



# Small Business: Access to Capital and Job Creation

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January 13, 2011

**Congressional Research Service**

7-5700

[www.crs.gov](http://www.crs.gov)

R40985

## Summary

The SBA administers several programs to support small businesses, including loan guaranty programs to enhance small business access to capital; contracting programs to increase small business opportunities in federal contracting; direct loan programs for businesses, homeowners, and renters to assist their recovery from natural disasters; and small business management and technical assistance training programs to assist business formation and expansion. Congressional interest in these programs has increased in recent years, primarily because assisting small business is viewed as a means to enhance economic growth.

Some, including President Obama, have argued that current economic conditions make it imperative that the SBA be provided additional resources to assist small businesses in acquiring capital necessary to start, continue, or expand operations and create jobs. Others worry about the long-term adverse economic effects of spending programs that increase the federal deficit. They advocate business tax reduction, reform of financial credit market regulation, and federal fiscal restraint as the best means to assist small business economic growth and job creation.

Several laws were enacted during the 111<sup>th</sup> Congress to enhance small business access to capital. For example, P.L. 111-5, the American Recovery and Reinvestment Act of 2009 (ARRA), provided the SBA an additional \$730 million, including funding to temporarily subsidize SBA fees and increase the 7(a) loan guaranty program's maximum loan guaranty percentage to 90%. P.L. 111-240, the Small Business Jobs Act of 2010, authorizes the Secretary of the Treasury to establish a \$30 billion Small Business Lending Fund (SBLF) to encourage community banks to provide small business loans, a \$1.5 billion State Small Business Credit Initiative to provide funding to participating states with small business capital access programs, numerous changes to the SBA's loan guaranty and contracting programs, funding to continue the SBA's fee subsidies and the 7(a) program's 90% maximum loan guaranty percentage through December 31, 2010, and about \$12 billion in tax relief for small businesses. P.L. 111-322, the Continuing Appropriations and Surface Transportation Extensions Act, 2011, authorizes the SBA to continue its fee subsidies and the 7(a) program's 90% maximum loan guaranty percentage through March 4, 2011.

This report addresses a core issue facing Congress during the 112<sup>th</sup> Congress: what, if any, additional action should the federal government take to enhance small business access to capital? After briefly discussing the role of small business in job creation and retention, this report provides an assessment of the supply and demand for small business loans. It also examines selected laws enacted during the 110<sup>th</sup> and 111<sup>th</sup> Congresses that were designed to enhance small business access to capital by increasing the supply of small business loans and/or the demand for small business loans. This report also includes empirical evidence concerning small business lending and borrowing, including the number and amount of small business loans guaranteed by the SBA.

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## Small Business Access to Capital

The Small Business Administration (SBA) administers several programs to support small businesses, including loan guarantees to lenders to encourage them to provide loans to small businesses “that might not otherwise obtain financing on reasonable terms and conditions.”<sup>1</sup> Historically, one of the justifications presented for funding the SBA’s loan guarantee programs has been that small businesses can be at a disadvantage, compared with other businesses, when trying to obtain access to sufficient capital and credit.<sup>2</sup> As an economist explained:

Growing firms need resources, but many small firms may have a hard time obtaining loans because they are young and have little credit history. Lenders may also be reluctant to lend to small firms with innovative products because it might be difficult to collect enough reliable information to correctly estimate the risk for such products. If it’s true that the lending process leaves worthy projects unfunded, some suggest that it would be good to fix this “market failure” with government programs aimed at improving small businesses’ access to credit.<sup>3</sup>

In recent years, advocates of providing federal assistance to small businesses have focused increased attention on the role small businesses have in job creation and retention.<sup>4</sup> They note that small businesses have led job formation during previous economic recoveries.<sup>5</sup> Economists generally do not view job creation as a justification for providing federal assistance to small businesses. They argue that in the long term such assistance will likely reallocate jobs within the economy, not increase them. In their view, jobs arise primarily from the size of the labor force, which depends largely on population, demographics, and factors that affect the choice of home versus market production (e.g., the entry of women in the workforce). However, economic theory does suggest that increased federal spending may result in additional jobs in the short term. For example, the SBA reported in September 2010, that ARRA funding for small businesses created or retained 785,955 jobs.<sup>6</sup>

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<sup>1</sup> U.S. Small Business Administration, *Fiscal Year 2010 Congressional Budget Justification* (Washington, DC: GPO, 2009), p. 30.

<sup>2</sup> Proponents of providing federal funding for the SBA’s loan guarantee programs also argue that small business can promote competitive markets. See P.L. 83-163, § 2(a), as amended; and 15 U.S.C. § 631a.

<sup>3</sup> Veronique de Rugy, *Why the Small Business Administration’s Loan Programs Should Be Abolished*, American Enterprise Institute for Public Policy Research, AEI Working Paper #126, April 13, 2006, [http://www.aei.org/docLib/20060414\\_wp126.pdf](http://www.aei.org/docLib/20060414_wp126.pdf). Also, see U.S. Government Accountability Office, *Small Business Administration: 7(a) Loan Program Needs Additional Performance Measures*, GAO-08-226T, November 1, 2007, pp. 3, 9-11, <http://www.gao.gov/new.items/d08226t.pdf>.

<sup>4</sup> For example, see The White House, “Remarks by the President on Job Creation and Economic Growth,” December 8, 2009, <http://www.whitehouse.gov/the-press-office/remarks-president-job-creation-and-economic-growth>. For further analysis concerning the role of small business in job creation see CRS Report R41392, *Small Business and the Expiration of the 2001 Tax Rate Reductions: Economic Issues*, by Jane G. Gravelle and CRS Report R41523, *Small Business Administration and Job Creation*, by Robert Jay Dilger.

<sup>5</sup> U.S. Small Business Administration, Office of Advocacy, *Small Business Economic Indicators for 2003*, Washington, DC, August 2004, p. 3; and Brian Headd, “Small Businesses Most Likely to Lead Economic Recovery,” *The Small Business Advocate*, vol. 28, no. 6 (July 2009), pp. 1, 2.

<sup>6</sup> U.S. Small Business Administration, “FY2009/2010 Final – Recovery Program Performance Report, September 2010,” Washington, DC, September, 2010, [http://archive.sba.gov/idc/groups/public/documents/sba\\_homepage/perform\\_report\\_9\\_2010.pdf](http://archive.sba.gov/idc/groups/public/documents/sba_homepage/perform_report_9_2010.pdf).

As will be discussed, the tightening of private sector lending standards and the disruption of credit markets in 2008 and 2009, led to increased concern in Congress that small businesses might be prevented from accessing sufficient capital to start, continue, or expand their operations—actions which were expected to lead to higher levels of employment. As the SBA indicated in its FY2010 congressional budget justification report:

Over the last decade, small businesses across this country have been responsible for the majority of new private sector jobs, leaving little doubt that they are a vital engine for the nation's economic growth. However, with the United States facing the most severe economic crisis in more than 70 years, small businesses are confronted with a frozen lending market and limited access to the capital they need to survive and grow at this critical time.<sup>7</sup>

Some, including President Obama, have argued that economic conditions make it imperative that the SBA be provided additional resources to assist small businesses in acquiring capital necessary to start, continue, or expand operations. For example, the SBA has argued that “improving access to credit by small businesses is a crucial step in supporting economic recovery and job creation.”<sup>8</sup> Others worry about the long-term adverse economic effects of spending programs that increase the federal deficit. They advocate business tax reduction, reform of financial credit market regulation, and federal fiscal restraint as the best means to assist small businesses, generate economic growth and create jobs.

Several laws were enacted during the 110<sup>th</sup> and 111<sup>th</sup> Congresses to enhance small business access to capital, including P.L. 111-240, the Small Business Jobs Act of 2010 (see the **Appendix** for a list of its key provisions). Some of these laws were designed primarily to enhance the supply of small business loans, others were designed primarily to enhance the demand for small business loans, and some, including P.L. 111-5, the American Recovery and Reinvestment Act of 2009 (ARRA), and the Small Business Jobs Act of 2010, included provisions designed to enhance both the supply and demand for small business loans.<sup>9</sup>

This report addresses a core issue facing Congress during the 112<sup>th</sup> Congress: what, if any, additional action should the federal government take to enhance small business access to capital? It opens with an assessment of the supply and demand for small business loans. It also examines selected laws enacted during the 110<sup>th</sup> and 111<sup>th</sup> Congresses that were designed to enhance small business access to capital, either by increasing the supply of small business loans or increasing the demand for small business loans. This report also includes empirical evidence concerning small business lending and borrowing, including the number and amount of small business loans guaranteed by the SBA.

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<sup>7</sup> U.S. Small Business Administration, *Fiscal Year 2010 Congressional Budget Justification* (Washington, DC: GPO, 2009), p. 1.

