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Description of the Small Business Investment Company Program Participation by Unleveraged Funds — Updated September 2022

WRITTEN BY

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The SBIC Program

A Small Business Investment Company (SBIC) is a privately owned and operated company that makes long-term investments in American small businesses and is licensed by the U.S. Small Business Administration (SBA or Administration).

The principal reason for a firm to become licensed as an unleveraged SBIC is the special rules applying to investments in SBICs made by certain financial institutions. Banks and federal savings associations (as well as their holding companies) have the ability to own or to invest in SBICs and thereby to own indirectly more than 5% of the voting stock of a small business, and can receive Community Reinvestment Act credit consideration for SBIC investments. Banks and their holding companies are permitted to invest in SBICs under the regulations implementing the Volcker Rule pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). They also receive exemptions from certain capital charge regulations and lending affiliation rules under the Gramm-Leach-Bliley Act. A business seeking a U.S. government contract that is set aside for small businesses does not lose its status as a small business by reason of a control investment by an SBIC.

This document provides a general overview of the SBIC Program for SBICs not using leverage provided by SBA.[1]

The U.S. Small Business Administration

SBA administers the SBIC Program through its Investment Division. SBA is an independent federal agency located at 409 Third Street, SW, Washington, DC 20006, (202.205.6510). Useful information about the SBIC Program is available on SBA's website at https://www.sba.gov/partners/sbics or may be obtained by contacting Samuel J. Boyd, Jr. at 202.205.7546.

SBIA

The SBIC industry is served by an active trade association, the Small Business Investor Alliance (SBIA), which is located at 529 14th Street, NW, Suite 400, Washington, DC 20045, (202.628.5055) or at www.sbia.org. SBIA, whose president is Brett Palmer, provides a variety of information and services to its members, and represents the

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industry with SBA and on Capitol Hill. SBIA publishes regular updates and is a resource for information concerning the SBIC Program.

Historical Perspective

Established by the U.S. Congress in 1958 to stimulate long-term investment in American small businesses, the SBIC Program has evolved into a significant factor in financing smaller American businesses. From the SBIC Program's inception to December 31, 2021, SBICs have provided approximately $116.0 billion of funding in approximately 189,101 financings to businesses,[2] including well-known companies, such as Amgen, Apple Computer, Costco, Federal Express, Intel, Tesla, and Whole Foods.[3]

The SBIC Program has undergone significant changes since its creation in 1958. The original program permitted only debenture leverage. The Small Business Equity Enhancement Act of 1992 drastically changed the SBIC Program. It created a new form of SBA leverage known as "Participating Securities" (essentially preferred limited partnership interests in an SBIC); increased the amount of leverage available to an SBIC to $90 million (which subsequently was indexed to reflect changes in the cost of living since March 31, 1993 and then modified in 2009 to be $150 million and again in 2018 to be $175 million); required minimum private capital of $10 million for SBICs using Participating Securities and $5 million for SBICs using debentures; provided for stricter SBA licensing standards; and enacted other changes to make the program more consistent with the private fund industry. Unlike the Debenture Program (where SBA is a creditor of the SBIC) that requires an SBIC to make periodic interest payments, the Participating Securities Program required an SBIC to pay SBA a prioritized payment (preferred return) and a profit share when the SBIC realized profits. As a result, the Participating Securities Program was designed to permit investing in equity securities whether or not those securities had a current pay component. This new program resulted in a large expansion of the number of SBIC licenses granted.

Following the burst of the "technology bubble" in 2002, the Administration decided there no longer was a need for an equity SBIC program and that the existing Participating Securities Program would cause significant losses to SBA. Accordingly, SBA decided to terminate the Participating Securities Program and announced that beginning on October 1, 2004, it would not issue commitments to use participating securities leverage or license new SBICs using that leverage.

SBA officials continue to emphasize that they believe the Debenture Program is working well, and they want to expand it. The governing law and regulations for the Debenture Program have undergone several revisions since 1994 that have further streamlined and improved the SBIC Program. SBA has continued its outreach to institutional investors, bank regulators, and prospective applicants in order to enlarge the existing Debenture Program and to create ways for SBICs to make certain kinds of equity investments without undermining the program's financial integrity.

As of June 30, 2022,[4] there were 299 licensed SBICs with approximately $21.094 billion of private capital and $11.866 billion of outstanding SBA leverage (of which $11.840 billion is debenture leverage and $26 million is other SBA leverage — none of which is participating securities leverage). Of these SBICs: 234 use debentures; four used participating securities; 55 do not use leverage; and six are specialized SBICs.

