR Part 613

RIN 3052-AD58

Loans to Similar Entities

AGENCY: Farm Credit Administration.

ACTION: Advanced notice of proposed rulemaking.

SUMMARY: The Farm Credit Administration (FCA, our, or we) issues this advanced notice of proposed rulemaking (ANPRM), so interested members of the public may have the opportunity to provide input on how FCA should amend pivotal aspects of its similar entity lending regulations. More specifically, we are focusing on whether and how these regulations could better implement statutory provisions requiring similar entities to engage in activities that are “functionally similar” to the activities of eligible borrowers. We also seek comments about how FCA can ensure that our similar entity regulations are more closely aligned with the Farm Credit System’s (FCS or System) statutory mission to serve agriculture, aquaculture, and specific activities in rural America. Additionally, we request comments pertaining to the determination of whether an entity, or entities within a corporate family can simultaneously qualify as both an eligible borrower and similar entity, as well as on the use of “other extensions of credit” and “other technical and financial assistance” within the similar entity lending authority. We intend to use the comments that we receive from this ANPRM to craft a proposed rule to enhance the clarity and guidance of our similar entity regulations.

DATES: You may send comments on or before December 5, 2024.

ADDRESSES: For accuracy and efficiency, please submit comments by email or through FCA’s website. We do not accept comments submitted by fax because faxes are difficult to process. Also, please do not submit comments

multiple times; submit your comment only once, using one of the following methods:

- Send an email to reg-comm@fca.gov.
- Use the public comment form on our website:
 1. Go to <https://www.fca.gov>.
 2. Click inside the “I want to . . .” field near the top of the page.
 3. Select “comment on a pending regulation” from the dropdown menu.
 4. Click “Go.” This takes you to the comment form.
- Send the comment by mail to the following:

Autumn R. Agans, Deputy Director, Office of Regulatory Policy, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090.

We post all comments on the FCA website. We will show your comments as submitted, including any supporting information; however, for technical reasons, we may omit items such as logos and special characters. Personal information that you provide, such as phone numbers and addresses, will be publicly available. However, we will attempt to remove email addresses to help reduce internet spam.

To review comments on our website, go to <https://www.fca.gov> and follow these steps:

1. Click inside the “I want to . . .” field near the top of the page.
2. Select “find comments on a pending regulation” from the dropdown menu.
3. Click “Go.” This will take you to a list of regulatory projects.
4. Select the project in which you’re interested. If we have received comments on that project, you will see a list of links to the individual comments.

You may also review comments at the FCA office in McLean, Virginia. Please call us at (703) 883-4056 or email us at reg-comm@fca.gov to make an appointment.

FOR FURTHER INFORMATION CONTACT:

Technical Information: Luke Gallegos, Senior Policy Analyst, Office of Regulatory Policy, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4414, TTY (703) 883-4056, or ORPMailbox@fca.gov; or

Legal Information: Richard Katz, Senior Counsel, Office of General Counsel, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4085, TTY (703) 883-4056, or

Karen Hunter, Attorney Advisor, Office of General Counsel, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4147, TTY (703) 883-4056.

SUPPLEMENTARY INFORMATION:

I. Objective

The purpose of this ANPRM is to gather public input on how FCA might revise similar entity regulations to:

- Clarify what activities of similar entities would be considered “functionally similar” to the activities of eligible borrowers, as the statute requires.
- Determine how similar entity transactions are consistent with the System’s mission.
- Ensure eligibility determination for prospective similar entities belonging to corporate families that have parents, subsidiaries, affiliates, and other related entities is consistently applied.
- Clarify what is required to support and document the determination of a prospective borrower as a qualified similar entity.
- Determine what financial instruments, including bonds, might qualify as “other extensions of credit” and “other technical and financial assistance” within the statutory and regulatory similar entity provisions.

II. Background

Sections 3.1(11)(B) and 4.18A of the Farm Credit Act of 1971, as amended (Act), authorize banks for cooperatives,¹ Farm Credit Banks, and direct lender associations to participate in loans to similar entities. Congress added these sections granting this authority in 1992 and 1994.

