

# SBA's New Rules and Policies to Strengthen and Diversify Its SBIC Program

## WRITTEN BY

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A small business investment company (SBIC) is a privately owned and operated investment fund that makes long-term investments in American small businesses and is licensed by the U.S. Small Business Administration (SBA). SBICs invest billions of dollars in American small businesses — the drivers of economic growth and jobs in the United States. The primary driver for a fund to seek an SBIC is to obtain access to low-cost, long-term financing (leverage) from SBA to enable making these private investments.

SBA recently published the [Small Business Investment Company Investment Diversification and Growth Rule](#), which became effective on August 17. This rule represents the most significant changes to the SBIC program since the early 1990s and seeks to reform the program to, among other things:

- Reduce barriers to program participation for new SBIC fund managers and funds investing in:
  - Underserved communities and geographies,
  - Capital intensive investments, and
  - Technologies critical to national security and economic development,
- Increase program investment diversification and patient capital financing for small businesses; and
- Modernize rules to lower financial barriers to program participation.

SBA also made a series of program changes, including updating program policies and adopting new [standard operating procedures](#), effective September 5, to consolidate the several standard operating procedures and TechNotes, which previously provided guidance for the issuance of SBIC licenses and the overall administration of the SBIC program.

## New Type of SBIC Debenture: Accrual Debentures

One key change is the implementation of a new type of “Accrual Debenture” designed to align with the cash flows of long-duration growth investing utilized by fund managers that primarily invest in equity securities of U.S. small businesses. The Accrual Debenture is designed to increase diversification of asset classes and alternative investments strategies included in the SBIC program. SBA created the Accrual Debentures for private funds utilizing equity strategies, like venture capital funds, growth equity funds, and buyout funds. The Accrual Debenture is only available to SBICs that are specifically licensed by SBA as either an “Accrual SBIC” or a “Reinvestor SBIC” (see “Investments in Reinvestors” below for a discussion of Reinvestor SBICs). Unlike the “Standard Debenture,” which has interest due and payable on a semi-annual basis and its principal due in a single payment at its 10-year maturity date, the Accrual Debenture accrues interest over its 10-year term, but requires payment of all then accrued and unpaid interest and a partial payment of principal whenever the Accrual

SBIC or Reinvestor SBIC makes a distribution to its investors (see “Distributions and Reductions in Regulatory Capital” below for a discussion regarding distributions by Accrual SBICs and Reinvestor SBICs). Approval to operate as an Accrual SBIC or Reinvestor SBIC is subject to SBA’s investment due diligence, credit procedures, and statutory limitations.

A limitation of the Accrual Debenture is the amount of SBA leverage available. First, Accrual SBICs are limited to a maximum of one and one quarter tiers (1.25x) of leverage, as opposed to leveraged licensees issuing Standard Debentures that are limited to a maximum of two tiers (2x) of leverage. The reason for the cap on leverage available to Accrual SBICs is to mitigate risk to the SBIC program, which is designed to operate on a zero-subsidy basis.<sup>[1]</sup> In addition, the actual amount of leverage that SBA will make available to Accrual SBICs and Reinvestor SBICs will be less than 1.25x and 2x, respectively, because, in determining the maximum amount of leverage for Accrual SBICs and Reinvestor SBICs, SBA will aggregate 10 years of forecasted accrued interest with the amount of leverage SBA will make available to the SBIC to ensure that the sum of such accrued and unpaid interest plus the amount of leverage made available to the SBIC will not exceed the maximum permitted amount of leverage (which is \$175 million for any single SBIC and \$350 million for two or more SBICs under common control). For example, if an Accrual SBIC has \$100 million in regulatory capital, the total Accrual Debenture principal it may be approved for may be only \$118 million if the forecast interest would accrue to approximately \$57 million over a 10-year timeframe at a 4% interest rate.