<sup>8</sup> U.S. Small Business Administration, “President Obama Announces New Efforts to Improve Access to Credit for Small Businesses,” Washington, DC, 2009, [http://www.whitehouse.gov/assets/documents/small\\_business\\_final.pdf](http://www.whitehouse.gov/assets/documents/small_business_final.pdf).

<sup>9</sup> For further analysis of ARRA's small business provisions see CRS Report R40241, *Overview and Analysis of Small Business Provisions in the American Recovery and Reinvestment Act of 2009*, by Oscar R. Gonzales and N. Eric Weiss. For further analysis of ARRA's small business provisions and P.L. 111-240 see CRS Report R41385, *Small Business Legislation During the 111<sup>th</sup> Congress*, by Robert Jay Dilger, Oscar R. Gonzales, and Gary Guenther.

## The Supply and Demand for Private Sector Small Business Loans

Each quarter, the Federal Reserve Board surveys senior loan officers concerning their bank's lending practices. The survey includes a question concerning their bank's credit standards for small business loans: "Over the past three months, how have your bank's credit standards for approving applications for C&I [commercial and industrial] loans or credit lines—other than those to be used to finance mergers and acquisitions—for small firms (annual sales of less than \$50 million) changed?" The senior loan officers are asked to indicate if their bank's credit standards have "Tightened considerably," "Tightened somewhat," "Remained basically unchanged," "Eased somewhat," or "Eased considerably." Subtracting the percentage of respondents reporting "Eased somewhat" and "Eased considerably" from the percentage of respondents reporting "Tightened considerably" and "Tightened somewhat" provides an indication of the market's supply of small business loans.

As shown in **Figure 1**, senior loan officers reported that they tightened small business loan credit standards during the early part of this decade, loosened those credit standards mid-decade, and tightened them in 2008 and 2009. Since 2009, business credit markets have improved, and most senior loan officers report that they are no longer tightening their small business lending standards. However, the Federal Reserve Board notes that those lending standards "remain quite stringent following the prolonged and widespread tightening that took place over the past few years."<sup>10</sup>

The survey also includes a question concerning the demand for small business loans: "Apart from normal seasonal variation, how has demand for C&I loans changed over the past three months for small firms (annual sales of less than \$50 million)?" Senior loan officers are asked to indicate if demand was "Substantially stronger," "Moderately stronger," "About the same," "Moderately weaker," or "Substantially weaker." Subtracting the percentage of respondents reporting "Moderately weaker" and "Substantially weaker" from the percentage of respondents reporting "Substantially stronger" and "Moderately stronger" provides an indication of the market's demand for small business loans.

As shown in **Figure 1**, senior loan officers reported that the demand for small business loans declined during the early part of this decade, increased mid-decade, declined somewhat in 2007 and 2008, declined significantly in 2009, began to level off (at a relatively reduced level) during the first half of 2010, and declined somewhat more during the second half of 2010.

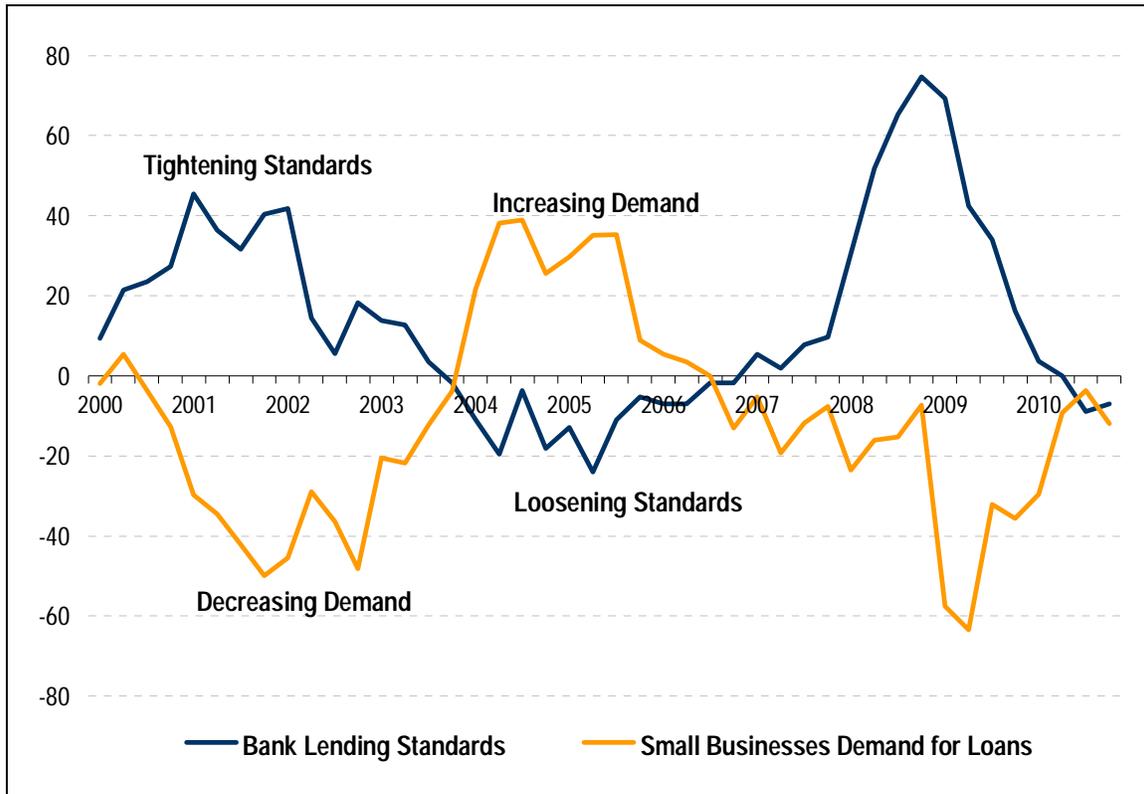
The combination of decreased supply and demand for small business loans over the past three years led to a decline in the total amount of outstanding small business debt as well. Since peaking at \$780.9 billion in the second quarter of 2008, the total amount of outstanding small business debt declined to \$700.4 billion in the third quarter of 2010.<sup>11</sup>

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<sup>10</sup> Federal Reserve Board, "The April 2010 Senior Loan Officer Opinion Survey on Bank Lending Practices," Washington, DC, <http://www.federalreserve.gov/boarddocs/SnLoanSurvey/201005/default.htm>.

<sup>11</sup> Federal Deposit Insurance Corporation, "Statistics on Depository Institutions," Washington, DC, <http://www2.fdic.gov/SDI/main.asp>.

**Figure 1. Small Business Lending Environment, 2000-2010**  
(senior loan officers' survey responses)



**Source:** Federal Reserve Board, "Senior Loan Officer Opinion Survey on Bank Lending Practices," Washington, DC, <http://www.federalreserve.gov/boarddocs/SnLoanSurvey/>; and Brian Headd, "Forum Seeks Solutions To Thaw Frozen Small Business Credit," *The Small Business Advocate*, vol. 28, no. 10 (December 2009), p. 3, <http://www.sba.gov/sites/default/files/The%20Small%20Business%20Advocate%20-%20December%202009.pdf>.

## The Supply and Demand for SBA Loans

**Table 1** shows selected financial statistics for the SBA from FY2000 to FY2010. It provides an overview of the extent of the SBA's various programs to enhance small business access to capital.

The first two columns report the amount and number of non-disaster small business loans guaranteed by the SBA from FY2000 to FY2010. The figures reflect loans that were disbursed and are less than the amount and number of loans approved by the SBA. Each year, 7% to 10% of the loans approved by the SBA are subsequently cancelled for a variety of reasons, typically by the borrower.

The third column reports the number of bid bonds and final bonds guaranteed under the SBA's surety bond guarantee program from FY2000 to FY2010. A surety bond is a three-party instrument between a surety (someone who agrees to be responsible for the debt or obligation of another), a contractor, and a project owner. The agreement binds the contractor to comply with the terms and conditions of a contract. If the contractor is unable to successfully perform the contract, the surety assumes the contractor's responsibilities and ensures that the project is completed. It is designed to reduce the risk of contracting with small businesses that may not

have the credit history or prior experience of larger businesses. The SBA does not issue surety bonds. Instead, it provides and manages surety bond guarantees for qualified small and emerging businesses through its Surety Bond Guarantee (SBG) Program. The SBA reimburses a participating surety (within specified limits) for the losses incurred as a result of a contractor's default on a bond.<sup>12</sup>

The fourth column reports funding for the SBA's secondary market guarantee program, which is discussed later in this report. The final column reports the SBA's end-of-year outstanding principal balance of loans for FY2000-FY2010 that have not been charged off as of the end of the fiscal year. It provides a measure of the SBA's scope of lending.