Section 502 of the Farm Credit Banks and Associations Safety and Soundness Act of 1992² added Section 3.1(11)(B), which granted FCS banks operating

¹ With one exception, all provisions of the Act governing title III banks only refer to “bank(s) for cooperatives.” Section 7.0 of the Act allows Farm Credit Banks and banks for cooperative to merge. FCA regulations designate such merged banks as “agricultural credit banks.” Before the Agricultural Credit Act of 1987 added section 7.0 to the Act, there were 12 regional banks for cooperatives and a Central Bank for Cooperatives. Over time, all 13 banks for cooperatives merged into CoBank, which is the only FCS institution operating under title III of the Act. Several Farm Credit Banks also merged into CoBank, which now is the only agricultural credit bank in the FCS.

² See Public Law 102-552, 502, 106 Stat. 4130, (Oct. 28, 1992).

under title III of the Act authority to participate in loans that non-System lenders originated for similar entities under certain conditions. In 1994, section 5 of the Farm Credit System Agricultural Export and Risk Management Act³ added 4.18A, which expanded similar entity authority to System banks and associations that operate under titles I and II of the Act.

The similar entity provisions of the Act authorize FCS banks and associations to participate in multi-lender credits that non-System lenders originate for parties who are not eligible for loans from System lending institutions. Under the statute, qualified similar entities derive a majority of their income from, or have a majority of their assets invested in, the conduct of activities that are functionally similar to the activities of eligible borrowers. The applicable statutory provisions also specify that each System bank or association may participate in any loan of the type that it is authorized to make under titles I, II, or III of the Act, respectively. As explained in greater detail below, section 3.1(11)(B)(iii) of the Act establishes a broad and unique definition of “participate” and “participation” that applies only to similar entity transactions in which System lenders engage. Finally, similar entity participations are subject to: (1) an obligor limit of 10 percent of an FCS institution’s total capital for a single credit risk, (2) a limit of less than 50 percent of the principal amount of each loan in which System lenders, individually, or collectively participate, and (3) a portfolio cap of 15 percent of the total assets of each System bank or association.

After Congress granted similar entity authority to the System, FCA enacted a new implementing regulation, § 613.3300.⁴ Our similar entity regulation closely aligns with the text of sections 3.1(11)(B) and 4.18A of the Act. Similar entity lending is unique to the FCS and involves a complex and multi-faceted process to properly determine if an applicant qualifies for similar entity status. With this in mind, FCA decided to initiate a rulemaking to provide further direction as to which borrowers and activities fall within the System’s similar entity authority, and to provide clearer guidance to all stakeholders. This ANPRM is the first stage of this rulemaking, which seeks public comment to assist FCA in clarifying the intricacies involved in determining

whether an applicant qualifies as a similar entity.

Our regulation, § 613.3300(b), establishes three criteria for a similar entity transaction. The first part of this regulatory provision states that a Farm Credit bank or direct lender association may “participate” in a similar entity transaction with a non-FCS lender. As defined in § 613.3300(a)(1), the term “participate” or “participation,” for the purpose of similar entity lending, refers to multi-lender transactions including syndications, assignments, loan participations, subparticipations, other forms of the purchase, sale, or transfer of interest in loans, or other extensions of credit, or other technical and financial assistance. Therefore, for a similar entity transaction to enter the System it must be a participation as defined above, and System banks and associations must participate with one or more non-FCS lenders. Additionally, the System institution(s) participation interest in the transaction must not, at any time, equal or exceed 50 percent of the principal amount.

The second criterion that § 613.3300(b) establishes for any similar entity transaction is that a prospective borrower is ineligible to receive a loan from a System bank or association under part 613, subparts A and B. This part of § 613.3300(b) derives from § 613.3300(a)(2), which defines a similar entity as an ineligible party whose operations are functionally similar to the activities of eligible borrowers. The functionally similar activity is the foundational component for determining whether an ineligible party qualifies as a similar entity. System banks and associations that want to participate in such credits must engage in considerable analysis, support, and documentation to mitigate associated risks including, but not limited to, credit, reputational, legal, and financial.