#### *The Accrual Debenture’s Impact on Building Technology Critical to National Security*

In late 2022, the U.S. Department of Defense’s (DOD) new Office of Strategic Capital (OSC) and the SBA’s Office of Investment and Innovation (OII) launched a joint venture, the Small Business Investment Company Critical Technologies Initiative (SBICCT). The SBICCT is intended to encourage and scale early-stage investments in technologies that are critical to national security and traditionally have high, up-front research and development costs, such as semiconductors and biotechnology. The SBICCT is executed by SBA’s OII and DOD’s OSC by joining SBA’s expertise and experience executing the established and highly successful SBIC program with the DOD’s robust scientific and technical expertise and national security mission. Specifically, DOD and SBA will partner to license and provide low-cost, government-guaranteed capital, under SBA’s SBIC program authorities, to SBIC fund managers with expertise deploying capital in markets aligned with DOD’s critical technology areas. By providing capital and technology sector guidance, the SBICCT aims to empower highly qualified investors to scale public-private partnered capital and catalyze investment in critical technology areas.

As a part of the SBIC license application process according to the SBICCT’s Investment Policy Statement, SBICCT applicants will be required to demonstrate a strategic intent to invest at least 60% of its aggregate financings (combined capital invested in small businesses) in portfolio companies directly involved in the development of one or more of the critical technology areas designated by DOD. DOD has currently prioritized 14 critical technology areas vital to maintaining U.S. national and economic security: biotechnology, quantum science, future generation wireless technology, advanced materials, trusted artificial intelligence and autonomy, integrated network systems-of-systems, microelectronics, space technology, renewable energy generation and storage, advanced computing and software, human-machine interfaces, directed energy weapons, hypersonics and integrated sensing, and cyber.

Many technologies the DOD and SBA view as critical to U.S. national security require heavy investment in

research and development. The companies developing these technologies were unlikely to appeal to SBICs issuing Standard Debentures because SBICs would commonly view the terms of the SBIC Standard Debenture, with interest due and payable semiannually, as unattractive given their business models and expected cash flows.

But with the Accrual Debenture's generous repayment terms, the SBA could bring on more SBIC investments into growth equity and venture capital from patient private capital, which would benefit these companies and U.S. national security by speeding up their development of technology the DOD sees as vital to keeping the country safe in the future. The SBA, through its partnership with the DOD, intends to provide these funds a unique — and attractive — opportunity to invest in national security-related startups with federal money and favorable repayment terms.

### **Distributions and Reductions in Regulatory Capital**

Leveraged SBICs (including Accrual SBICs and Reinvestor SBICs) can only make distributions to their investors from retained earnings available for distribution (READ). READ consists of the SBIC's cumulative realized profits after all expenses as well as all realized and unrealized losses and write-downs have been deducted. Leveraged SBICs can also make distributions to their investors as a reduction in the SBIC's regulatory capital, but by no more than 2% of its regulatory capital in any fiscal year without SBA's prior approval.<sup>[2]</sup> Leveraged SBICs using Standard Debentures are permitted to make these distributions without making any repayment of its debentures.

Because equity-oriented funds present a risk to SBA that such funds may distribute early profit returns and then later write down or write off assets without repaying SBA leverage by the end of the fund's life, SBA has implemented a different distribution regime for Accrual SBICs and Reinvestor SBICs to provide protection to SBA and taxpayers against such risk. Except for tax distributions that have been approved by SBA, if an Accrual SBIC or Reinvestor SBIC wants to make a distribution to its investors, it is first required to pay to SBA all then accrued and unpaid interest and annual charges on the outstanding leverage and, from the remaining amount, pay down a portion of the principal of its outstanding Accrual Debentures at the next payment window during which SBICs can pay leverage.<sup>[3]</sup> The principal amount required to be repaid to SBA (the "SBA Share") is based upon the proportion that the maximum amount of leverage SBA will make available to the Accrual SBIC or Reinvestor SBIC (referred to in the SBA regulations as the "Total Intended Leverage Commitment") bears to the sum of the Total Intended Leverage Commitment, plus the total private capital commitments made to the Accrual SBIC or Reinvestor SBIC. Thus, for example, if the Total Intended Leverage Commitment is \$125, the total private capital commitments are \$100, the outstanding Accrual Debenture principal is \$75, and the amount available for distribution (after paying all accrued and unpaid interest and annual charges) is \$100, the Accrual SBIC or Reinvestor SBIC would pay \$55.56 ( $\$100 \times \{\$125/[\$125+\$100]\} = \$55.56$ ) to SBA and distribute \$44.44 to its investors.

