# Small Business Access to Capital

*Equity (or capital) injection is a borrower's own financial stake in a business. If an individual personally has something at risk in the business, he or she is less likely to default on a loan. When required by lenders to inject such money into projects financed by guaranteed loans, some borrowers try to avoid this requirement by falsifying the amount or source of these injections, as demonstrated by the following examples.*

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**Louisiana Man Pleads Guilty**

A Louisiana man pled guilty to wire fraud, making false statements to a financial institution, and making a false tax return. He and another individual applied for a $916,000 SBA-guaranteed loan to finance the purchase of a business. The investigation revealed that he devised a fraudulent commission agreement used at loan closing, which circumvented the equity injection requirement. This is a joint investigation with the Federal Bureau of Investigation (FBI), the Louisiana State Attorney General's Office, and the Internal Revenue Service (IRS) Criminal Investigation (CI).

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**Texas Man Ordered to Pay Over $1.2 Million**

A Texas man was sentenced to 5 years probation, 6 months home confinement, and over $1,207,000 in restitution after pleading guilty to making false statements. He had contracted to buy a motel for $2,350,000 but conspired with others to create another company to serve as a straw seller in order to artificially inflate the sales price to $2,950,000. The man then submitted fraudulent documents to the SBA lender to support this scheme. He paid the straw seller $400,000 of the required cash injection outside of closing, but $308,000 was secretly returned to him prior to closing. This allowed him to apply some of the same funds again toward the remaining balance of the cash injection, thereby reducing the out-of-pocket funds he had to pay to purchase the property. At the closing, the straw seller received nearly $196,000 in what was identified as seller's proceeds. This money was then covertly funneled to a company owned by the buyer in the transaction. This is a joint investigation with the FBI.

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**North Dakota Man Indicted for Bank Fraud**

A former North Dakota bank loan officer was indicted for bank fraud, false entry in bank records, making false statements to a financial institution as well as other false statements, and a forfeiture charge. The charges relate to him providing misleading information to secure a $2 million SBA-guaranteed loan for a husband and wife's business. The husband had previously been indicted for misrepresenting his cash injection for the loan. Based upon the bank's deficient oversight, the SBA Office of General Counsel decided to deny liability on the full guaranty, resulting in a cost avoidance to the SBA of $1,342,000. This is a joint investigation with the U.S. Secret Service (USSS), Federal Deposit Insurance Corporation OIG, FBI, Immigration and Customs Enforcement's Office of Investigations, and the Tampa Police Department.

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**Alabama Woman Pleads Guilty to Loan Fraud**

An Alabama woman pled guilty to loan fraud. She obtained an SBA-guaranteed loan of $1,529,000 to purchase a business for which the seller provided the $260,000 required equity injection. Both the woman and the seller falsely represented that the equity injection was a gift to the buyer from her grandmother. The SBA OIG Early Fraud Detection Working Group provided information toward the initiation and development of this case.

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**Florida Man Agrees to Pay the SBA $410,000**

The U.S. Department of Justice, acting on behalf of the SBA in a civil action, reached a settlement agreement in which a Florida man agreed to pay the SBA $410,000. The man had sold another individual a

$410,000. The man had sold another individual a combined gas station and convenience store for $1.33 million. The transaction required a $600,000 equity injection that the purchaser never possessed. The defendant made it appear that the purchaser had the full equity injection by providing an additional $180,000 loan to him. This loan was channeled through a third party with a false "gift letter" to make the loan appear to be a gift from a friend.

*Criminals fraudulently obtain—or induce others to obtain—SBA-guaranteed loans through a variety of techniques, such as submitting fraudulent documents, making fictitious asset claims, manipulating property values, using loan proceeds contrary to the terms of the loans, and failing to disclose debts or prior criminal records. The result is a greater chance of financial loss to the Agency and its lenders.*

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**Virginia Business Owner Indicted with $17.7 Million Judgment and Forfeiture**

A Virginia business owner was indicted for conspiracy, conspiracy to commit bank fraud, money laundering, bank fraud, making false statements to influence a financial institution and/or the SBA, and structuring currency transactions. The indictment also notified him that the United States intends to seek a $17.7 million money judgment and forfeiture of assets, including bank accounts and real property, as proceeds of the alleged fraud. A superseding indictment added business assets, vehicles, and investment accounts to the forfeiture notice. The man allegedly participated in a multi-million dollar scheme involving bogus Treasury checks and tax returns. He also allegedly misrepresented his citizenship status when obtaining a $149,000 SBA loan and a $203,000 bank loan. This is a joint investigation with the FBI.

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**California Group Indicted for Fraud**

A California husband and wife were each indicted for mail fraud, bank fraud, making false statements, and aiding and abetting. Their daughter was indicted on varying counts of the same charges, while another individual was indicted for mail fraud and aiding and abetting. The four individuals allegedly executed a scheme to defraud a financing corporation, a bank, and the SBA by making false statements to obtain business loans for a combined gas station and car wash that the couple owned. Allegedly, the daughter and the other individual falsely reported that neither they nor their businesses were involved in any bankruptcies or pending lawsuits, and that they did not have a controlling interest in other businesses. At the time they signed the SBA business loan application, however, both had been involved in bankruptcy proceedings. In addition, the daughter was involved in a pending lawsuit and had a controlling interest in another business. The indictment also alleges that all four individuals made material false statements to obtain another business loan for the business. The loss to the financial institution and the SBA is approximately $1.45 million.