During the 2021 federal fiscal year,[5] SBA licensed a total of 32 SBICs (12 for first-time SBICs and 20 for

subsequent fund SBICs) with approximately $2.363 billion of private capital. Of those, 28 were debenture SBICs and four were unleveraged SBICs. Through June 30 of the 2022 Federal FY, SBA licensed 19 SBICs (two for first-time SBICs and 17 for subsequent fund SBICs). Of these 19 SBICs, 16 were debenture SBICs and three were unleveraged SBICs.

Community Reinvestment Act Credit

Current Community Reinvestment Act (CRA) regulations present banks (other than certain small banks) with a continuing need to make investments that qualify for CRA purposes. Investment in an SBIC is specifically identified in the CRA regulations as a type of investment that will be presumed by the regulatory agencies to be a qualified investment for CRA purposes.[6] The investment should be in an SBIC that is located in or doing substantial business in the region in which the bank's assessment area is located, but the SBIC is not required to be headquartered within the assessment area itself. The SBIC Act and other federal statutes explicitly permit banks, bank holding companies, federal savings associations, and savings and loan holding companies to invest in SBICs.

Gramm-Leach-Bliley Act and Dodd-Frank Act Exemptions

As part of the Gramm-Leach-Bliley Act (GLB Act) implementation, effective April 1, 2002, the Federal Reserve Board, the FDIC, and the Office of the Comptroller of the Currency adopted new regulations governing regulatory capital treatment for certain equity investments held by banks, bank holding companies, and financial holding companies. Under the regulations, an 8% tier-one capital deduction applies on covered investments that in the aggregate are less than 15% of an organization's tier-one capital, a 12% deduction applies to investments aggregating 15-24.99% of tier-one capital, and a 25% deduction applies to investments aggregating 25% and above of tier-one capital. The regulations exempt SBIC investments from such capital charges so long as their value is less than 15% of tier-one capital. However, the amount of SBIC investments will be considered when determining capital charges for other investments. These rules, however, may be affected by contemplated changes to bank capital requirements to conform to the Basel III Accords.

In addition, ownership of a 15% equity interest in a portfolio company by a bank-affiliated SBIC will not give rise to a presumption that the portfolio company is an affiliate under Sections 23(a) and (b) of the GLB Act.

The Dodd-Frank Act generally prohibits a banking entity from acquiring or retaining any equity, partnership, or other ownership interest in or sponsoring a private equity fund. In addition, nonbank financial companies that engage in proprietary trading, ownership, or sponsorship of a private equity fund may be subject to additional capital and quantitative limits. These prohibitions are not applicable to investments in SBICs. The final regulations implementing the Volcker Rule under the Dodd-Frank Act permit banking entities to invest in licensed SBICs, as well as in funds that have received permission from SBA to file an SBIC license application, and to sponsor SBICs. Effective October 1, 2020, the Volcker Rule was revised to clarify that banking entities are permitted to retain their investments in a private fund that ceases to be licensed as an SBIC because it has voluntarily surrendered its license so long as the fund does not make any new investments (other than in cash and cash equivalents) after such voluntary surrender.

Investment Advisers Act Exemption

An adviser that solely advises SBICs (which, for this purpose, also includes an entity that has received a green light letter authorizing it to submit a formal SBIC license application to SBA, as well as an applicant affiliated with one or more SBICs that has applied for another SBIC license) is expressly exempted from the Dodd-Frank Act amendments to the Investment Advisers Act of 1940 (Advisers Act), which generally require advisers to certain types of private funds to register with the Securities and Exchange Commission (SEC) or to become exempt reporting advisers.

The SBIC Advisers Relief Act, which became law on December 4, 2015, provides certain additional relief for investment advisers that advise private funds and SBICs, as well as for investment advisers that advise venture funds and SBICs. Before the enactment of the SBIC Advisers Relief Act, only advisers solely to private funds with assets under management in the U.S. of less than $150 million could rely upon the so-called "private fund adviser exemption" from the Advisers Act's investment adviser registration requirements. Also, before the enactment of the SBIC Advisers Relief Act, only advisers solely to one or more venture capital funds (as defined by the SEC) could rely upon the so-called "venture capital fund adviser exemption" from the Advisers Act's investment adviser registration requirements. The SBIC Advisers Relief Act revised the private fund adviser exemption by excluding SBIC assets from counting toward the $150 million threshold for purposes of determining whether an investment adviser satisfied the conditions for the private fund adviser exemption and by deeming SBICs to be venture capital funds for purposes of the venture capital fund adviser exemption.