Accrual SBICs and Reinvestor SBICs are not permitted to make any distributions (other than tax distributions approved by SBA) to their investors before the first anniversary of the license date. In addition, SBA requires that the operating agreement for the general partner of an Accrual SBIC or Reinvestor SBIC include a guarantee by each principal (on a several basis) of his or her share of the funds due to SBA, pending the payment of such funds on or before the applicable payment window. SBA is requiring a covenant for these provisions in the limited partnership agreements of Accrual SBICs and Reinvestor SBICs.

## Additional Management Qualifications for the Evaluation of License Applicants

SBA considers various qualifications of the management team set forth in 13 CFR 107.305 in evaluating a license application. Before the updated rules, SBA required at least two investment professionals to have an investment track record demonstrating success within the proposed SBIC's investment strategy. In an attempt to make the licensing process more transparent and inclusive, the updated rules expand the criteria for the potential pool of qualified managers by adding two specific qualifications of the management to be considered: (1) relevant industry operational experience, which may be combined with investment skill to demonstrate managerial capacity, and (2) if applicable, the applicant's experience in managing a regulated business, including but not limited to an SBIC.[4] Although at least one investment professional having the requisite track record is still necessary, the expansion of the proposed management qualifications should open the SBIC program to more emerging fund managers.

## Expedited and Streamlined Licensing Process for Qualifying Subsequent Fund Applications

To reduce time and cost burdens on existing SBIC funds associated with applying for a license for a subsequent fund, SBA has introduced an expedited subsequent fund licensing process.[5] An applicant operating an active SBIC fund that (i) is in good operational and regulatory compliance standing with SBA, (ii) has at least two full years of operations from the date of licensing of its most recent SBIC fund, (iii) is able to present a clean audit opinion from its independent public accountant covering the most recent full year of operations, (iv) has no unresolved regulatory violations for its most recent SBA exam (which must have covered a period ended within 12 months of the subsequent fund filing), and (v) has adequate security in its most recent SBIC fund, based on its financial performance and portfolio valuations, for its outstanding SBA Leverage may file under the expedited process; provided the applicant also meets each of the following eligibility criteria:

- *Consistent strategy and fund size:* the applicant's targeted regulatory capital to be raised is  $\geq 133\%$  the size of [the fund manager's] most recent SBIC fund (inflation adjustments will be considered) and has the same asset class and investment strategy as the most recent SBIC fund.
- *Clean regulatory history:* there are no major findings, significant "other matters," or unresolved "other matters" related to SBIC funds managed by the principals of the applicant in the previous ten years.
- *Consistent limited partnership (LP)-general partnership (GP) dynamics:* No new limited partner will represent  $\geq 33\%$  of the Private Capital of the applicant upon reaching final close at target fund size or hard cap. The two largest investors in the most recent SBIC fund in terms of committed capital have verbally committed to invest in the applicant pending receipt of license. The limited partnership agreement and all side letters of the applicant will have no substantive changes as compared to those of the most recent SBIC fund.
- *Investment performance stability:* The net distributions to paid-in capital (DPI)[6] and net total value to paid-in capital (TVPI)[7] of the most recent SBIC fund are at or above median vintage year and strategy performance benchmarks for the prior three quarters. The principals of the applicant are not managing an SBIC in default or with high capital impairment.
- *Consistent or reduced leverage management:* The applicant is requesting a leverage to Private Capital ratio at target fund size or hard cap that is less than or equal to that of the most recent SBIC fund.
- *Firm stability:* Subject to SBA's determination, there are no material changes to the broader firm, to include resignations, terminations, or retirements by members of the general partnership, investment committee, broader investment team, or key finance and operations personnel, subject to promotions from within.
- *Promotions from within:* The firm has demonstrated promoting internal investment team talent from within the firm sponsoring the license.
- *Inclusive equity:* The firm has demonstrated appropriate or increased sharing of carry and/or management company economics with promoted talent or distribution of equitable or increasingly equitable economics among the members of the investment team.

- *Federal Bureau of Investigation (FBI) criminal and Internal Revenue Service (IRS) background check no findings:* The sponsoring entity and all principals of the applicant do not have an FBI criminal record and do not have IRS violations from the licensing date of the most recent SBIC fund.
- *No outstanding or unresolved material litigation matters:* There are no outstanding or unresolved litigation matters involving allegations of dishonesty, fraud, or breach of fiduciary duty or otherwise requiring a report under SBIC regulations as to a prior SBIC fund, the applicant's general partner, or any other person who was required by SBA to complete a personal history statement in connection with the license application.
- *No outstanding tax liens:* There are no outstanding tax liens on the principals applying to manage the licensee, on the most recent SBIC fund, and on the sponsoring entity of the applicant.