**Table I. Selected Small Business Administration Financial Statistics, FY2000-FY2010**  
(\$ in millions)

Fiscal Year	SBA Business Loan Guarantees				
	Amount Disbursed <sup>a</sup>	Number Disbursed <sup>Error!</sup> <small>Reference source not found.</small>	Surety Bond Guarantees Number	Secondary Market Guarantee Funding	Unpaid Principal Loan Balance
2010	\$15,060	54,800 (est.)	8,348	\$3,379	\$93,340
2009	12,728	45,548	6,135	2,381	90,441
2008	18,152	78,916	6,055	4,138	88,244
2007	20,525	108,152	5,809	3,678	84,523
2006	19,954	105,680	5,214	3,633	78,117
2005	19,661	102,893	5,678	10,000	71,495
2004	21,308	83,611	7,803	3,572	64,362
2003	15,358	71,973	8,974	-	59,181
2002	15,281	53,585	7,372	-	56,219
2001	14,019	50,278	6,320	-	53,116
2000	13,180	NA	7,034	-	52,227

**Sources:** U.S. Small Business Administration, *FY 2002 Budget Request and Performance Plan* (Washington, DC: GPO, 2001), pp. 14, 28, 31, 34; U.S. Small Business Administration, *SBA Budget Request and Performance Plan: FY 2003 Congressional Submission* (Washington, DC: GPO, 2002), pp. 17, 57, 58, 62; U.S. Small Business Administration, *FY 2004 Budget Request and Performance Plan* (Washington, DC: GPO, 2003), pp. 3, 4, 113; U.S. Small Business Administration, *FY 2005 Congressional Performance Budget Request* (Washington, DC: GPO, 2004), pp. 9, 15, 20, 82; U.S. Small Business Administration, *Congressional Submission Fiscal Year 2006* (Washington, DC: GPO, 2005), pp. 13, 19, 25; U.S. Small Business Administration, *FY 2007 Budget Request and Performance Plan* (Washington, DC: GPO, 2006), pp. 14, 20, 23, 51, 63; U.S. Small Business Administration, *Congressional Submission Fiscal Year 2008* (Washington, DC: GPO, 2007), pp. 17, 23, 26; 49, 52, 53, 55; U.S. Small Business Administration, *Fiscal Year 2009 Congressional Submission and Fiscal Year 2007 Annual Performance Report* (Washington, DC: GPO, 2008), pp. 17, 25, 28, 127, 128; U.S. Small Business Administration, *Fiscal Year 2010 Congressional Budget Justification* (Washington, DC: GPO, 2009), pp. 11, 17, 21, 34, 38, 43; U.S. Small Business Administration, *Number of Approved Loans by Program*, Washington, DC; U.S. Small Business Administration, *Unpaid Principal Balance By Program*, Washington, DC; U.S. Small Business Administration, *Agency Financial Report*,

<sup>12</sup> U.S. Small Business Administration, "Surety Bonds," Washington, DC, <http://www.sba.gov/category/navigation-structure/loans-grants/bonds/surety-bonds>.

2009 Fiscal Year (Washington, DC: GPO, 2009), p. 68; U.S. Small Business Administration, *Fiscal Year 2011 Congressional Budget Justification and FY 2009 Annual Performance Report* (Washington, DC: GPO, 2010) pp. 19, 36, 39, 41, 48, and U.S. Small Business Administration, *Agency Financial Report, Fiscal Year 2010* (Washington, DC: GPO, 2010), pp. 7, 65.

**Notes:**

- a. The amount disbursed is the amount given to the borrower. In recent years, the SBA has guaranteed 84% to 87% of the amount disbursed.
- b. The SBA no longer publishes the number of loans disbursed. The number of general business loans disbursed for FY2010 was estimated by assuming that 92% of the loans approved in FY2010 (59,572) were disbursed. The SBA also provides disaster loans: \$8.8 billion in FY2006, \$1.6 billion in FY2007, \$861 million in FY2008, \$725 million in FY2009, and \$387 million in FY2010. See U.S. Small Business Administration, *Congressional Submission Fiscal Year 2008* (Washington, DC: GPO, 2007), p. 23; U.S. Small Business Administration, *Fiscal Year 2009 Congressional Submission and Fiscal Year 2007 Annual Performance Report* (Washington, DC: GPO, 2008), p. 25; U.S. Small Business Administration, *Fiscal Year 2011 Congressional Budget Justification and FY 2009 Annual Performance Report* (Washington, DC: GPO, 2010) p. 48, and U.S. Small Business Administration, *Agency Financial Report, Fiscal Year 2010* (Washington, DC: GPO, 2010), pp. 7, 65.

As shown in **Table 1**, the amount and number of non-disaster small business loans guaranteed by the SBA declined in FY2008 and FY2009, and then increased, but remained below pre-recession levels, in FY2010.

The decline in the amount and number of small business loans guaranteed by the SBA during 2008 and 2009 was, at least in part, due to three interrelated factors. First, many lending institutions experienced significant economic difficulties during the recession. In 2007, before the recession, three lending institutions failed. In 2008, 26 failed. During 2009, 140 lending institutions failed.<sup>13</sup> Included in the list of failed lending institutions in 2009 was CIT Group, Inc., the nation's largest lender to small businesses. It failed on November 1, 2009.<sup>14</sup> Over the course of the year, 702 (of 8,012) banks, with \$403 billion in assets, were on the Federal Deposit Insurance Corporation's (FDIC's) watch list for heightened risk of failure.<sup>15</sup> Deterioration in the quality of loans and securities in the portfolios of financial institutions, combined with rapidly rising loan defaults, also took a toll on the industry's earnings in 2008 and 2009. In 2007, FDIC-insured lending institutions had \$101.6 billion in net profits. In 2008, they lost \$12.9 billion, including a \$37.8 billion loss in the fourth quarter, which more than erased \$24.9 billion in profits during the previous three quarters. In 2009, FDIC-insured lending institutions had a net profit of \$4.2 billion.<sup>16</sup> In terms of individual lending institutions, more than one in four (29.5%) reported a net loss for the year.<sup>17</sup> When lending institutions anticipate difficulty in making a profit, are losing money, or have diminished expectations of future profits, they tend to become more risk averse and the supply of business loans, including small business loans, tends to decline.

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<sup>13</sup> Federal Deposit Insurance Corporation, "Failed Bank List," Washington, DC, <http://www.fdic.gov/bank/individual/failed/banklist.html>. For further analysis see CRS Report RL32542, *The Condition of the Banking Industry*, by Walter W. Eubanks.

<sup>14</sup> Patrice Hill, "Lender to small business bankrupt," *The Washington Post*, November 2, 2009, pp. A1, A10.

<sup>15</sup> Federal Deposit Insurance Corporation, "Quarterly Banking Profile: Fourth Quarter 2009, Table 1-A. Selected Indicators, FDIC-Insured Institutions," Washington, DC, <http://www2.fdic.gov/qbp/2009dec/all1a.html>.

<sup>16</sup> Federal Deposit Insurance Corporation, "Quarterly Banking Profile: Quarterly Net Income," Washington, DC, <http://www2.fdic.gov/qbp/2009dec/chart1.htm>.

<sup>17</sup> Federal Deposit Insurance Corporation, "Quarterly Banking Profile: Fourth Quarter 2009, Table 1-A. Selected Indicators, FDIC-Insured Institutions," Washington, DC, <http://www2.fdic.gov/qbp/2009dec/all1a.html>. For further analysis see CRS Report RL32542, *The Condition of the Banking Industry*, by Walter W. Eubanks.

Second, the secondary market for small business loans, as with other secondary markets, began to contract in October 2008, reached its nadir in January 2009, and then began a relatively prolonged recovery.<sup>18</sup> In a secondary market, loans are pooled together and packaged as securities for sale to investors. This practice makes more capital available by allowing lending institutions to remove existing loans from their balance sheets, freeing them to make new loans.<sup>19</sup> When secondary credit markets constrict, lenders tend to become both less willing and less able to supply small business loans. For example, the secondary market volume for SBA 7(a) loans averaged \$328 million a month from January 2008 through September 2008, and then fell each succeeding month, declining to under \$100 million in January 2009.<sup>20</sup> The SBA estimates that about half of the lenders that make SBA guaranteed loans resell them to obtain additional capital to make additional loans.

Third, many small businesses experienced severe economic difficulties during the recession. The SBA estimated that about 60% of the jobs lost in 2008 through the second quarter of 2009 were lost in small firms.<sup>21</sup> Monthly business surveys conducted by Automatic Data Processing, Inc. (ADP) suggest that about 81% of the 7.5 million jobs lost during the recession (from December 2007 through September 2009) were in firms with less than 500 employees.<sup>22</sup> When business is slow, or when expectations of business sales growth are diminished, business owners (and entrepreneurs considering starting a new small business) tend to become more risk averse and the demand for small business loans tends to decline.