The third criterion that § 613.3300(b) establishes for a similar entity transaction is that the loan purpose must be similar to those for which an eligible borrower could obtain financing from the participating FCS institution. This part relates to the similar entity definition in § 613.3300(a)(2), which ties a similar entity’s activities to those performed by an eligible FCS borrower.

III. Request for Comments

We request and encourage any interested person to submit comments on the questions below, and we ask that you support your comments with relevant information, data, or examples. We remind commenters that their comment letters and supporting

documentation will be available to the public.

We have organized our questions to address the following: (1) the appropriate criteria used to determine whether the activities of a similar entity are “functionally similar” to those of eligible borrowers, (2) the extent to which a prospective similar entity’s activities are consistent with the FCS’s statutory mission to extend credit and provide related services to agriculture and other eligible borrowers in rural communities, (3) the complexities of determining eligibility for corporate families that have parents, subsidiaries, affiliates, and other related entities, and (4) the appropriate scope of “other extensions of credit or other technical and financial assistance” within similar entity lending authorities.

A. Functionally Similar Activity

As explained earlier, the term “similar entity” is defined in the Act as a person or entity⁵ that is not eligible for a loan from a Farm Credit bank or association but has operations that are functionally similar to a person who is eligible for a loan from the Farm Credit bank or association. In addition, the person or entity is required to derive a majority of its income from, or have a majority of its assets invested in, the conduct of activities that are functionally similar to the activities that are conducted by an eligible person. There are essentially two parts to this definition:

1. The “majority of income or assets invested” requirement, which refers to the similar entity (ineligible party).

2. The “conduct of activities that are performed by eligible borrowers” requirement, which refers to the ineligible party’s operations that are functionally similar to the activities of eligible Farm Credit borrowers.

For a person or entity to qualify as a similar entity, both parts of the definition must be met. The first part of the definition is clear on the qualification requirement to derive a majority of its income from, or have a majority of its assets, invested in functionally similar activities. The common, everyday meaning of the term “majority” is an amount that is greater than 50 percent.⁶ However, we would

⁵ As defined in 4.18A of the Act. See FCA Regulation § 613.3000(a)(3) for the definition of a person. Section 3.1(11)(B) of the Act includes the term “entity” in the definition.

⁶ Under the rules of statutory construction developed by the Federal courts, words of a statute are interpreted according to their “ordinary, contemporary, common meaning,” unless Congress clearly expressed a different intent. See *Pioneer Investment Service Co. v. Brunswick Associates Ltd Partnership*, 507 U.S. 380, 388 (1993) Since

³ See Public Law 103–376, 5, 108 Stat. 3498, (Oct. 19, 1994).

⁴ See 60 FR 47103 (Sept. 11, 1995); 61 FR 42902 (Aug. 13, 1996); 62 FR 4429 (Jan. 30, 1997).

like to receive your input on what criteria should be used to determine what qualifies an activity as “functionally similar.”

The term “functionally similar” refers to the function of activities performed by an ineligible person or entity which are consistent with the activities performed by an eligible borrower. The activities related to the scope of financing for which an eligible borrower can receive financing tie directly back to the requirements set forth in FCA Regulation Part 613, subpart A and B, except for rural home financing (§ 613.3030).⁷ The function of activities performed by a qualified similar entity are intended to align with the requirements under titles I, II, and III of the Act. Therefore, the differentiating factor between a similar entity and eligible borrower is in the eligibility status of the person or entity. For example, a person or entity that primarily processes or markets agricultural product(s) but does not meet the throughput or ownership requirements set forth in FCA regulation § 613.3010, would sufficiently qualify the “functionally similar” activity aspect of a similar entity through their processing or marketing of agricultural products.⁸ However, if the same person or entity primarily processes and markets non-agricultural products, the activity does not seem “functionally similar” to the activities of eligible borrowers and, therefore, would not qualify as a similar entity. An entity that is neither a cooperative, nor its affiliated entity, but has activities that are functionally similar to processing and marketing, supply, or business service cooperatives (or their subsidiaries or

Congress did not prescribe a specific definition of “majority” of income or assets for functionally similar borrowers, we would interpret this term in accordance with its ordinary, contemporary, common meaning. Therefore, majority would mean most of the income derived or most of the assets must be invested in activities that are functionally similar to eligible borrowers.