Should an applicant fulfill and formally attest to meeting all of the above eligibility criteria, the applicant can submit a streamlined "Short-Form Subsequent Fund MAQ", which is designed to reduce the cost and timing associated with obtaining a license for a subsequent fund.

### **Leverage Commitment Approval Process**

Current SBA policy requires leveraged SBICs to apply for multiple leverage commitments following licensing. In an effort to streamline and expedite the commitment request process, the updated rules provide that SBA will now approve the Total Intended Leverage Commitment<sup>[8]</sup> for the life of a leveraged SBIC based on the target fund size stated in the MAQ in an applicant's green light letter.<sup>[9]</sup> A leveraged SBIC may hold multiple fund closings for up to 12 months after licensure to reach the target fund size and be able to obtain the total intended leverage commitment. SBA will then determine the final total intended leverage commitment. Requests for SBA leverage commitments will be filled automatically, contingent upon the licensee certifying no material adverse changes (MACs) have occurred since licensing.

### **Secured Capital Call Lines without SBA Approval**

SBA regulations require leveraged SBICs to obtain prior SBA approval to incur secured third-party debt.<sup>[10]</sup> The updated rules now provide an exception to this requirement.<sup>[11]</sup> A leveraged SBIC may obtain, without SBA's written approval, a line of credit from a federally regulated financial institution that meets all of the following conditions ("Capital Call Line"):

- The maximum amount available under the Capital Call Line is no more than unfunded "Regulatory Capital"<sup>[12]</sup>, as reflected on the most recent Capital Certificate;
- The payment obligations under the Capital Call Line may be secured, but only by unfunded Regulatory Capital;
- The lender under the Capital Call Line may have a right to debit the SBIC's depository account(s) at the lender's institution, so long as such lender's right to debit is limited to circumstances involving a default of the SBIC's obligation to pay principal, interest, or fees due ("Payment Default") under the Capital Call Line and only to the amount of such Payment Default;
- Each borrowing under the Capital Call Line must be repaid, in full, within 120 days after it is drawn;
- The term of the Capital Call Line may not exceed 12 months, but may be renewable, provided that each renewal does not exceed 12 months and the SBIC remains in compliance with the other conditions of this paragraph; and
- The Capital Call Line does not contain any provision permitting the lender to dictate when capital calls are made or otherwise ceding to the lender any control of the SBIC or its operations; provided, however, that the Capital Call Line may include a provision authorizing the lender, in the event of a Payment Default, to endorse, on the SBIC's behalf, checks and other forms of payment in the lender's possession and to apply the proceeds of

such instruments to such Payment Default, with unapplied and remaining proceeds promptly to be paid to the SBIC.

### **3(c)(7) Fund Exception From “Affiliate” Definition for Small Business Size Regulations**

SBICs must invest in “small businesses.” To determine whether a company is a “small business,” the SBIC will need to apply SBA’s regulatory size standards. These standards consider not only the business concern being financed, but also its affiliates. SBA regulations contain certain important exclusions from affiliation that apply to investments being made by SBICs. SBA expanded these exclusions in the updated rules to include private funds exempt from registration under the Investment Company Act of 1940 (Investment Company Act) under Section 3(c)(7) of the Investment Company Act, in addition to the exception which previously existed for traditional investment companies under 13 CFR 107.150(b)(2) and private funds exempt from registration under Section 3(c)(1) of the Investment Company Act.<sup>[13]</sup>

