- Enclosure -

What prompted the change in the standard for credit elsewhere?

The SBA strives to help disaster victims while operating the disaster loan program in a fiscally responsible manner. Statute requires that the agency determine whether loan applicants can obtain "credit elsewhere" at reasonable rates and terms or have the resources to recover on their own.

In 2007, as part of the agency's continuing review of its Credit Elsewhere Test (CET), SBA made changes to reflect private sector processes and benchmarks. Loan applicants who can obtain credit elsewhere or who can recover on their own may still qualify for an SBA loan, but will receive rates and terms that are in line with the private market. This balanced approach considers both the concerns of the home or business owner and the taxpayers.

As part of the program review and in response to criticisms made by the SBA Inspector General, SBA questioned whether the then-current test fairly measured whether a borrower was able to obtain credit elsewhere. SBA determined that the primary reason for the low number of disaster loans made at the "credit available elsewhere" rate was largely due to the high thresholds set for the ratio of net assets or available net worth to uncompensated loss. For example, under the previous test, a homeowner or renter with an uncompensated loss of $200,000 would have had to have $2 million in net assets to be determined to have credit available elsewhere. A business owner with a $1.5 million uncompensated loss would need a net worth of $30 million or more for a similar determination.

In order to better align the credit elsewhere thresholds, the SBA changed the net assets to an uncompensated loss ratio of 4 to 1 for both home and businesses. Given the examples above, that homeowners would now be required to have net assets of $800,000 and that business owners would need to have $6.0 million in net assets for a determination that they are able to obtain credit elsewhere. This ratio, along with having a sufficient cash flow to service a loan at market rates and, in the case of homeowners, an excellent credit history is a reasonable measure of an applicant's ability to obtain credit elsewhere. The procedures also provide for a waiver of the credit elsewhere determination if the market rate causes an undue financial hardship upon the applicant. SBA is issuing guidance to the field to ensure that businesses that receive the higher, credit available elsewhere rate do not endure undue financial hardship, and is specifically taking a look at the businesses in Iowa who were qualified for the credit available elsewhere rate.

What was the Office of Management and Budgets role in changing the standard?

SBA shared its analysis with OMB as part of the budget making process that all agencies participate in. All changes to any of the SBA loan programs are routinely shared with OMB in an effort to comply with the requirements mandated by Congress in the Federal Credit Reform Act of 1992.

Why didn't the Administration consult with the Congress or give the public a chance to comment when making this change to an interpretation of a statutory requirement?

It has been SBA's decades-long practice to update the Agency's Standard Operating Procedures when any programmatic changes occur. This is necessary because the program must be able to change and adapt quickly in response to disaster situations. The guidelines for the Disaster program are apparent and publicly available, including the details of the Credit Elsewhere Test set forth in SOP 50 30, which can be found on the SBA's website at http://www.sba.gov/tools/resourcelibrary/sops/index.html.

Please provide a series of examples as to what percentage of homeowners or business owners received loans at the market rate and below-market rate for several disasters both before and after the change in the rule?

FY 2007	
Declaration	**% at CE rate**
HI-00005	20
NY-00036	10
NY-00045	25
NJ-00006	17
KS-00018	10
SD-00012	25
TX-00254	15
KS-00022	9
MN-00011	20

FY 2008	
Declaration	**% at CE rate**
WI-00013	51
IA-00015	30
IN-00019	30
IL-00015	37
MO-00030	32
NE-00020	47
LA-00019	28
TX-00297	34
FL-00035	48

*Note – Given differences in damage incurred, credit available and other factors, these figures should not be considered comparative.

There have been reports that individuals have found lower interest loans from the private sector. If SBA is supposed to offer a rate of 8 percent or the market rate, whichever is lower, why are individuals finding superior rates in the private sector?

The Small Business Act, Section 7(d) 4 provides that applicants determined to have the ability to obtain credit elsewhere be charged a rate not to exceed 8 percent. We do not match the individual rates that a single borrower can get. We must set our rate based on the "prevailing market rate," as deemed by statute.

Individuals who have the ability to obtain credit elsewhere and have an excellent credit rating may be able to obtain better rates in the commercial market. This supports the Agency's determination that the applicant does have the ability to obtain credit elsewhere and, by law, is only eligible for the higher credit available elsewhere disaster loan rate.

The real help on the ground does not come until the money is in the hands of people so they can begin to rebuild. There have also been reports of extensive delays in the Midwest in disbursing payments for approved loans. While SBA has worked to improve the time period for processing and approving loans, can you share any information about the time delays between approval and disbursement? Also, how do these delays compare to delays after previous disasters of similar magnitude?

The SBA is not aware of any delays in the Midwest in disbursing funds for approved loans. Of the loans that have been closed, over 53 percent were fully disbursed within just a few months of the disaster being declared. Initial disbursements of up to $14,000 were made within five days on 99.9 percent of all loans. In fact, SBA has made disbursements on 81 percent of the loans that have been closed. The closing and disbursement process is primarily driven by the terms and conditions of the loan and the borrower's need for funds as rebuilding occurs. SBA case managers assist borrowers in this process to ensure that funds are disbursed when needed, generally within 3 to 5 days after they are requested.

Some loan applicants have reported that SBA is directing them as to how to rebuild their businesses. Why is this necessary? Does the SBA make disaster assistance contingent upon these recommendations?

SBA does not tell borrowers how to rebuild. The Small Business Act provides guidance and terms for the use of disaster funds, which borrowers must follow. When SBA approves each loan application, it issues a loan authorization which specifies the amount of the loan, repayment terms, any collateral requirements, and the permitted use of loan proceeds. This ensures that the proceeds of the loan are used for the intended purpose and the loan is properly secured, which is SBA's fiduciary responsibility to the American Taxpayer. The loan documents provide the pertinent conditions that borrowers must comply with, including that the funds may only be used for specified purposes. The clarity and specificity of these conditions are meant to help borrowers avoid being subjected to criminal and civil penalties that could result from the misuse of funds.