⁷ Section 4.18A(b)(4) of the Act specifically states that borrowers who are not eligible for non-farm rural homes under sections 1.11(b) and 2.4(a)(2) of the Act do not qualify as similar entities. This is also reflected in FCA’s similar entity regulation, § 613.3300(b), which does not cross-reference § 613.3030, which governs eligibility and scope of financing for rural homeowners who are not farmers or ranchers.

⁸ Determining whether processing and marketing activities of prospective similar entities are functionally similar to those of eligible borrowers may depend, to some extent, on how close the activities are to basic processing of raw agricultural commodities. For example, most restaurants and grocery stores that primarily engage in the retail sale of finished food products to consumers, most likely, would not derive most of their income from, or have most of their assets invested in activities that are functionally similar to those of eligible borrowers.

affiliates) under § 613.3100(a)(1) could qualify as a similar entity depending on the connection of these activities to farmers, ranchers, or producers/harvesters of aquatic products.⁹ We note that a prospective similar entity applicant that predominantly engages in activities or operations that are not functionally similar to the activities of eligible farmers, ranchers, aquatic producers and harvesters, their cooperatives, farm-related service business, or rural utilities, would not qualify for FCS credit under section 3.1(11)(B) or 4.18A of the Act, and § 613.3300.

As noted above, we seek your input on what activities could determine functional similarity when evaluating whether an applicant qualifies as a similar entity. As such, we seek comment on the following questions:

1. What quantitative and qualitative criteria are being used or being considered for determining a “functionally similar” activity of an eligible borrower?
2. Could there be different factors based on market segments (e.g., industry, commodity, regional markets, etc.) that would necessitate differentiating criteria used to determine a “functionally similar” activity? If so, what factors should be considered?
3. How far could an activity (such as processing and marketing, including packaging), be removed from agricultural production and harvesting, and basic processing of raw products and still qualify as a “functionally similar” activity of a similar entity?
4. What would be the most effective way to document how the activities of both an eligible borrower and a similar entity are determined to be functionally similar?

B. Similar Entity Consistency With FCS Mission

Congress established the similar entity authority to provide System institutions and non-System lenders with a tool to manage risk.¹⁰ By lending to similar entities, System institutions can reduce geographic, industry, or individual borrower concentrations in their portfolios, and improve the results of their operations. The limits placed on

⁹ This example is specific to title III cooperative lending and is not intended to speak to title I or II lending authorities (i.e., FCA regulations §§ 613.3010 and 613.3020).

¹⁰ A passage in the legislative history states, “the act authorizes member lenders of the Farm Credit System—a government-sponsored enterprise (GSE)—and the Nation’s private banks to participate together in multi-lender transactions for the purpose of improving loan management capability and reducing concentration of risk.” See statement by Sen. Leahy Cong. Rec. S 14235 (Oct. 5, 1994).

System banks and associations in the Act reinforce the expectation that this authority be used prudently and thoughtfully. The similar entity authority should not diminish the System’s primary mission as a lender to American farmers, ranchers, aquatic producers and harvesters, their cooperatives, and other eligible borrowers in rural America. Consistency between the similar entity’s functionally similar activity and loan purposes that align with the FCS mission is a fundamental component in determining similar entity qualification, as well as significantly reducing the System’s potential exposure to reputation risk. Consistency with the FCS mission and reduction of reputation risk exposure can be accomplished when the functionally similar activity and loan purpose demonstrate a clear direct benefit to American agriculture or certain activities in rural America and is appropriately documented. We would like to receive your input on the connection between similar entity lending authorities and the FCS mission.