Certain Exemptions from SBA Regulations

Unleveraged SBICs are exempt from many SBA regulations, which pertain to SBICs using debentures, including:

- the management-ownership diversity requirement, which generally prohibits a single investor from owning more than 70% of an SBIC and requires that at least three institutional investors (which are entities or natural persons that satisfy certain net worth criteria) unaffiliated with management and one another, and whose investments in the SBIC are significant in dollar and percentage own at least 30% of the SBIC;
- the overline limitations, which restrict how much can be invested in any one portfolio company and its affiliates;
- restrictions on the SBIC's use of its idle funds;
- restrictions on the SBIC's incurrence of third-party secured debt;
- certain recordkeeping requirements;
- limitations on distributions to the SBIC's investors and the requirement to obtain SBA approval to decrease regulatory capital[7] by more than 2% per year (but must notify SBA of any reduction within 30 days);
- prohibitions for the SBIC's ability to sell assets to its associates without SBA approval;
- SBA consent requirements for certain types of co-investments made with the SBIC's associates;
- the requirement that SBA approve management services contracts with the SBIC's management company and the SBIC's initial management expense and any changes thereto (although the SBIC must notify SBA of such initial management expenses and of any such changes);
- the requirement to obtain SBA's prior approval for new directors and officers other than the chief operating officer (although the SBIC must notify SBA of any such new directors or officers within 30 days); and
- limitations on the amount of management fees the SBIC is permitted to pay.

SBIC Investments

An SBIC can only invest in small businesses, and must invest at least 25% of its invested funds in smaller

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enterprises.[8] SBA regulations define a small business as a company with tangible net worth (total net worth less goodwill) of less than $19.56 million and average after-tax income (exclusive of loss carryforwards) for the prior two years of less than $6.5 million. A company failing that test can still qualify as a small business if it meets the size standards for its industry group under an alternative test. The size standards for industry groups under this alternative test are based on the number of employees (typically 500 to 1,000 for a manufacturing company) or gross revenues.[9] A smaller enterprise is a company with a net worth (excluding goodwill) of less than $6 million and average after-tax income for the prior two years of less than $2 million or one that meets the alternative test. Most importantly, in making a determination under the size test and the alternative test, the company and all affiliates of the company must be considered. Companies are affiliates of each other if one controls or has the power to control the other, or a third party or parties control or have the power to control both. SBICs and private funds exempted from registration under certain sections of the Investment Company Act of 1940 are not considered affiliates of a company for purposes of determining whether that company qualifies as a small business or a smaller enterprise. Certain debt-to-equity ratios must also be met if an SBIC finances the change of ownership of a small business with more than 500 employees.

SBIC regulations preclude investment in the following types of businesses: companies whose principal business is re-lending or re-investing (private funds, leasing companies, factors, banks); various real estate projects; single-purpose projects that are not continuing businesses; companies that will use the proceeds outside of the U.S. or have more than 49% of their tangible assets or employees outside the U.S. at the time of financing or within one year following the financing (unless the funding is used for a specific U.S. purpose that is acceptable to SBA); businesses that are passive and do not carry on an active trade or business; and businesses that use 50% or more of the funds to buy goods or services from an associated supplier.

An SBIC and its associates[10] are permitted to control a small business for up to seven years. Upon request, SBA may allow for a longer period if doing so would permit an orderly sale of the investment or to ensure the financial stability of the small business.

SBICs are precluded from making investments in a small business if it would give rise to a conflict of interest. Generally, a conflict of interest may arise if an associate of the SBIC has or makes an investment in the small business or serves as one of its officers or directors or would otherwise benefit from the financing. Investing in an associate generally requires prior SBA approval unless an exception applies. Joint investing with an associate (such as another fund controlled by affiliates of the general partner) may be made on the same terms and conditions and at the same time or on terms that can be demonstrated to SBA's satisfaction that are fair and equitable to the SBIC.

