U.S. Small Business Administration

# SOP 50 – 10

- SOP 50-10-4
  - Loans approved 01/29/99 to 07/31/08
- SOP 50-10-5 (A)
  - Loans approved 08/01/08 to 09/30/09
- SOP 50-10-5 (B)
  - Loans approved 10/01/09 to 09/30/10
- SOP 50-10-5 (C)
  - Loans approved 10/01/10 to 09/30/11
- SOP 50-10-5 (D)
  - Loans approved 10/01/11 to 05/31/12
- SOP 50-10-5 (E)
  - Loans approved 06/01/12 to 12/31/13
- SOP 50-10-5 (F)
  - Loans approved 01/01/14 to 09/30/14
- SOP 50-10-5 (G)
  - Loans approved 10/01/14 to April 30, 2015
- SOP 50-10-5 (H)
  - Loans approved 05/01/15 to 12/31/2016
- SOP 50-10-5 (I)
  - Loans approved 1/1/2017 to 12/31/2017
- SOP 50-10-5 (J)
  - Loans approved on or after 1/1/2018
- SOP 50-10-5 (K)
  - Loans approved on or after 4/1/2019

# Waiting with Bated Breath….

- When does the SOP  50 10 6 come out?

?

At this point it should be April 1, 2020

# ESOPs and CO-OPS ?

- Changes and Updates Coming in the
- 50 10 6

- But let's take a look at an ESOP question:

# When an ESOP or 401(k) owns 20% or more of an Applicant…

- a. The **owner(s)** of a 401(k) **must** provide his or her full unconditional personal guaranty regardless of the individual ownership interest in the Applicant concern.

- This guaranty **must** be a secured guaranty if required by SBA's existing collateral policies.

# Question?

- Plan has an owner with 95% or more ownership….
- Remaining owners = minimal ownership even less than 1%
- Full Unconditional Personal Guarantee required?

# Answer

YES!

If the plan owns 20% or more….

All Owners Regardless of their ownership percentage….

# Plan has less than 20% ownership?

- Is there a case where the owners could be required?
- If it is an **associate** of the business then the owners would be required to guarantee the loan.
- SBA or Lender could require it!

- 13CFR120.10 Associate of a small business:
- (i) An officer, director, owner of more than 20 percent of the equity, or key employee of the small business;
- (ii) Any entity in which one or more individuals referred to in paragraphs (2)(i) of this definition owns or controls at least 20 percent; and
- (iii) Any individual or entity in control of or controlled by the small business (except a Small Business Investment Company ("SBIC") licensed by SBA)."

# Policy Notice Update
# 5000-19009

- Change in Ownership

- 1. Non Delegated and Delegated!
- 2. 7a and 504
- 3. 12 months from Final Disbursement
- 4. Adjustment to or Change in Ownership of Borrower
- 5. Including a Change in Percentage of Ownership
- 6. Effective April 1, 2019
- **7. No Longer a Unilateral Action**
- 8. Submit request to CLSC

- Why?
- To Verify …

- a. Comply with Limitations on the Aggregate Amounts of SBA Loans to Borrower Including Affiliates

- b. No Prior Loss to Government

# Loans Sold on the Secondary Market

- **Interest Paid to Date more than 60 days in Arrears!**
- Or
- **Payment Default Uncured for More than 60 days**
- **60 days** = Lender……Can this be Cured?
- If not…
- Lender Purchase it Back!
- OR…
- SBA Purchase it Back! - PDK within 45 days
- If it is More than 120 days and SBA Purchases it Back…..
- SBA will BILL the Lender for the Interest Accrued Beyond the 120 Days!
- Make A Decision!
- See 1086 paragraph 10

# Loan Sold on Secondary Market

- SOP 50-57-2, Chapter 12
- 2ndary Participation Guaranty Agreement Form 1086.

- Modifications require Investor approval!

# Investor Decline

Repurchase loan from secondary market

- Loan greater than 60 days in default – Unilateral Authority.

Emergency Repurchase – Requires SBA approval.

VIABILITY !

# What do..

Cheech and Chong

Scooby "Doobie" Doo

The SBA

Have in Common…

**50 10 5 K Update**

Policy Notice 5000-17057

# Things to Remember!

1. Direct Marijuana Business

   Grows, Produces, Processes, Distributes, or Sells Marijuana or Marijuana Products, Edibles, or Derivatives

2. Indirect Marijuana Business

   Reasonably be determined to aid in the use, growth, enhancement or other development of marijuana.

   BONG!

3. Hemp

   Consistent with the **Agriculture Improvement Act of 2018** (Public Law No. 115-334), a business that grows, produces, processes, distributes or sells products made from hemp (as defined in section 297A of the Agricultural Marketing Act of 1946) is eligible.

# What if my Borrower is now leasing space to a business that is engaged…

- Borrower **MAY NOT** lease space to the ineligible businesses described above because:

  - 1. Collateral could be subject to seizure and

  - 2. Payments on the SBA loan would be derived from illegal activity.

  - 3. If a borrower does lease to an ineligible marijuana-related business, SBA District Counsel should be consulted to determine what action should be taken.

# Maturity Extensions

- Increases – Express Revolvers

- Increases – Te[...]oans

- Cancelatio[...]ecrease after initial
[...]isbursement

Danger Will Robinson!

# Form 159

Compensation to an Agent.

**Total** Compensation!

How Much?

$2,500.00…….

Over =

**Itemize**……

….**MUST**…..

It's in the form!

# RESOURCES

- Servicing SOP 50-57-2 and/or 50 55 .

- Loan Processing SOP 50-10 5  in effect at time of loan approval.

- 13 CFR.

- 7(A) Lender Matrix, Version 13 Effective May 5, 2015.
- CDC Matrix,  Version 2 Effective February 14, 2014

- Forms/Requests:
  - 2237
  - Reinstatement of Paid in Full loans.
  - Transfer of Participation.

- Secondary Participation Guaranty Agreement Form 1086

- Colson Servicing Manual.

- https://www.sba.gov/FresnoCLSC
- https://www.sba.gov/LittleRockCLSC

# Questions????