When a similar entity’s functionally similar operation(s) consist of producing, processing, or marketing a commodity or product, the expectation would be that an FCS bank or association evaluate how this activity advances the System’s statutory mission to extend credit to American agriculture. This evaluation would include an assessment of a prospective similar entity’s product mix, product ingredients, or inputs to ensure there is a primary benefit to American agriculture. A person or entity that primarily processes or markets product(s) that may not necessarily be considered agricultural products at face-value but contain agricultural ingredients (e.g., beverages, further processed foods, and other consumer packaged goods, etc.) may still qualify as a similar entity depending on the ingredients or inputs of the product. For example, a similar entity’s operation whose functionally similar activity is producing a snack food that contains ingredients that are both primarily agricultural products (i.e., milk, wheat, soy) and primarily sourced from U.S. farmers¹¹ would likely be considered a direct benefit to American agriculture. However, if the total ingredients of the product (e.g., snack foods, soft drinks, or energy drinks) are not primarily agricultural ingredients, or if those same

¹¹ This would include sourcing directly from agricultural producers or food hubs, cooperatives, and other entities that market or store agricultural goods directly from producers.

agricultural ingredients were primarily sourced from non-U.S. farmers, there may be a question regarding the direct benefit to American agriculture.

Another area where the FCS's mission focuses on a direct benefit to rural America arises in lending to rural utilities under sections 3.7(f) and 3.8(b)(1)(A) of the Act. Both sections of the Act require the utility to serve rural areas in America. Section 3.7(f) authorizes lending to entities for the purpose of installing, maintaining, expanding, improving, and operating water and waste disposal facilities in rural areas¹² with populations of 20,000 inhabitants or less. Section 3.8(b)(1)(A) authorizes lending to an electric or telecommunications utility that has received a loan, loan commitment, or loan guarantee from the Rural Utilities Service (RUS) or is eligible for such credit under the Rural Electrification Act of 1936 (REA). When a utility does not provide electric, telecommunications, water, or waste management services in rural areas, questions most likely will arise about whether a title III bank is fulfilling its statutory mission to extend credit in America's rural communities.

The FCS is committed to the success of American agriculture through its support of rural communities and agriculture with reliable and consistent credit and financial services. Section 1.1 of the Act acknowledges the need for credit in rural areas and states the objective of improving the income and well-being of American farmers and ranchers. As mentioned in subsection (A) above, the functionally similar activity directly ties the ineligible person or entity to an eligible borrower and the FCS mission. As such, we seek comment on the following questions:

1. What criteria would indicate that a similar entity's functionally similar operation(s) is most likely to benefit American agriculture or other activities in rural communities that are consistent with the lending authorities of FCS banks and associations?

a. What criteria and controls should we consider in a prospective rulemaking to ensure that similar entity lending is consistent with the scope of financing for loans to eligible borrowers?

b. Under what circumstances would an activity such as processing/marketing or packaging be allowed to deviate away from being related to American agricultural goods or products?

c. What consideration should be given to the ingredients of a similar entity's product(s) to ensure benefit to American agriculture?

i. What percentage of ingredients from the product(s) being produced should be composed of agricultural inputs?

ii. What percentage of sourced ingredients or inputs should come from U.S. farmers, ranchers, or producers of aquatic products?

iii. Under what circumstances could primarily sourcing ingredients from outside the U.S. benefit American agriculture?

d. To what extent could a water or waste facility that operates in areas with more than 20,000 inhabitants pursuant to the requirements of 3.7(f) qualify as a similar entity? What limitations should be required to ensure that such lending is compatible with the FCS mission to provide water and waste facilities in rural communities?

e. To what extent could an electric or telecommunications utility that is not eligible to borrow under section 3.8(b)(1)(A) of the Act qualify as a similar entity?

f. To what degree do utilities that are not directly eligible under title III need to provide public utility services to rural communities to be considered a similar entity?

2. What would be the most effective way to document how a similar entity's functionally similar activities/operations benefit either American agriculture or rural communities?

C. Parents, Subsidiaries, and Affiliates

Sections 3.1(11)(B)(ii) and 4.18A of the Act provide the authority for System institutions to participate in loans to a similar entity. "Similar entity" is defined as an entity that is not eligible for a loan from a Farm Credit bank or association but is functionally similar to an eligible entity. We note that it is difficult to envision a situation in which a singular entity can be both an eligible borrower and a similar entity at the same time.