In 2009, the number and amount of small business loans guaranteed by the SBA declined sharply early in the year, followed by modest increases during the second and third quarters, and briefly surpassed pre-recession levels in the fourth quarter as small business owners took advantage of ARRA funded fee subsidies for the SBA's 7(a) and 504/CDC loan guaranty programs and increase in the 7(a) program's maximum loan guaranty percentage to 90% which were expected to end by the end of the year.<sup>23</sup>

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<sup>18</sup> The Federal Reserve Bank of New York, utilizing authority provided under section 13(3) of the Federal Reserve Act, created the Term Asset-Backed Securities Loan Facility (TALF) on March 3, 2009 to stabilize secondary credit markets by lending up to \$200 billion to eligible owners of certain AAA-rated asset backed securities (ABS) backed by newly and recently originated auto loans, credit card loans, student loans, and SBA-guaranteed small business loans. The initial TALF subscription took place on March 19, 2009 and the last one took place in June 2010. There were 23 monthly ABS and Commercial Mortgage Backed Securities (CMBS) subscriptions. TALF supported about \$58 billion of ABS and \$12 billion of CMBS. See Federal Reserve Bank of New York, "Term Asset-Backed Securities Loan Facility: Terms and Conditions," New York, NY, [http://www.newyorkfed.org/markets/talf\\_terms.html](http://www.newyorkfed.org/markets/talf_terms.html); Federal Reserve Bank of New York, "New York Fed releases revised TALF Master Loan and Security Agreement and appendices," press release, New York, NY, <http://www.federalreserve.gov/newsevents/press/monetary/20090303a.htm>; and U.S. Department of the Treasury, "Secretary of the Treasury Timothy F. Geithner, Written Testimony Congressional Oversight Panel," Press Release, Washington, DC, June 22, 2010, <http://cop.senate.gov/documents/testimony-062210-geithner.pdf>.

<sup>19</sup> U.S. Small Business Administration, Office of Advocacy, *An Exploration of a Secondary Market for Small Business Loans*, Washington, DC, April 2003, p. 1, [http://archive.sba.gov/advo/research/rs227\\_tot.pdf](http://archive.sba.gov/advo/research/rs227_tot.pdf).

<sup>20</sup> U.S. Small Business Administration, "Six-Month Recovery Act Report Card," Washington, DC, August 2009.

<sup>21</sup> Brian Headd, U.S. Small Business Administration, Office of Advocacy, "An Analysis of Small Business and Jobs," Washington, DC, March 2010, p. 14, [http://www.sba.gov/sites/default/files/files/an%20analysis%20of%20small%20business%20and%20jobs\(1\).pdf](http://www.sba.gov/sites/default/files/files/an%20analysis%20of%20small%20business%20and%20jobs(1).pdf).

<sup>22</sup> Automatic Data Processing, Inc. (ADP), "National Employment Report, December 2007," Roseland, NJ, p. 2, [http://www.adpemploymentreport.com/pdf/FINAL\\_Report\\_DEC\\_07.pdf](http://www.adpemploymentreport.com/pdf/FINAL_Report_DEC_07.pdf); and ADP, "National Employment Report, September 2009," Roseland, NJ, p. 2, [http://www.adpemploymentreport.com/PDF/FINAL\\_Report\\_September\\_09.pdf](http://www.adpemploymentreport.com/PDF/FINAL_Report_September_09.pdf).

<sup>23</sup> U.S. Small Business Administration, "Recovery Act Changes to SBA Loan Programs Sparked Major Mid-Year Turn-Around in Volume," Washington, DC, October 1, 2009; and Nancy Waitz, "U.S. stimulus funds run out for lower (continued...)"

The SBA argued that the increase in the number and amount of small business loans it guaranteed during FY2010 was primarily due to fee subsidies and loan enhancements first put in place under ARRA and later extended by law to cover most of the fiscal year.<sup>24</sup> The SBA noted that its average weekly loan volume for FY2010 (\$333 million) was 29% higher than its average weekly loan volume for FY2009 (\$258 million).<sup>25</sup> Another likely factor contributing to the higher loan volume was a general improvement in the economy as the recession ended (officially in June 2009) and the economic recovery began, albeit slowly in many parts of the nation.

The demand for SBA loans increased significantly during the first quarter of FY2011 (October-December 2010), as borrowers took advantage of SBA fee subsidies that were expected to expire at the end of the calendar year. The SBA announced, on January 3, 2011, that “during the quarter, the SBA approved nearly 22,000 small business loans for \$10.47 billion, supporting a total of \$12.16 billion in lending” which “was the highest volume in a fiscal year’s first quarter than at any time in the agency’s history.”<sup>26</sup>

## Recent Laws Designed to Enhance the Supply of Small Business Loans

As mentioned previously, several laws were enacted during the 110<sup>th</sup> and 111<sup>th</sup> Congresses to enhance small business access to capital. The following laws were enacted largely in response to the contraction of financial credit markets which started in 2008, and reached its nadir in early 2009.

P.L. 110-343, the Emergency Economic Stabilization Act of 2008, was designed to enhance the supply of loans to businesses of all sizes. The act authorized the Troubled Asset Relief Program (TARP) to “restore liquidity and stability to the financial system of the United States” by purchasing or insuring up to \$700 billion in troubled assets from banks and other financial institutions.<sup>27</sup> TARP’s purchase authority was later reduced from \$700 billion to \$475 billion by P.L. 111-203, the Dodd-Frank Wall Street Reform and Consumer Protection Act. The Department of the Treasury has disbursed \$389 billion in TARP funds, including \$337 million to purchase SBA 7(a) loan guaranty program securities.<sup>28</sup> The authority to make new TARP commitments expired on October 3, 2010.

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(...continued)

SBA loan fees,” *Reuters News*, November 24, 2009, <http://www.reuters.com/article/companyNewsAndPR/idUSN2431964620091125>.

<sup>24</sup> U.S. Small Business Administration, “Recovery Loan Incentives Spurred Continued Rebound in SBA Lending in FY2010,” Washington, DC, October 4, 2010, [http://archive.sba.gov/idc/groups/public/documents/sba\\_homepage/news\\_release\\_10-54.pdf](http://archive.sba.gov/idc/groups/public/documents/sba_homepage/news_release_10-54.pdf).

<sup>25</sup> *Ibid.*

<sup>26</sup> U.S. Small Business Administration, “Jobs Act Supported More Than \$12 Billion in SBA Lending to Small Businesses in Just Three Months,” Washington, DC, January 3, 2011, <http://www.sba.gov/content/jobs-act-supported-more-12-billion-sba-lending-small-businesses-just-three-months>.

<sup>27</sup> For further analysis see CRS Report R41427, *Troubled Asset Relief Program (TARP): Implementation and Status*, by Baird Weibel.

<sup>28</sup> U.S. Department of the Treasury, *Troubled Assets Relief Program Monthly 105(a) Report – November 2010*, Washington, DC, December 10, 2010, pp. 2-4, [http://www.financialstability.gov/docs/November%20105\(a\)%20FINAL.pdf](http://www.financialstability.gov/docs/November%20105(a)%20FINAL.pdf). On March 16, 2009, President Obama announced that the Department of the (continued...)

P.L. 111-5, the American Recovery and Reinvestment Act of 2009 (ARRA), included several provisions to enhance the supply of loans to small businesses.<sup>29</sup> ARRA

- authorized the SBA to establish a temporary secondary market guarantee authority to provide a federal guarantee for pools of first lien 504/CDC program loans that are to be sold to third-party investors. The SBA was granted emergency rulemaking authority to issue regulations for the program within 15 days after enactment (by March 4, 2009). After experiencing unanticipated delays in implementing the program due to “limited staff resources” and determining how to meet ARRA reporting requirements, the SBA issued regulations for its 504/CDC First Mortgage Loan Pooling program on October 30, 2009, and it became operational in June 2010.<sup>30</sup> The program was scheduled to end on February 16, 2011, or until \$3 billion in new pools are created, whichever occurred first. As will be discussed, the Small Business Jobs Act of 2010 extended the program.<sup>31</sup>
- authorized the SBA to use emergency rulemaking authority to issue regulations within 30 days after enactment (by March 19, 2009), to make below market interest rate direct loans to SBA-designated “Systemically Important Secondary Market (SISM) Broker-Dealers.” These broker-dealers would use the loan funds to purchase SBA-guaranteed loans from commercial lenders, assemble them into pools, and sell them to investors in the secondary loan market. The SBA experienced unanticipated delays in implementing the program primarily due to the need to determine “the extent to which broker-dealers, and perhaps small business lenders, would be required to share in the potential losses associated with extending the guarantee in the 504 loan program.”<sup>32</sup> The SBA issued

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(...continued)

Treasury would use TARP funds to purchase up to \$15 billion of SBA-guaranteed loans to “immediately unfreeze the secondary market for SBA loans and increase the liquidity of community banks.” The plan was deferred after it met resistance from lenders. Some lenders objected to TARP’s requirement that participating lenders comply with executive compensation limits and issue warrants to the federal government. Smaller, community banks objected to the program’s paperwork requirements, such as the provision of a small-business lending plan and quarterly reports. See The White House, “Remarks by the President to Small Business Owners, Community Leaders, and Members of Congress,” Washington, DC, March 16, 2009, [http://www.whitehouse.gov/the\\_press\\_office/Remarks-by-the-President-to-small-business-owners/](http://www.whitehouse.gov/the_press_office/Remarks-by-the-President-to-small-business-owners/).