Terms of Portfolio Company Financings

An SBIC may make investments in the form of debt with no equity features (loans); debt with equity features (debt securities) or stock, rights to acquire stock, and interests in limited partnerships, limited liability companies, and joint ventures (equity securities). Investments must be made for a term of at least one year (except for bridge loans in anticipation of a permanent financing in which the SBIC intends to participate or to protect the SBIC's prior investment). Loans and debt securities must have amortization not exceeding the "straight line." The permissible interest rate depends on the type of debt. For straight loans, the maximum permitted rate is the higher of 19% or (11% over the higher of the SBIC's weighted cost of debenture leverage or the current debenture rate.

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For debt securities, the maximum permitted rate is the higher of 14% or 6% over the higher of the SBIC's weighted cost of debenture leverage or the current debenture rate. Regulations define an SBIC's weighted cost of debenture leverage and describe the maximum permitted rate when more than one SBIC participates in the financing.

The applicable interest rate is calculated adding in all points, fees, discounts, and other costs of money, other than (i) application fees of up to 1% of the proposed financing and closing fees of up to 4% of the financing for equity securities or debt securities, or 2% for loans, and (ii) permitted prepayment penalties, each of which may be charged in addition to the permitted interest. In addition, an SBIC may be reimbursed for its reasonable closing costs (including legal fees). SBICs may also structure financings to receive a royalty based upon the improvement in the performance of a portfolio company after the financing. An SBIC may also charge a default rate of interest of up to 7% and a royalty based on improvement in the performance of a portfolio company after the financing.

An SBIC is permitted to require a small business to redeem equity securities, but only after one year and only for a price equal to either (a) the purchase price or (b) a price determined at the time of redemption based on (i) a reasonable formula that reflects the performance of the company (*e.g.,* based on the book value or earnings) or (ii) fair market value determined by a professional third-party appraiser. Mandatory redemptions not complying with these requirements will result in the investment being treated as a debt security, subject to the maximum interest restrictions described above. However, the small business can be required to redeem the SBIC's equity security earlier than one year after its issuance if the small business has a public offering, has a change of control or management, or defaults under its investment agreement.

An SBIC is permitted to retain its investment in a business that ceases to be a small business and is permitted to continue to invest in such a large business until the company has a public offering. Following a public offering, the SBIC is permitted to exercise rights to acquire securities that were obtained prior to the public offering.

If within one year of the initial financing by an SBIC a portfolio company changes its business to one in which an SBIC is prohibited from investing, then the SBIC must divest itself of the investment absent SBA's approval to retain the investment.

SBIC Operations

SBA has adopted a number of regulations and policies concerning operating requirements of SBICs intended to assure their proper management. Principal regulations and policies are described below.

An SBIC and its associates may provide management services to small businesses in which the SBIC invests, but may only charge competitive rates for services actually rendered.

Unleveraged SBICs are required to value their assets annually pursuant to valuation guidelines approved by SBA. SBA has issued model valuation guidelines that are similar to those customarily used by private funds, but do not conform with generally accepted accounting principles.

An SBIC's ability to borrow funds from third parties is subject to SBA regulation. Although SBICs using debentures may only incur unsecured debt, unleveraged SBICs may incur secured debt.

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SBICs are required to file a variety of reports with SBA, none of which generally are considered burdensome. These reports include an annual financial statement certified to by the SBIC's independent certified public accountants (and contains information concerning each portfolio company), valuation reports as described above, capital certificates reporting, among other things, changes in regulatory capital, reports as to changes in the SBIC's management, material litigation, a brief report describing each investment, and copies of reports sent to investors and, if applicable, to the SEC. SBA will conduct regulatory examinations of each SBIC on an annual basis.

SBA has certain rights and remedies if the SBIC violates SBA regulations. Remedies for regulatory violations are graduated in severity depending on the seriousness of the regulatory violation. For minor regulatory infractions, warnings are given. For serious infractions, restrictions on distributions and making new investments may be imposed, management fees may be required to be reduced, and investors may be required to pay their unfunded capital commitments to the SBIC. In severe cases, SBA may require the limited partners to remove the SBIC's general partner or manager or its officers, directors, managers, or partners, or SBA may obtain appointment of a receiver for the partnership.

Organization

SBICs are organized under state law as corporations, limited partnerships, or limited liability companies.

Investors

Investors may be either domestic or foreign[11] individuals or entities. The SBIC Act specifically authorizes banks and federal savings associations to invest up to 5% of their capital and surplus in SBICs.[12] Certain investors owning 33% or more of an SBIC are required to submit certain background information to SBA and are subject to SBA's fingerprinting requirements. All investors in an SBIC and anyone owning 10% or more of any investor owning 10% of an SBIC must be identified to SBA in the SBIC's license application.