Many legal entities are in corporate families that have parents, subsidiaries, affiliates, and other related entities. We are exploring whether more clarity is needed in the similar entity regulation to properly determine which entities in a multi-organizational structure qualify as similar entities. As such, we seek comment on the following questions:

1. Under what circumstances could a single entity simultaneously qualify as both an eligible borrower and similar entity (ineligible party)?

2. Under what circumstances could an entity in a corporate family (multi-organizational structure) qualify as a

similar entity if another entity within the same corporate family is eligible to borrow, and vice versa? Please explain your reasoning and provide supporting information and suggestions.

3. What criteria or requirements (e.g., corporate, operational, or financial interdependence) should our regulations place on the various entities in corporate families to ensure that the System only extends credit to qualified similar entities that meet the income, asset, and functionally similar requirements of the Act?

D. Incorporation of "Other Extensions of Credit" Within Similar Entity Lending Authorities

Section 3.1(11)(B)(iii) of the Act refers to multi-lender transactions which include, "other extensions of credit, or other technical and financial assistance" under the definition of "participate" or "participation" for similar entity credits.

We ask for your input on what may fall within the interpretation of "other extensions of credit" and "other technical and financial assistance," including specifically whether and when bonds may be included as part of "other extensions of credit." As such, we seek comment on the following questions:

1. What factors would your institutions consider as part of the credit evaluation process if participating in bonds through similar entity authorities?

a. What is the difference, if any, in the factors or credit evaluation process that should be considered if purchasing bonds on the secondary market versus participating in direct offerings?

b. How would you ensure compliance with the similar entity qualification and loan purpose requirements as outlined in § 613.3300(b)?

c. If purchased on the secondary market, how would you monitor compliance with the statutory lending limits in § 613.3300(c) and ensure the selling party is a non-FCS lender with authority to extend credit?

2. Are there any instruments, other than bonds, that would qualify as "other extensions of credit" that FCS institutions are utilizing, or are considering utilizing, within the similar entity lending authorities?

a. If so, what types of financial instruments are being used or considered?

b. What is the existing, or proposed structure of such instruments and what criteria and controls are being, or could be used to ensure safety and soundness?

3. What would qualify as "other technical and financial assistance" that

¹² More specifically, pursuant to section 3.7(f), a rural area is defined as "all territory of a state that is not within the outer boundary of any city or town having a population of more than 20,000 based on the latest decennial census of the United States."

FCS institutions are utilizing, or considering utilizing, within the similar entity lending authorities?

Miscellaneous

Finally, are there any other issues pertaining to similar entity lending authorities that you think should be addressed in the next phases of this rulemaking that we have not raised in this ANPRM?

Dated: August 29, 2024.

Ashley Waldron,

Secretary to the Board, Farm Credit Administration.

[FR Doc. 2024-19805 Filed 9-5-24; 8:45 am]

BILLING CODE 6705-01-P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 126

Tribal Consultation for HUBZone Program Updates and Clarifications and Potential Reforms

AGENCY: U.S. Small Business Administration.

ACTION: Notification of Tribal consultation meeting; request for comments.

SUMMARY: The U.S. Small Business Administration (SBA or Agency) announces that it is holding a Tribal consultation meeting in Washington, DC, concerning forthcoming proposed revisions to the Historically Underutilized Business Zone (HUBZone) program regulations. The proposed rule would amend the 8(a) Business Development (BD) and size regulations to clarify certain policies. Additionally, SBA requests comments and input on how best to implement the Executive order entitled “Reforming Federal Funding and Support for Tribal Nations To Better Embrace Our Trust Responsibilities and Promote the Next Era of Tribal Self-Determination,” which, among other things, calls on agencies to increase the accessibility, equity, flexibility, and utility of Federal funding and support programs for Tribal Nations. SBA is also seeking comments on prospective policy changes addressing joint venture participation in SBA’s programs. Testimony presented at this Tribal consultation will become part of the administrative record for SBA’s consideration when the Agency deliberates on approaches to changes in the HUBZone and 8(a) BD program regulations.