<sup>29</sup> For further analysis see CRS Report R40241, *Overview and Analysis of Small Business Provisions in the American Recovery and Reinvestment Act of 2009*, by Oscar R. Gonzales and N. Eric Weiss; CRS Report R40728, *Small Business Tax Benefits and the American Recovery and Reinvestment Act of 2009*, by Gary Guenther; and CRS Report R41385, *Small Business Legislation During the 111<sup>th</sup> Congress*, by Robert Jay Dilger, Oscar R. Gonzales, and Gary Guenther.

<sup>30</sup> U.S. Small Business Administration, “SBA Creates Secondary Market Guarantee Program for 504 First Mortgage Loan Pools,” Washington, DC, October 28, 2009; U.S. Government Accountability Office, *Recovery Act: Project Selection and Starts Are Influenced by Certain Federal Requirements and Other Factors*, GAO-10-383, February 10, 2010, p. 23, <http://www.gao.gov/new.items/d10383.pdf>; and U.S. Small Business Administration, “New First Mortgage Loan Poolers Will Jump-Start Secondary Market for SBA 504 Loans, Make Credit More Available,” Washington, DC, June 24, 2010, <http://www.sba.gov/about-sba-services/7367/5728>.

<sup>31</sup> U.S. Small Business Administration, “The American Recovery and Reinvestment Act of 2009: Secondary Market First Lien Position 504 Loan Pool Guarantee,” *74 Federal Register* 56087, October 30, 2009; and U.S. Small Business Administration, “New First Mortgage Loan Poolers Will Jump-Start Secondary Market for SBA 504 Loans, Make Credit More Available,” Washington, DC, June 24, 2010, <http://www.sba.gov/about-sba-services/7367/5728>.

<sup>32</sup> U.S. Government Accountability Office, *Status of the Small Business Administration’s Implementation of Administrative Provisions in the American Recovery and Reinvestment Act of 2009*, GAO-10-298R, January 19, 2010, p. 7, <http://www.gao.gov/new.items/d10298r.pdf>.

regulations to establish the Direct Loan Program for Systemically Important Secondary Market Broker-Dealers on November 19, 2009.<sup>33</sup>

- provided \$255 million for a temporary, two-year small business stabilization program to guarantee loans of \$35,000 or less to small businesses for qualified debt consolidation, later named the America's Recovery Capital (ARC) Loan program (the program ceased issuing new loan guarantees on September 30, 2010); \$15 million for the SBA's surety bond program, and temporarily increased the maximum bond amount from \$2 million to \$5 million, and up to \$10 million under certain conditions (the higher maximum bond amounts ended on September 30, 2010); \$6 million for the SBA's Microloan program's lending program and \$24 million for the Microloan program's technical assistance program; and increased the funds ("leverage") available to SBA-licensed Small Business Investment Companies (SBICs) to no more than 300% of the company's private capital or \$150,000,000, whichever is less.
- authorized the SBA to guarantee 504/CDC loans used to refinance business expansion projects as long as the existing indebtedness did not exceed 50% of the project cost of the expansion and the borrower met specified requirements.

P.L. 111-240, the Small Business Jobs Act of 2010, was enacted after the financial credit markets had stabilized. It includes several provisions designed to enhance the supply of loans to small businesses. For example, the act

- authorizes the Secretary of the Treasury to establish a \$30 billion Small Business Lending Fund (SBLF) to encourage community banks to provide small business loans and a \$1.5 billion State Small Business Credit Initiative to provide funding to participating states with small business capital access programs.<sup>34</sup> The Department of the Treasury issued guidance for both of these programs, including how to apply for assistance, in December 2010.<sup>35</sup>
- extends the SBA's secondary market guarantee authority from two years after the date of ARRA's enactment to two years after the date of the program's first sale of a pool of first lien position 504/CDC loans to a third-party investor (which took place on September 24, 2010).<sup>36</sup>
- authorizes \$22.5 million for a temporary, three-year Small Business Intermediary Lending Pilot Program. It is designed to provide direct loans to intermediaries which provide loans to small business startups, newly established small businesses, and growing small businesses.

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<sup>33</sup> U.S. Small Business Administration, "American Recovery and Reinvestment Act: Loan Program for Systemically Important SBA Secondary Market Broker-Dealers," 74 *Federal Register* 59891, November 19, 2009.

<sup>34</sup> For further analysis see CRS Report R41385, *Small Business Legislation During the 111<sup>th</sup> Congress*, by Robert Jay Dilger, Oscar R. Gonzales, and Gary Guenther.

<sup>35</sup> U.S. Department of the Treasury, "Resource Center — Small Business Lending Program," Washington, DC, <http://www.treasury.gov/resource-center/sb-programs/Pages/Small-Business-Lending-Fund.aspx>; and U.S. Department of the Treasury, "Resource Center — State Small Business Credit Initiative (SSBCI)," Washington, DC, <http://www.treasury.gov/resource-center/sb-programs/Pages/ssbci.aspx>.

<sup>36</sup> U.S. Small Business Administration, Office of Congressional and Legislative Affairs, correspondence with the author, Washington, DC, January 4, 2010.

- authorizes \$15 million in additional funding for the SBA's 7(a) loan guaranty program.
- increases the loan guarantee limits for the SBA's 7(a) program from \$2 million to \$5 million, and for the 504/CDC program from \$1.5 million to \$5 million for "regular" borrowers, from \$2 million to \$5 million if the loan proceeds are directed toward one or more specified public policy goals, and from \$4 million to \$5.5 million for manufacturers.
- increases the SBA's Microloan program's loan limit for borrowers from \$35,000 to \$50,000 and for microlender intermediaries after their first year in the program from \$3.5 million to \$5 million.<sup>37</sup>
- temporarily increases for one year the SBA 7(a) Express Program's loan limit from \$350,000 to \$1 million.
- requires the SBA to establish an on-line lending platform listing all SBA lenders and information concerning their loan rates.
- authorizes the SBA to temporarily guarantee for two years, under specified circumstances, 504/CDC loans that refinance existing business debt even if the project does not involve the expansion of the business.

For additional details concerning provisions in the Small Business Jobs Act of 2010, see **Table A-1** in the **Appendix**.

## Recent Laws Designed to Enhance the Demand for Small Business Loans

ARRA provided the SBA \$375 million to subsidize fees for the SBA's 7(a) and 504/CDC loan guaranty programs and to increase the 7(a) program's maximum loan guaranty percentage from up to 85% of loans of \$150,000 or less and up to 75% of loans exceeding \$150,000 to 90% for all regular 7(a) loans through September 30, 2010, or when appropriated funding for the subsidies and loan modification was exhausted. The fee subsidies were designed to increase the demand for SBA loans by reducing loan costs.

ARRA's funding for the fee subsidies and 90% maximum loan guaranty percentage was about to be exhausted in November 2009, when Congress passed the first of six laws to extend the loan subsidies and 90% maximum loan guaranty percentage:

- P.L. 111-118, the Department of Defense Appropriations Act, 2010, provided the SBA \$125 million to continue the fee subsidies and 90% maximum loan guaranty percentage through February 28, 2010.

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<sup>37</sup> The act also temporarily allows the SBA to waive, in whole or in part, for successive fiscal years, the non-federal share requirement for loans to the Microloan program's intermediaries and for grants made to Microloan intermediaries for small business marketing, management, and technical assistance under specified circumstances (e.g., the economic conditions affecting the intermediary). See P.L. 111-240, the Small Business Jobs Act of 2010, Sec. 1401. Matching Requirements Under Small Business Programs.

- P.L. 111-144, the Temporary Extension Act of 2010, provided the SBA \$60 million to continue the fee subsidies and 90% maximum loan guaranty percentage through March 28, 2010.
- P.L. 111-150, an act to extend the Small Business Loan Guarantee Program, and for other purposes, provided the SBA \$40 million to continue the fee subsidies and 90% maximum loan guaranty percentage through April 30, 2010.
- P.L. 111-157, the Continuing Extension Act of 2010, provided the SBA \$80 million to continue the SBA's fee subsidies and 90% maximum loan guaranty percentage through May 31, 2010.
- P.L. 111-240, the Small Business Jobs Act of 2010, provided \$505 million (plus an additional \$5 million for administrative expenses) to continue the SBA's fee subsidies and 90% maximum loan guaranty percentage from the act's date of enactment (September 27, 2010) through December 31, 2010.
- P.L. 111-322, the Continuing Appropriations and Surface Transportation Extensions Act, 2011, authorizes the SBA to use funds provided under the Small Business Jobs Act of 2010 to continue the SBA's fee subsidies and 90% maximum loan guaranty percentage through March 4, 2011.

