

## NOTICE OF CORRECTION

### CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY Concerning the Notice of Proposed Rulemaking re: California Capital Access Loan Program for Small Business (OAL File No. Z2017-1114-05)

Originally published November 24, 2017

The above-referenced Notice of Proposed Rulemaking (“Notice”) was originally published in the California Regulatory Notice Register 2017, 47-Z, November 24, 2017.

The Notice incorrectly stated that the California Pollution Control Financing Authority (“Authority” or “CPCFA”) proposes to adopt and amend “Sections 8078 - 8078.35 of Title 4 of the California Code of Regulations”. The Notice should state “Sections 8070 - 8078.35 of Title 4 of the California Code of Regulations”.

The Notice omitted to include the following text in the “Informative Digest/Policy Statement Overview” section:

#### **§ 8070. Definitions**

This section defines terms commonly used throughout the regulations to avoid ambiguity or misunderstanding.

Section 8070(c). Adds the term “Change in Terms” defined as the process to report any change in material terms of an enrolled loan. This term is needed to distinguish between a new loan established through a Refinance and an existing loan with revisions to the terms. The Authority will be able to determine if the changes in terms affect the eligibility of the original loan enrolled under the program.

Section 8070(d). Clarifies the term “Contribution” as funds deposited in the loan loss reserve account by the Authority or an Independent Contributor. This distinction is needed to eliminate confusion between the funds deposited in the Loss Reserve Account by the Authority or Independent Contributor and funds deposited by the Participating Financial Institution or Borrower.

Section 8070(f). Eliminates the word “Premium” or “Premiums” from the definition. This change simplifies the reference to lenders or borrower’s contribution, and eliminates confusion of the CalCAP program with an insurance program. It adds clarity by limiting the reference to the lender and borrower’s contribution to one single word “fee”. The fees are clearly non-refundable as compared to the term “premium” which might be associated with regular insurance provisions that allow for refunds.

Section 8070(j). Eliminates the term “Matching Contributions” from the definition section. This change is needed because the programs do not allow for matching contributions. The Program only distinguishes between contributions or fee. Eliminating the term provides clarity for the existing definitions.

Section 8070(p). Adds the term “Outstanding Principal Balance” in order to clarify how the balance amount will be calculated. The Outstanding Principal Balance is part of the Recapture calculation and is a term that needs to be updated every quarter and reported in the Quarterly Report. Different Financial Institutions calculate the outstanding principal balance with minor discrepancies, as it relates to the specific categories included in the calculation. This definition provides a standard calculation for all Participating Financial Institutions.

Section 8070(u). Updates the definition of “Qualified Loan” to add more specificity to the businesses that are excluded from participation in the program. The updates are necessary to provide clarification for the Participating Financial Institutions what type of businesses are not qualified to participate in the CalCAP program. The update is aligning the definition with state statute and federal regulations.

Section 8070(v). Adds the term “Quarterly Report”. This term is needed to assign a name for the report and clarify the exact due date for the submission of the report to the Authority. The data required to be provided in the Quarterly Report is an essential part of the Recapture calculation. Defining the term and specifying the exact data that has to be provided in the report, will ensure that all the Participating Financial Institution provide the same uniform data, allowing for a more efficient validation and reconciliation of the data.

Section 8070(w). Adds the term “Recapture”. The adoption of the recapture mechanism is necessary in order to recycle older contributions for enrolled loans to support future loan enrollments. Recapture of older contribution is a necessary tool for the sustainability of the CalCAP program, as it allows for recycling of funds under specified terms. The recycled funds will be used as contribution for future loan enrollments. The recycling of funds is essential for the continuation of the CalCAP programs, as the fund balances for these programs are anticipated to be exhausted by the end of this year.

Section 8070(x). Adds the term “Refinance”. This is necessary to refine Program enrollment eligibility for specific types of financing. This term is needed to distinguish between a new loan established through a Refinance and an existing loan with revisions to the terms. The Authority will be able to determine if the Refinance of the original loan is eligible under the terms and conditions of each specific program.

Section 8070(y). Updates the term “Severely Affected Community” in order to eliminate unnecessary and outdated language.

Necessity. The proposed amendments are necessary to include definitions specific to the implementation of the recapture mechanism for the Capital Access Program for Small Businesses, and to eliminate and refine existing definitions for clarity.

**All other aspects of the Notice remain the same.**

If you have further questions, please contact Bianca Smith at (916) 653-5408.