



ADMINISTRATIVE RULES OF MONTANA



8.99.401 DEFINITIONS

As used in this subchapter, the following definitions apply:

- (1) "Bank" means an organization that is engaged in the business of banking. The term includes savings banks, savings and loan associations, credit unions, and trust companies.
- (2) "Certification" means the criteria and process, described herein, by which an organization becomes eligible to participate in the microbusiness finance program as a "certified" MBDC and to apply for a development loan.
- (3) "Default" shall be defined in the development loan agreement between the department and MBDC.
- (4) "Defaulted loan" means a loan that the borrower has failed to make three or more timely payments of principal and interest, or whose payments of principal and interest are greater than 90 days past due or has otherwise failed to comply with the terms and conditions of the loan agreement.
- (5) "Delinquent loan" means a loan that the borrower has failed to make one or two timely payments of principal and interest, or whose payment of principal and interest are greater than one day and less than 90 days past due.
- (6) "Department" means the Department of Commerce provided for in 2-15-1801, MCA.
- (7) "Deposit account" means a demand, checking, time, savings, or passbook account maintained with a federally insured bank.
- (8) "Development loan" means money loaned to a certified MBDC by the department for the purpose of establishing a revolving loan fund from which loans are made directly to microbusinesses, or loans made directly by banks to qualified microbusinesses are guaranteed under the provisions of 17-6-401, MCA, et seq.
- (9) "Development loan funds" means the cash proceeds of a development loan and the portion of the revolving loan fund directly provided by the development loan.
- (10) "Direct loan program" means a program in which a certified MBDC uses development loan funds for establishing a revolving loan fund from which loans are made directly by the certified MBDC to microbusinesses under the provisions of 17-6-401, MCA, et seq.
- (11) "Federally insured bank" means a bank that is insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund.

- (12) "Funded" means a certified MBDC that has a development loan balance outstanding and that provides technical assistance and loans to microbusinesses.
- (13) "Funded loan loss reserve" means cash reserved for the purpose of self-insuring the MBDC for the cost of loan losses. The funded loan loss reserve shall only be used for covering the cost of loan losses when a loan is charged off. After a loan is charged off, all loan funds recovered by the MBDC shall be credited and deposited to the funded loan loss reserve and revolving loan fund bank account. The funded loan loss reserve (cash) is held in the revolving loan fund bank account and is not available for lending to microbusinesses or for payment of revolving loan fund operating expenses. Funded loan loss reserve cash may be generated from revolving loan fund income.
- (14) "Investment bank account" means the deposit account in which department development loan funds, MBDC matching loan funds, and funded loan loss reserve funds may be deposited or transferred to, from the revolving loan fund bank account, for the sole purpose of generating investment income on idle revolving loan fund assets. The investment bank account is a time deposit account maintained with a federally insured bank.
- (15) "Loan committee" means the individuals assigned by the board of directors of the MBDC to review and award or deny applications to that MBDC for microbusiness loans.
- (16) "Loan guarantee program" means a program in which a certified MBDC uses development loan funds for establishing a revolving loan fund from which loans made directly by banks to qualified microbusinesses are guaranteed under the provisions of 17-6-401, MCA, et seq.
- (17) "Management training" means business-related training in a group setting performed for the benefit of microbusinesses and their principals.
- (18) "MBDC" means the microbusiness development corporation.
- (19) "Microbusiness" means a legal for profit or nonprofit Montana business with fewer than ten full-time equivalent employees and annual gross revenues of less than \$1,000,000.
- (20) "Microbusiness development corporation" means a nonprofit corporation organized and existing under the laws of the state of Montana to provide management training, technical assistance, and access to capital for the startup or expansion of microbusinesses. Microbusiness development corporations are certified by the department to provide management training, technical assistance, and loans to microbusinesses, as provided in 17-6-408, MCA. Microbusiness development corporations may apply for and, if approved by the department, be awarded a development loan for establishing a revolving loan fund from which loans are made directly by the certified microbusiness development corporation to microbusinesses, or loans made directly by banks to qualified microbusinesses are guaranteed by the microbusiness development corporation.
- (21) "Performing loan" means a loan that the borrower is current in its compliance or satisfaction of all loan agreement terms and conditions. A performing loan is not a defaulted, delinquent, or restructured loan.
- (22) "Principals" means members, officers, directors, and other individuals directly involved in the operation and management (including setting policy) of a legal entity.
- (23) "Program" means the microbusiness finance program established in 17-6-406, MCA.
- (24) "Region" means one of not more than 12 multicounty service regions.

- (25) "Renewal" means a MBDC that is currently certified, meets the requirements for certification for an additional term and if approved, is awarded an extension of its development loan for an additional term.
- (26) "Restructured loan" means a defaulted or delinquent loan that has had its original loan agreement terms and conditions modified by the lender. The agreement to restructure may result from noncompliance or nonsatisfaction of all the loan agreement terms and conditions by the borrower or legal action against the borrower or may simply be an agreement to which both the lender and the borrower consent.
- (27) "Revolving loan fund" means all assets obtained through or related to a department development loan and MBDC matching loan funds that are recorded by the MBDC in a separate accounting ledger and which are accounted for along with related liabilities, revenues, and expenses, separate from the MBDC's other assets and financial activities.
- (28) "Revolving loan fund bank account" means the deposit account in which revolving loan fund assets that are obtained through or related to a department development loan, MBDC matching loan funds, and the income earned or derived from the operation of the revolving loan fund are deposited by the MBDC.
- (29) "Revolving loan fund income" means the proceeds from interest, fees, and any other income earned or derived from the operation of the revolving loan fund.
- (30) "Statewide MBDC" means a MBDC that meets all requirements for statewide certification stated herein, and, in addition, has a viable plan to provide specialized services to constituents throughout the state, and does not preempt or duplicate efforts of MBDCs within local communities.
- (31) "Technical assistance" means business-related consultation in a one-to-one setting performed for the benefit of microbusinesses and their principals.
- (32) "Transitional" means a MBDC that is certified and that has a development loan outstanding but which is not currently offering new loans to microbusinesses with development loan funds. A "transitional MBDC" has selected the installment payment termination option to repay its outstanding development loan balance.
- (33) "Unfunded" means a certified MBDC that does not have a development loan balance outstanding.

Authorizing statute(s): 17-6-406, MCA

Implementing statute(s): 17-6-406, 17-6-408, MCA

History: NEW, 1991 MAR p. 1932, Eff. 7/12/91; AMD, 1991 MAR p. 2451, Eff. 12/13/91; AMD, 1993 MAR p. 2236, Eff. 10/1/93; AMD, 1996 MAR p. 2166, Eff. 8/9/96; AMD, 1998 MAR p. 466, Eff. 2/13/98; AMD, 2000 MAR p. 1045, Eff. 4/28/00; AMD, 2004 MAR p. 566, Eff. 3/12/04; AMD, 2008 MAR p. 486, Eff. 3/14/08.