On January 3, 2011, the SBA announced that funding for the fee subsidies and 90% maximum loan guaranty percentage had been exhausted and that it had formed a SBA Loan Queue for loan applicants should any funding with the enhancements should come available from loan cancellations.<sup>38</sup> Typically, 10% to 15% of previously approved SBA loans are later cancelled by the borrower or lender and are not disbursed for a variety of reasons.

ARRA also included 11 tax relief provisions that have the potential to benefit small businesses in a broad range of industries.<sup>39</sup> By reducing costs, it could be argued that providing tax relief for small businesses may lead to increased demand for small business loans because small business owners have additional resources available to invest in their business. The following five ARRA tax provisions provided about \$5.7 billion in tax relief and were targeted at small businesses, whereas the other ARRA tax provisions were available to businesses of all sizes:

- allows businesses with \$15 million or less in average annual gross receipts in the past three years to carry back net operating losses from 2008 for up to five years instead of two years.
- extended through 2009 the enhanced expensing allowance, which allows businesses to deduct up to \$250,000 of the cost of eligible assets placed in service in 2009, within certain limits.
- increased the exclusion of the gain on the sale of small business stock to 75% (instead of 50%) of any gain realized on the sale of eligible small business stock acquired between February 18, 2009, and December 31, 2010.

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<sup>38</sup> U.S. Small Business Administration, "Jobs Act Supported More Than \$12 Billion in SBA Lending to Small Businesses in Just Three Months," Washington, DC, January 3, 2011, <http://www.sba.gov/content/jobs-act-supported-more-12-billion-sba-lending-small-businesses-just-three-months>.

<sup>39</sup> For further analysis see CRS Report R40728, *Small Business Tax Benefits and the American Recovery and Reinvestment Act of 2009*, by Gary Guenther.

- reduced the recognition period from 10 years to seven years for corporate tax on sale of appreciated assets in 2009 or 2010 by S corporations that once were organized as C corporations.
- allowed individuals who had an adjusted gross income in 2008 of less than \$500,000 and can prove that over half their income came from a small business to base their estimated tax payments for 2009 on 90% of their tax liability for 2008.

As mentioned previously, the Small Business Jobs Act of 2010 provided \$510 million to extend the SBA's fee subsidies and 7(a) program's 90% maximum loan guaranty percentage through December 31, 2010 (later extended to March 4, 2011). This provision is designed to enhance the demand for SBA loans by subsidizing their cost. The act also requires the SBA to establish an alternative size standard for the SBA's 7(a) and 504/CDC loan guaranty programs that uses maximum net worth and average net income as an alternative to the use of industry standards. The act also establishes the following interim alternative size standard for both the 7(a) and 504/CDC programs: the business qualifies as small if it does not have a tangible net worth in excess of \$15 million and does not have an average net income after federal taxes (excluding any carry-over losses) in excess of \$5 million for two full fiscal years before the date of application. These changes are designed to increase the demand for small business loans by increasing the number of small businesses that are eligible for SBA assistance.<sup>40</sup>

The Small Business Jobs Act of 2010 also provides small businesses with about \$12 billion in tax relief. The act

- raises the exclusion of gains on the sale or exchange of qualified small business stock from the federal income tax to 100%, with the full exclusion applying only to stock acquired the day after the date of enactment through the end of 2010.
- increases the deduction for qualified start-up expenditures from \$5,000 to \$10,000 in 2010, and raises the phaseout threshold from \$50,000 to \$60,000 for 2010.
- places limitations on the penalty for failure to disclose reportable transactions based on resulting tax benefits.
- allows general business credits of eligible small businesses for 2010 to be carried back five years.
- exempts general business credits of eligible small businesses in 2010 from the alternative minimum tax.
- allows a temporary reduction in the recognition period for built-in gains tax.
- increases expensing limitations for 2010 and 2011 and allows certain real property to be treated as section 179 property.
- allows additional first-year depreciation for 50% of the basis of certain qualified property.

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<sup>40</sup> For further analysis see CRS Report R40860, *Defining Small Business: An Historical Analysis of Contemporary Issues*, by Robert Jay Dilger.

- removes cellular telephones and similar telecommunications equipment from listed property so their cost can be deducted or depreciated like other business property.<sup>41</sup>

## Discussion

Historically, small businesses (firms with less than 500 employees), especially those in the retail and construction sectors, have experienced greater job loss during economic recessions than larger businesses. Conversely, small businesses have led job creation during recent economic recoveries.<sup>42</sup> As a result, many federal policymakers look to small businesses to lead the nation's recovery from its current economic difficulties.<sup>43</sup>

During the 111<sup>th</sup> Congress, the question debated in Congress was not whether the federal government should act to enhance small business access to capital, but which federal policies would provide the most effective means to increase the capital available to small businesses and result in higher levels of employment. As mentioned earlier, some, including President Obama, argued that economic conditions made it imperative that the SBA be provided additional resources to assist small businesses in acquiring capital necessary to start, continue, or expand operations and create jobs.<sup>44</sup>

Others worried about the long-term adverse economic effects of spending programs that increase the federal deficit. They also pointed to surveys of small business firms conducted by the National Federation of Independent Business (NFIB), which indicated that small business owners consistently placed financing issues near the bottom of their most pressing concerns.<sup>45</sup> Instead of increasing federal funding for the SBA, they advocated small business tax reduction, reform of financial credit market regulation, and federal fiscal restraint as the best means to assist small business and foster increased levels of economic growth and job creation.<sup>46</sup>

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<sup>41</sup> For further analysis of the Small Business Jobs Act of 2010's, tax provisions see CRS Report R41385, *Small Business Legislation During the 111<sup>th</sup> Congress*, by Robert Jay Dilger, Oscar R. Gonzales, and Gary Guenther.

<sup>42</sup> U.S. Small Business Administration, *Small Business Economic Indicators for 2003*, Washington, DC, August 2004, pp. 3, 4.

<sup>43</sup> U.S. Congress, House Committee on Small Business, *Creating Opportunities for Small Businesses in an Economic Recovery*, 110<sup>th</sup> Cong., 2<sup>nd</sup> sess., October 28, 2008, H. Hrg. 110-116 (Washington: GPO, 2008), p. 2.

<sup>44</sup> Representative Nydia Velázquez, "Small Business Financing and Investment Act of 2009," House debate, *Congressional Record*, daily edition, vol. 155, no. 159 (October 29, 2009), pp. H12074, H12075; Senator Mary Landrieu, "Statements on Introduced Bills and Joint Resolutions," remarks in the Senate, *Congressional Record*, daily edition, vol. 155, no. 185 (December 10, 2009), p. S12910; and The White House, "Remarks by the President on Job Creation and Economic Growth," Washington, DC, December 8, 2009, <http://www.whitehouse.gov/the-press-office/remarks-president-job-creation-and-economic-growth>.

<sup>45</sup> Bruce D. Phillips and Holly Wade, *Small Business Problems and Priorities* (Washington, DC: NFIB Research Foundation, June 2008), p. 5, <http://www.nfib.com/Portals/0/ProblemsAndPriorities08.pdf>. The survey was conducted from mid-January to March of 2008 across a randomly drawn sample of the NFIB's 20,000 members. Useable questionnaires were returned by 3,530 small business owners, a 17.7% response rate.

<sup>46</sup> Susan Eckerly, "NFIB Responds to President's Small Business Lending Initiatives," Washington, DC, October 21, 2009, <http://www.nfib.com/newsroom/newsroom-item/cmsid/50080/>; NFIB, "Government Spending," Washington, DC, <http://www.nfib.com/issues-elections/issues-elections-item/cmsid/49051/>; and National Federation of Independent Business, "Payroll Tax Holiday," <http://www.nfib.com/issues-elections/issues-elections-item/cmsid/49039/>.