Restrictions on Transfer

Investors in an SBIC may not transfer their interests without SBA's prior consent. Additionally, without SBA's consent, an SBIC may not release any of its investors from the liability to make the full amount of their capital contribution.

Licensing

SBA uses a two-step licensing process for first-time SBICs. In the first phase, an applicant completes and submits a "management assessment questionnaire" (MAQ) form to SBA. Effective October 1, 2021, an applicant must pay SBA a nonrefundable fee of $10,500 at the time it submits the MAQ.[13] The MAQ contains the elements of the applicant's business plan, as well as detailed information concerning the experience of each of the principals to carry out the business plan.

SBA generally requires that at least two substantially full-time principals have at least five years of successful investment experience at a decision-making level in the types of investments the applicant is proposing to make.

Generally, each individual's track record should include at least 10-15 investments with a reasonable number of complete realizations during the last 10 years (and preferably including some that are quite recent). SBA also considers how long and in what ways the management team has worked together. SBA views the track record of the principals and the cohesiveness of the key principals as being fundamentally important. Additionally, SBA is concerned about the internal management of the SBIC. They prefer a team composed of three to five principals, although as few as two and as many as six also are acceptable. However, SBA does not want dominance by a single principal over investment and other management decisions (including personnel matters). They do not want to license a one-man band. SBA looks at the division of the SBIC's carried interest to evaluate relationships. They have an informal rule that no principal may own 50% or more of the carried interest unless there are only two principals and they each have 50%.

The MAQ is then reviewed by SBA's Investment Committee, after which the principals, if appearing qualified, are invited to meet with the members of the Investment Committee. After the meeting with the applicant's principals, SBA's Investment Committee may deny the application or issue a green light letter, indicating the applicant has passed the first part of the application process and is authorized to file a formal application. At the present time, a green light letter usually is issued three to four months following submission of the MAQ and immediately after the interview.

An applicant that receives a green light letter must file its formal license application not more than 18 months after the date of that letter. The application fee for applications submitted between October 1, 2021 and September 30, 2022 is $36,900.[14]

After receipt of the green light letter and obtaining commitments for at least the minimum required regulatory capital from investors satisfying the "diversity" requirement, the applicant files a formal application that contains additional information about the applicant and the management team, as well as the applicant's and its general partner's or manager's organizational applicant documents. Although the regulations require a debenture SBIC to have at least $5 million of regulatory capital, SBA generally requires an SBIC to have firm commitments when its formal license application is filed for an amount of capital sufficient to enable the SBIC to have a first closing and conduct its operations, even if it does not subsequently raise additional funds. Depending on the projected size of the SBIC, SBA could require at least $10-$20 million of private commitments for an unleveraged SBIC at the time the application is filed. During the formal licensing process, SBA tries to determine whether there is a qualified management team and if the SBIC has a good chance of operating profitably. SBA reviews the applicant's business plan, projections, and organizational documents, and conducts reference and other background checks (including litigation searches and an FBI fingerprint check) on the management team. The process currently takes approximately six to 12 months. SBA requires applicants to advise their investors that the investors are not entitled to rely on SBA's review of the applicant in deciding whether to invest.

After a license application is filed and accepted for processing by SBA, an applicant may make pre-licensing investments, which will be included in the applicant's regulatory capital if submitted to and approved by SBA prior to the investment being made. SBA requires 10 business days to review such pre-licensing investments (but approvals frequently take longer). SBA does not determine the quality or wisdom of the investment. Rather, SBA simply seeks to determine if the investment is made in compliance with SBA regulations. Once licensed, SBA pre-approval of investments is not required. Historically, SBA required all principals to attend a one-day regulations class run by SBA and only permitted one "pre-licensing" investment to be made before at least one principal

attended the class. However, SBA did not hold any classes in 2019 and 2020, and none are presently scheduled for 2021. Thus, SBA has not enforced this requirement recently.

Timeline

Applicants should assume the following timeline for securing a license:

Management Assessment Questionnaire	3-6 months
Formal License Approval	6-12 months
Total	9-18 months

This timeline assumes the license application is filed immediately upon receipt of the green light letter.