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**Three Plead Guilty in Scheme Costing $52 Million**

Two Maryland men and one woman pled guilty to conspiracy to commit bank fraud in connection with a scheme to fraudulently obtain SBA-guaranteed business loans. In addition, the men agreed to criminal forfeitures of $13,432,000 and $18,764,900 respectively, while the woman agreed to a criminal forfeiture of $15,725,000. A fourth individual was sentenced to 33 months in prison, two years of supervised release, restitution of $713,000, and forfeiture of $1.3 million. The scheme involved using a straw borrower to fraudulently obtain the loans. The individuals made material misrepresentations on financial statements, tax documents, and bank statements by falsely enhancing the creditworthiness of the true borrowers. The resulting losses are estimated to be over $52 million. The OIG is conducting this investigation jointly with the FBI and the U.S. Postal Inspection Service.

**Utah Business Owner Sentenced**

A Utah business owner (and former mortgage loan officer) was sentenced to 10 days incarceration, 6 months of home confinement, 30 months of supervised release, and nearly $166,000 in restitution to be paid jointly with another man who, in turn, was sentenced to over 1 year incarceration and 36 months of supervised release. The first man had pled guilty to money laundering. The two men recruited "straw borrowers" and used the borrowers' names and good credit to fraudulently obtain $335,000 in loans. The straw borrowers were promised compensation for allowing the use of their personal information to fabricate application documents in order to induce the banks to approve the loans. The men enticed the straw borrowers to submit documents indicating that they owned thriving businesses when, in fact, the businesses only existed on paper. They fraudulently obtained four SBA loans and two regular bank loans. This case was initiated based on a referral from the SBA Utah District Office. This was a joint investigation with the IRS-CI.

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**Missouri Man Ordered to Pay $1.1 Million**

A Missouri man was sentenced to 5 years of probation and nearly $1,114,000 in restitution, including nearly $579,000 to the SBA. He previously had pled guilty to making false statements for the purpose of influencing the SBA and aiding and abetting. The investigation disclosed that he had signed several SBA documents in connection with a $750,000 SBA-guaranteed loan to a firm. Although he stated that he was the 100% owner, he actually had no ownership interest in the company. The man also signed SBA documents affirming that portions of the loan proceeds were to be used for equipment and inventory purchases, working capital, and debt repayment when, in fact, he knew that the proceeds were intended for paying down another business's outstanding loan balance. This was a joint investigation with the FBI.

*During this reporting period, the OIG completed three audits in the area of Business Loans and Oversight. All three highlighted opportunities for the SBA to more effectively assess and mitigate financial risk to the Agency. Specifically, the OIG recommended steps to develop and implement improved processes by which to recognize and assess lender deficiencies and monitor and verify corrective actions. By implementing all of the recommendations in these reports, the Agency could reduce the amount of its unnecessary financial losses*

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**Addressing Performance Problems of High-Risk Lenders Remains a Challenge for the Small Business Administration**

During this reporting period, the OIG completed an audit of the actions taken by the SBA to mitigate risks presented by High-Risk lenders before and during the American Recovery and Investment Act of 2009. The OIG found that the SBA did not always recognize the significance of lender weaknesses and determine the risks they posed to the Agency. Further, the SBA did not require lenders to correct performance problems that could have exposed the Agency to unacceptable levels of financial risk. The OIG recommended that the SBA (1) tailor the scope of on-site reviews of lenders to identify and address the weaknesses underlying their ratings, (2) ensure that judgmental loan samples targeting lender-specific risks are drawn for each on-site review, (3) develop and implement a process for assessing lender weaknesses in terms of their risk to the Agency, (4) train contractors and analysts on the process for assessing lender weaknesses and reporting findings, (5) develop and implement a corrective action follow-up process to monitor and verify the implementation and effectiveness of corrective actions prior to close-out, and (6) develop and implement a control to ensure loans cannot be

purchased until guaranty issues are fully resolved and documented.

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**504 Recovery Act Loans were Originated and Closed in Accordance with SBA Policies**

In an audit of the origination and closing of 504 Recovery Act loans, the OIG found that the SBA generally originated and closed 504 Recovery Act loans in accordance with SBA policies and procedures. However, the OIG identified origination and closing deficiencies in four of the loans reviewed. These deficiencies included approved loans that lacked creditworthiness, a loan approved with a collateral short-shortfall, and one loan approved as an existing business transaction instead of as a new business transaction. The loans reviewed had improper loan approvals of $1,561,000. The OIG recommended that the SBA (1) determine how the deficiencies in the four SBA-approved loans occurred and take corrective action to prevent similar deficiencies in other SBA-approved 504 loans, (2) provide feedback to the SBA loan officers who approved the 504 loans in which deficiencies were identified, and (3) notify the improper payment review team of the improper 504 loan guaranties to ensure the proper estimation of improper payments in the 504 Loan Program.

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**A Detailed Repayment Ability Analysis is Needed on High-Dollar Early-Defaulted Loans to Prevent Future Improper Payments**

In an audit of early-defaulted loans, the OIG determined that the SBA's assessment of delegated lender underwriting performed at the National Guaranty Purchase Center (NGPC) on early-defaulted loans was not effective. Specifically, the assessment was not effective in identifying whether lenders were negligent in determining the borrowers' repayment ability. As a result, the NGPC made improper payments, which resulted in unnecessary losses to the Agency. Based on previous audit work, the OIG's analysis indicated that improved reviews for repayment ability could result in a cost savings to the SBA of at least $43 million over the next two years. To prevent future losses, the OIG recommended that the SBA perform a detailed analysis of the delegated lenders' computation of repayment ability on all high-dollar early-defaulted loans and provide training to NGPC purchase staff.

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