Some advocates of providing additional resources to the SBA also argued that the federal government needed to enhance small business access to capital by creating a direct lending program for small businesses.<sup>47</sup> H.R. 3854, the Small Business Financing and Investment Act of 2009, which was passed by the House on October 29, 2009, by a vote of 389–32, would have authorized a SBA direct lending program.<sup>48</sup> The SBA currently has authority to make direct loans to small businesses, but, with the exception of disaster loans, has not exercised that authority since 1994.<sup>49</sup> Advocates for a small business direct lending program argued that such a program would provide “rapid access to much-needed capital without having to face the administrative delays posed by the current Small Business Administration lending process.”<sup>50</sup> They also argued that a temporary SBA direct lending program during periods of economic difficulty was necessary because

In prosperous times, small businesses are able to shop around to different lenders to find the best available terms and conditions for a loan. But in times of economic downturns, those same lenders aren’t as willing to lend to small businesses. More than ever during these times, it’s the government’s responsibility to step in to help small businesses access the loans they need to keep their businesses running and workers employed.<sup>51</sup>

Opponents of a small business direct lending program argued that the SBA’s mission is to augment the private sector by guaranteeing loans, not compete with it by providing direct loans to small businesses.<sup>52</sup> They also argued that these loans hold greater risk than most, otherwise the private sector would accept them. They asserted that SBA defaults may increase, resulting in added expense, either to taxpayers in the form of additional appropriations or to other small business borrowers in the form of higher fees, to cover the defaults.<sup>53</sup> They argued that the SBA stopped offering direct loans in 1995, primarily because the subsidy rate was “10 to 15 times higher than that of our guaranty programs.”<sup>54</sup> They also asserted that providing direct loans to small businesses might invite corruption. They noted that the Reconstruction Finance Corporation (RFC), the SBA’s predecessor, made direct loans to business and was accused of awarding loans

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<sup>47</sup> U.S. Congress, House Committee on Small Business, *Small Business Financing and Investment Act of 2009*, committee print, 111<sup>th</sup> Cong., 1<sup>st</sup> sess., October 26, 2009, H.Rept. 111-315 (Washington: GPO, 2009), pp. 13-20, 26, 27.

<sup>48</sup> H.R. 3854, the Small Business Financing and Investment Act of 2009, Sec. 111. Capital Backstop Program.

<sup>49</sup> U.S. Congress, Senate Committee on Small Business, *Hearing on the Proposed Fiscal Year 1995 Budget for the Small Business Administration*, 103<sup>rd</sup> Cong., 2<sup>nd</sup> sess., February 22, 1994, S. Hrg. 103-583 (Washington: GPO, 1994), p. 20.

<sup>50</sup> Dan Gerstein, “Big Stimulus For Small Business, A new direct lending program would benefit millions,” *Forbes.com*, January 14, 2009; Sharon McLoone, “Landrieu: Small Business to Benefit from Economic Plan,” *The Washington Post*, February 6, 2009; George Dooley, “ASTA Renews Call For SBA Direct Lending Program,” *American Society of Travel Agents*, Washington, DC, February 18, 2009; and Anne Kim, Ryan McConaghy, and Tess Stovall, “Federal Direct Loans to Small Businesses,” *Third Way Idea Brief*, Washington, DC, April 2009.

<sup>51</sup> Anne Kim, Ryan McConaghy, and Tess Stovall, “Federal Direct Loans to Small Businesses,” *Third Way Idea Brief*, Washington, DC, April 2009.

<sup>52</sup> Sue Malone, *Myth: The SBA will make direct loans under the stimulus bill*, Strategies For Small Business, Danville, CA, March 12, 2009.

<sup>53</sup> Representative Jeff Flake, “Providing for Consideration of H.R. 3854, Small Business Financing and Investment Act of 2009,” House debate, *Congressional Record*, daily edition, vol. 155, no. 159 (October 29, 2009), pp. H12070, H12072.

<sup>54</sup> U.S. Congress, Senate Committee on Small Business, *Hearing on the Proposed Fiscal Year 1995 Budget for the Small Business Administration*, 103<sup>rd</sup> Cong., 2<sup>nd</sup> sess., February 22, 1994, S. Hrg. 103-583 (Washington: GPO, 1994), p. 20.

based on the applicant's political connections or personal ties with RFC loan officers.<sup>55</sup> Opponents also argued that the SBA does not have the human, physical, and technical resources to make direct loans.

Still others argued that providing additional funding for SBA programs is largely a symbolic gesture because the SBA's guaranteed loan programs account for a relatively small fraction of small business lending.<sup>56</sup> They argued that, in a typical year, no more than 1% of small businesses receive an SBA-guaranteed loan, and those loans account for less than 3% of the total amount loaned to small businesses.<sup>57</sup> They asserted that "these numbers show that the private banking system finances most loans and that the SBA is therefore largely irrelevant in the capital market."<sup>58</sup>

## Concluding Observations

Congress approved many changes during the 111<sup>th</sup> Congress to enhance small business access to capital. For example, P.L. 111-240, the Small Business Jobs Act of 2010, authorizes the Secretary of the Treasury to establish a \$30 billion Small Business Lending Fund (SBLF) to make capital investments in eligible community banks with total assets equal to or less than \$1 billion or \$10 billion.<sup>59</sup> It authorizes a \$1.5 billion State Small Business Credit Initiative Program to be administered by the Department of the Treasury.<sup>60</sup> It made numerous changes to SBA programs in an attempt to make them more accessible to small businesses, such as increasing maximum loan amounts, creating an alternative size standard so more businesses can qualify for assistance, waiving some matching requirements, and expanding refinancing options under the 504/CDC program. It provided funding to extend SBA fee subsidies and the 7(a) program's 90% maximum loan guaranty percentage, made several changes to federal contracting law to increase small business opportunities in federal contracting, and provided about \$12 billion in tax relief for small businesses. In addition, P.L. 111-312, the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, temporarily reduces for calendar year 2011 payroll taxes by two percentage points for workers (including small business owners) who pay into Social Security.

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<sup>55</sup> Representative Jeff Flake, "Providing for Consideration of H.R. 3854, Small Business Financing and Investment Act of 2009," House debate, *Congressional Record*, daily edition, vol. 155, no. 159 (October 29, 2009), pp. H12070, H12072.

<sup>56</sup> U.S. Congress, Senate Committee on Homeland Security and Governmental Affairs, Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security, *The Effectiveness of the Small Business Administration*, 109<sup>th</sup> Cong., 2<sup>nd</sup> sess., April 6, 2006, S. Hrg. 109-492 (Washington: GPO, 2006), p. 92; and Discover Financial Services, "Discover@ Small Business WatchSM: Small Business Economic Outlook Remains Cautious," Riverwoods, IL, October 26, 2009, <http://investorrelations.discoverfinancial.com/phoenix.zhtml?c=204177&p=irol-newsArticle&ID=1346088&highlight=>.

<sup>57</sup> Raymond J. Keating, "Keating: Obama's policies will hurt, not help," *Long Island Business News, The Debate Room*, October 30, 2009, <http://libn.com/thedebateroom/2009/10/30/keating-obama%e2%80%99s-policies-will-hurt-not-help/>.

<sup>58</sup> U.S. Congress, Senate Committee on Homeland Security and Governmental Affairs, Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security, *The Effectiveness of the Small Business Administration*, 109<sup>th</sup> Cong., 2<sup>nd</sup> sess., April 6, 2006, S.Hrg. 109-492 (Washington: GPO, 2006), p. 92.

<sup>59</sup> P.L. 111-240, the Small Business Jobs Act of 2010, Sec. 4103. Small Business Lending Fund.

<sup>60</sup> For further analysis see CRS Report R41385, *Small Business Legislation During the 111<sup>th</sup> Congress*, by Robert Jay Dilger, Oscar R. Gonzales, and Gary Guenther.

The NFIB has long advocated a reduction of federal payroll taxes as a means to reduce small business expenses.<sup>61</sup>

Because Congress approved many changes during the 111<sup>th</sup> Congress to enhance small business access to capital, the question before the 112<sup>th</sup> Congress is what, if any, additional action should the federal government take to enhance small business access to capital? Should Congress decide to take further action, three not necessarily mutually exclusive options are readily apparent.

First, Congress could consider additional changes to the SBA's programs in an effort to enhance small business access to capital, such as considering a direct lending program, providing additional funding for SBA fee subsidies and loan modifications, or increasing funding for SBA programs. For example, S. 3967, the Small Business Investment and Innovation Act of 2010, was introduced on November 18, 2010. It would authorize funding increases for the SBA's training and technical assistance programs, establish a Rural Small Business Technology Pilot Program, increase maximum loan limits for the SBA's home and business disaster loan programs, increase surety bond limits, and expand eligibility for the SBA's State Trade and Export Promotion Grant Program to cities and other major metropolitan areas. Advocates of this approach could argue that small business access to capital improved during 2010, but, as the Federal Reserve has asserted, "remain quite stringent following the prolonged and widespread tightening that took place over the past few years."<sup>62</sup>

Second, Congress could adopt a wait-and-see strategy that focuses on congressional oversight of the Small Business Jobs Act of 2010, and the impact of the SBA's programs on small business access to capital. Advocates of this approach could argue that because small business access to capital improved during 2010, and SBA lending surpassed pre-recession levels during the first quarter of FY2011, the impact of the Small Business Jobs Act of 2010 on small business access to capital should be evaluated to determine if any further action is necessary.