DATES: The meeting is Monday, September 23, 2024, 2 p.m. to 5 p.m. (Eastern Daylight Time (EDT)). Pre-

registration for this Tribal consultation meeting is requested by September 16, 2024.

ADDRESSES:

Meeting Locations:

1. The in-person Tribal consultation meeting in Washington, DC will be held at SBA Headquarters, 409 Third Street SW, Washington, DC 20416.

2. The virtual portion of the Tribal consultation meeting will be hosted on Microsoft Teams. A subscription to Microsoft Teams is not required to participate. SBA will provide further information, including a direct invitation link to the meeting, upon registration.

Commenters and attendees may participate in-person or remotely at this consultation meeting.

Pre-registration: Send pre-registration requests to attend and/or testify to Chequita Carter of SBA’s Office of Native American Affairs, U.S. Small Business Administration, 409 3rd Street SW, Washington, DC 20416; *Chequita.Carter@sba.gov*; or Facsimile to (202) 481-2177.

Comments: You may submit comments by any of the following methods:

- *Email:* to Jackson S. Brossy, Assistant Administrator, Office of Native American Affairs, U.S. Small Business Administration, at *tribalconsultation@sba.gov*.
- *Mail (for paper, disk, or CD-ROM submissions):* to Jackson S. Brossy, Assistant Administrator, Office of Native American Affairs, U.S. Small Business Administration, 409 3rd Street SW, Washington, DC 20416.

Instructions: All submissions received will become part of the administrative record for any rulemaking resulting from these Tribal consultation meetings and listening session. As such, comments received may be posted on <https://www.regulations.gov>. If you wish to submit confidential business information (CBI) as defined in the User Notice at <https://www.regulations.gov>, please submit the comments to Jackson S. Brossy and highlight the information that you consider to be CBI and explain why you believe this information should be held confidential. SBA will make a final determination as to whether the comments will be published.

FOR FURTHER INFORMATION CONTACT:

Chequita Carter, Program Assistant for SBA’s Office of Native American Affairs, at *Chequita.Carter@sba.gov* or (202) 205-6680 or by facsimile to (202) 481-2177. This phone number can also be reached by individuals who are deaf or hard of hearing, or who have speech

disabilities, through the Federal Communications Commission’s TTY-Based Telecommunications Relay Service teletype service at 711.

SUPPLEMENTARY INFORMATION:

I. Background

SBA issued a proposed rule concerning the HUBZone program regulations under RIN 3245-AH68. 89 FR 68274 (Aug. 23, 2024). The proposed rule is intended to clarify and improve several regulatory provisions, including those governing HUBZone contract eligibility. The proposed rule would also make several changes to SBA’s size and 8(a) Business Development (BD) program regulations. In particular, the rulemaking would consolidate and redesignate the separate recertification requirements for SBA’s size, 8(a) BD, HUBZone, Woman-Owned Small Business, and Service-Disabled Veteran-Owned Small Business programs to a new section to reduce confusion and to ensure consistent application of the size and status recertification requirements. SBA anticipates the proposed rule will be published prior to the Tribal consultation meeting announced in this document.

In addition to the above referenced regulatory proposals, SBA is asking for input on how best to implement Executive Order (E.O.) 14112, Reforming Federal Funding and Support for Tribal Nations To Better Embrace Our Trust Responsibilities and Promote the Next Era of Tribal Self-Determination, which was signed by the President on December 6, 2023. This E.O. directs agencies to identify and execute policy reforms designed to promote accessible, equitable, and flexible administration of Federal funding and support programs for Tribal Nations to better live up to the Federal Government’s trust responsibilities and help address the needs of all Tribal Nations. SBA has identified several potential opportunities for improvement, including the current requirements for personal guarantees and a waiver of sovereign immunity for 7(a) loans to tribally-owned business concerns, as well as the match funding requirement applicable to grants awarded by Native-serving entrepreneurship organizations, such as Small Business Development Centers and Community Development Financial Institutions. SBA is seeking comments on these and other potential reforms to reduce burdens and improve the accessibility of SBA’s programs for Tribal stakeholders. Additionally, the Agency requests input on a change SBA has already made to address the