Licensing Second Funds

For second SBIC funds, SBA follows a process that is similar to licensing new funds with one important exception if certain conditions are satisfied. Instead of filing a MAQ, the process is initiated by submitting a formal written request asking SBA to issue a green light letter for the new fund. SBA now requires the submission of a nonrefundable fee in the same amount that would have been paid had a MAQ been submitted. To utilize this process and avoid writing a new MAQ to obtain a green light letter for a new fund, the management team and investment strategy of the new fund should be substantially the same as that of the existing SBIC. After submission of a request outlining the proposed new SBIC, SBA's Office of Operations compares the new fund and the prior fund(s) (similarity of business plan, changes in management team, track record, profitability, liquidity, and prior SBA compliance record) and makes a recommendation to the Investment Committee that in turn makes a decision whether to issue a green light letter for the new fund. Following receipt of that letter, when the new fund has received commitments for the minimum required capital that also satisfies the diversity requirement, the fund may submit a formal application for processing. Under SBA policy, the prior SBIC and the follow-on SBIC must each agree not to co-invest more than 30% of its investable capital with the other SBIC.

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[1] A more detailed description of SBIC Debenture Leverage Program is available from Troutman Pepper Hamilton Sanders LLP at https://www.troutman.com/insights/description-of-the-small-business-investment-company-debenture-program-september-2022.html.

[2] U.S. Small Business Administration Offering Circular, Series SBIC 2022-10B, September 14, 2022.

[3] Small Business Administration – SBIC Overview Presentation, Updated January 1, 2019.

[4] SBICs that have surrendered their licenses or have been transferred to the Office of Liquidation are not included in these figures.

[5] The federal fiscal year (Federal FY) starts on October 1 and ends on September 30.

[6] On December 15, 2021, the Office of the Comptroller of the Currency (OCC) rescinded the CRA rule issued in

May 2020; thereby reverting to the CRA regulations as in effect before the May 2020 rule (which afforded SBICs favorable consideration eligibility). On May 5, 2022, the OCC, Federal Reserve, and Federal Deposit Insurance Corporation issued a proposal to strengthen and modernize the CRA. This joint proposal continues the favorable CRA consideration eligibility for investments made in SBICs. Although this treatment is expected to be included in the final regulations, there can be no assurance that the treatment afforded to SBICs in the current CRA rule continue.

[7] Regulatory capital is an important metric for SBICs and is represented by the sum of an SBIC's funded commitments from its investors plus unfunded commitments from investors that have sufficient financial means to qualify as "institutional investors." SBA regulations describe the qualifications of institutional investors. Most forms of business entities with a net worth (excluding, however, unfunded capital commitments from that entity's investors) of at least $10 million qualify as institutional investors, as do banks or savings and loan associations or their holding companies, insurance companies, pension plans for private or public sector employees, and tax-exempt foundations or trusts, in each case with a net worth of at least $1 million. If an entity institutional investor has a net worth of less than $10 million, only that part of unfunded commitment that is less than 10% of its net worth will be included in regulatory capital. Institutional investors also include individuals with a net worth (exclusive of the equity of their most valuable residence) of at least $10 million or, if the amount committed to the SBIC does not exceed 10% of their net worth, $2 million. Not more than 33% of the SBIC's regulatory capital may be invested by state or local government entities that are not pension plans.

[8] This percentage may be lower for certain SBICs licensed before February 17, 2009.

[9] The alternative size test uses the predominant industry for the company together with its affiliates taken together.

[10] The definition of an "associate" is complex, generally covering all control persons and their respective control persons, but also includes other persons.

[11] Foreign investors are required to irrevocably appoint a U.S. person as a non-U.S. investor's agent for service of process in the United States. For many SBICs, such foreign investors appoint the fund's general partner or the SBIC's management company as their agent. In addition, if the SBIC will have a significant dollar amount of and SBIC's regulatory capital come from non-U.S. investors (with "significant" being approximately 20% of the SBIC's total capital commitments), then SBA has expressed concern about the collectability of their capital commitments and, as a matter of policy, will generally exclude from an SBIC's regulatory capital the unfunded capital commitments from foreign investors to the extent those unfunded capital commitments exceed 20% of the total unfunded capital commitments of the SBIC unless a special arrangement satisfactory to SBA is made.

[12] Since 2018 there have been various legislative proposals to increase this percentage to 15%.

[13] The fee for MAQ filings is required to be adjusted annually for inflation.

[14] The fee for formal SBIC license applications is required to be adjusted annually for inflation.

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