Third, Congress could consider the repeal of portions of the Small Business Jobs Act of 2010, or other SBA programs. For example, opponents of the Small Business Jobs Act of 2010 focused their opposition on the SBLF, arguing that it would not enhance small business access to capital or create jobs. They argued that the SBLF was modeled on the TARP, which in their view was a failed initiative. They also asserted that the SBLF lacked sufficient oversight for effectively monitoring the program, noted that it encouraged, and did not require, additional lending to small businesses, and worried that it would increase the federal deficit.<sup>63</sup> Advocates of this option could argue that instead of increasing federal funding for the SBA, the federal government should focus on small business tax reduction and federal fiscal restraint as the best means to assist small business and foster increased levels of economic growth and job creation.<sup>64</sup>

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<sup>61</sup> National Federation of Independent Business, "Payroll Tax Holiday," Washington, DC, <http://www.nfib.com/issues-elections/issues-elections-item/cmsid/49039/>; and National Federation of Independent Business, "Tax Package Compromise Represents a Big Victory for Small Business," Washington, DC, <http://www.nfib.com/issues-elections/issues-elections-item?cmsid=55506>.

<sup>62</sup> Federal Reserve Board, "The April 2010 Senior Loan Officer Opinion Survey on Bank Lending Practices," Washington, DC, <http://www.federalreserve.gov/boarddocs/SnLoanSurvey/201005/default.htm>.

<sup>63</sup> H.Rept. 111-499, to create a Small Business Lending Fund Program, p. 37; Representative Randy Neugebauer, "Consideration of the Small Business Jobs and Credit Act of 2010," House debate, *Congressional Record*, daily edition, vol. 156, no. 90 (June 16, 2010), p. H4515; and Senator Olympia Snowe, "Small Business Lending," remarks in the Senate, *Congressional Record*, daily edition, vol. 156, no. 108 (July 22, 2010), pp. S6156 - S6158.

<sup>64</sup> Susan Eckerly, "NFIB Responds to President's Small Business Lending Initiatives," Washington, DC, October 21, (continued...)

## Appendix. Selected Provisions in the Small Business Jobs Act of 2010

**Table A-1. Selected Provisions, the Small Business Jobs Act of 2010**

Issue/Program	The Small Business Jobs Act of 2010
SBA 7(a) Program	increases the 7(a) Program's loan limit from \$2 million to \$5 million.
SBA 504 Program	increases the 504/CDC Program's loan limits from \$1.5 million to \$5 million for "regular" borrowers, from \$2 million to \$5 million if the loan proceeds are directed toward one or more specified public policy goals, and from \$4 million to \$5.5 million for manufacturers; and temporarily expands for two years the eligibility for low-interest refinancing under the SBA's 504/CDC program for qualified debt.
SBA Express Program	temporarily increases for one year the Express Program's loan limit from \$350,000 to \$1 million.
SBA Microloan Program	increases the Microloan Program's loan limit for borrowers from \$35,000 to \$50,000; and increases the loan limits for Microloan intermediaries after their first year in the program from \$3.5 million to \$5 million.
Temporary SBA fee subsidies and loan modifications	temporarily increases the SBA's guaranty on 7(a) loans to 90% and provide for the elimination of selected fees on the SBA's 7(a) and 504 loans through December 31, 2010.
SBA secondary market	extends the SBA's secondary market lending authority under ARRA from 2 years from enactment to 2 years from the first sale of a pool of first lien position 504 loans guaranteed under this authority.
SBA size standards	authorizes the SBA to establish an alternative size standard for the SBA's 7(a) and 504 programs that would use maximum tangible net worth and average net income; and to establish an interim alternative size standard of not more than \$15 million in tangible net worth and not more than \$2 million in average net income for the two full fiscal years before the date of the application.
SBA International Trade Finance Program	increases the International Trade Finance Program's loan limit from \$1.75 million, of which not more than \$1.25 million may be used for working capital, supplies, or financings, to \$4.5 million.
State Trade and Export Promotion Grant Program	establishes an associate administrator for the SBA's Office of International Trade and a state trade and export promotion grant program.

(...continued)

2009, <http://www.nfib.com/newsroom/newsroom-item/cmsid/50080/>; NFIB, "Government Spending," Washington, DC, <http://www.nfib.com/issues-elections/issues-elections-item/cmsid/49051/>; and National Federation of Independent Business, "Payroll Tax Holiday," <http://www.nfib.com/issues-elections/issues-elections-item/cmsid/49039/>.

<b>Issue/Program</b>	<b>The Small Business Jobs Act of 2010</b>
Federal contracting	<p>imposes contract bundling accountability measures directing federal agencies to include in each solicitation for any contract award above the agency's substantial bundling threshold a provision soliciting bids by small business teams and joint ventures;</p> <p>requires federal agencies to publish on its website its policy on contract bundling and consolidation, as well as a rationale for any bundled contract solicited or awarded;</p> <p>repeals the small business competitiveness demonstration program; and</p> <p>provides parity among the small business contracting programs (including striking "shall" and inserting "may" in 15 U.S.C. 657a(b)(2)(B), which refers to the agency's discretion to provide contracting preference to HUBZone small businesses).</p>
Small Business Lending Fund	<p>authorizes the U.S. Treasury to make up to \$30 billion of capital investments;</p> <p>CBO estimates the program would raise \$1.1 billion over 10 years.</p>
State Small Business Credit Initiative Program	<p>authorizes \$1.5 billion for the State Small Business Credit Initiative Program.</p>
SBA Intermediary Lending Pilot Program	<p>authorizes a three-year Intermediary Lending Pilot Program to allow the SBA to make direct loans to not more than 20 eligible nonprofit lending intermediaries each year totaling not more than \$20 million. The intermediaries, in turn, would be allowed to make loans to new or growing small businesses, not to exceed \$200,000 per business.</p>
Capital gains taxation	<p>temporarily raises to 100% the exclusion of gains on certain small business stock from enactment to end of calendar year.</p>
Limitation on penalties for failure to disclose reportable transactions	<p>places limitations on the penalty for failure to disclose reportable transactions based on resulting tax benefits.</p>
Deduction for start-up expenditures	<p>increases the deduction for qualified start-up expenditures from \$5,000 to \$10,000 in 2010, and the phaseout threshold from \$50,000 to \$60,000 for 2010.</p>
Business carry back	<p>allows general business credits of eligible small businesses for 2010 to be carried back 5 years.</p>
Alternative Minimum Tax	<p>Exempts general business credits of eligible small businesses in 2010 from the alternative minimum tax.</p>
Recognition period for built-in gains tax	<p>allows a temporary reduction in the recognition period for built-in gains tax.</p>
Expensing and Section 179 property	<p>increases expensing limitations for 2010 and 2011; and allows certain real property to be treated as section 179 property.</p>
Depreciation	<p>allows additional first-year depreciation for 50% of the basis of certain qualified property.</p>
Deduction for health insurance costs	<p>allows the deduction for health insurance costs in computing self-employment taxes in 2010.</p>

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<b>Issue/Program</b>	<b>The Small Business Jobs Act of 2010</b>
Deduction for cellular telephones	removes cellular telephones and similar telecommunications equipment from listed property so their cost can be deducted or depreciated like other business property.
Crude tall oil	makes crude tall oil ineligible for the cellulosic biofuel producer credit.
Section 561 of the Hiring Incentives to Restore Employment Act	increases the percentage under section 561 of the Hiring Incentives to Restore Employment Act by 36 percentage points.
Rental income reporting	requires taxpayers that receive rental income from leasing real property to file information returns to the IRS and to service providers that report receiving payments of \$600 or more during the tax year for rental property expenses.
Penalties for failing to file information returns to the IRS	increases the penalties for failing to file information returns to the IRS and to payees in a timely manner.
Treasury Department authority to apply a continuous levy on federal contractors	expands the Treasury Department's authority to apply a continuous levy to government payments to federal contractors that owe the IRS for unpaid taxes to include payments for property such as a new office building. Current law allows the levy to be applied to payments for goods and services only.
Predictive modeling to identify Medicaid waste, fraud, and abuse	authorizes the use of predictive modeling to identify and prevent waste, fraud, and abuse in the Medicare fee-for-service program.
Roth Retirement Accounts	allows participants in government section 457 plans to treat elective deferrals as Roth contributions; and  allows rollovers from elective deferral plans to designated Roth accounts.
Nonqualified annuities	allows holders of nonqualified annuities (i.e., annuity contracts held outside of a tax-qualified retirement plan or IRA) to elect to receive a portion of the contract in the form of a stream of annuity contracts, leaving the remainder of the contract to accumulate income on a tax-deferred basis.

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**Source:** the Small Business Jobs Act of 2010.

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