Revisions to SBA Loan Rules Will Permit 7(a) SBA Loan Proceeds to be Used to Purchase Partial Changes in Business Ownership

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Source: Saiber Corporate Law Alert

The Small Business Administration (SBA) is proposing revisions to its current lending rules with the potential to both expand access to business ownership for individuals and provide more flexible succession planning options for current business owners.

Under current SBA lending rules, small-business borrowers are limited to using SBA Loan proceeds to purchase only an entire business or the entire interest of a business owner. Proposed amendments to the SBA Loan program, however, will permit borrowers to use SBA Loan proceeds to purchase a portion of a business or a portion of another owner's interest in a business or interests of multiple business owners.

The SBA believes that the proposed amendments will not only facilitate small business investments and expand access to business-ownership for individuals, but will also assist current business owners who are looking to effectuate long-term business succession plans but might not be ready to fully retire yet. For partial changes of ownership, the SBA intends to allow the selling owner to remain as an owner and involved in the day-to-day business, including as an officer, director, "Key Employee," or employee.

The final rule was published on April 10, 2023 and will become effective on May 11, 2023.

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Under SBA rules, please note that a small business is defined either in terms of the average number of employees over the past 12 months, or average annual receipts over the past three years.' Also, all federal agencies use SBA's size standards, and therefore it's important to determine your NAICS code.