### **Investments in Reinvestors**

Under the prior rules, there was a general prohibition on SBICs investing in relenders or reinvestors, except in the case of a narrow exception. The updated rules, however, permit certain Accrual SBICs with a fund-of-funds investment strategy to make investments in reinvestors under specific circumstances (“Reinvestor SBICs”).<sup>[14]</sup> A Reinvestor SBIC must invest at least a majority of their capital through equity investments made in underserved small business reinvestors (except banks, savings, and loans not insured by agencies of the federal government, and agricultural credit companies) who, in turn, make investments solely to small businesses (1) with at least 50% of employees in the U.S., (2) headquartered in the U.S., (3) owned and controlled by U.S. citizens and/or entities, and (4) that are eligible for investment based on SBA size standards. Reinvestor SBIC Licensees may invest in underlying funds which are non-leveraged SBICs and funds which do not hold an SBIC license, so long as they meet SBA size standards and are underserved. Reinvestor SBICs cannot invest in leveraged SBICs. SBA may also require that a Reinvestor SBIC obtain a written agreement from each reinvestor in which the Reinvestor SBIC invests that the reinvestor has only provided and will only provide financing in compliance with the foregoing and will provide to such Reinvestor SBIC information reasonably necessary to verify its compliance. Reinvestor SBICs are also permitted to make investments directly into small businesses.

SBA believes expanding this provision will significantly help expand the SBIC program’s footprint in “underserved” communities and enable access to capital to more first-time and emerging fund managers through targeted fund-of-funds SBIC relationships. Although undefined, SBA notes that “underserved” is broad so that SBA can maintain flexibility and agility to align with evolving market conditions by clarifying what constitutes “underserved” through policy notices in order to increase its economic impact to underserved communities.

### **Financings With Associates**

The updated rules introduce an additional safe harbor, which permits an SBIC to provide financing to a business that is an “associate” of the SBIC because another investment fund that is under common control with the SBIC owns 10% or more of the equity of the business in question. This safe harbor allows the SBIC to invest in such a business if an independent third party is investing in the business at the same time and on the same terms and conditions as the SBIC, and the investment from the outside third party represents a significant portion of the financing. However, if the SBIC has a prior financing in such business, the SBIC’s position in such prior financing

may not be diminished or diluted to the benefit of an associate.[15]

## Valuation Reporting and Policy Changes

For all leveraged SBICs, SBA has increased the frequency of valuation reporting from semi-annually to quarterly, commensurate with the required quarterly reporting of the Form 468.[16] SBA also expanded the timeframe for quarterly valuations, including material adverse changes, to 45 calendar days following the close of each quarter, instead of within 30 days following the close of each quarter.[17]

Under current regulations all SBICs are required to value their investments in accordance with SBA's valuation guidelines. SBA recognizes that this often causes SBICs to prepare two separate sets of valuations — one in accordance with SBA's valuation guidelines and one in accordance with GAAP.[18] SBA is working with its valuation contractor to evaluate changes to SBA's valuation guidelines to make them GAAP compliant. In the meantime, the updated rules provide that nonleveraged SBICs may adopt a valuation policy in accordance with GAAP only.[19]

## Form 468s

The updated rules require SBICs to file an annual Form 468 within 90 calendar days following the end of the fiscal year, instead of the prior requirement to file on or before the last day of the third month following the end of the fiscal year.[20] The updated rules also require leveraged SBICs to submit quarterly Form 468s within 45 days after the close of each quarter, instead of the prior requirement for SBICs with outstanding leverage commitments to submit quarterly Form 468s within 30 days after the close of each quarter.[21] The updated instructions to Form 468 also provide that Reinvestor SBICs must submit a separate appendix within 90 days after the close of each quarter. SBA has also published a new Microsoft Excel-based Form 468 that must be uploaded to SBIC-Web.

## Portfolio Financing Reports

The updated rules requires SBICs to submit a portfolio financing report on SBA Form 1031 within 30 calendar days of the end of the calendar year quarter following the closing date of a financing, instead of the prior requirement to file within 30 days of the closing date of a financing.[22] SBA also permits Form 1031s for portfolio company financings to be disaggregated and submitted individually for each portfolio company within 30 days of the closing of a financing or otherwise submitted on a more frequent basis. To further simplify the Form 1031 process for SBICs, SBA has also decided to collect the Form 1031 in a Microsoft Excel workbook. SBICs are also no longer required to submit an annual certification on all of its financings from the previous year under Form 1031A.

## Licensing Fees

SBA modified its licensing fees to lower financial barriers for new funds. This move is designed to increase SBIC program participation and reduce existing burdens for SBICs. SBA revised the licensing fees based on its fund sequence (meaning the order of succession of the fund) as follows:

Fund Sequence	Initial Licensing Fee	Final Licensing Base Fee
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Fund I	\$5,000	\$10,000
Fund II	\$10,000	\$15,000
Fund III	\$15,000	\$25,000
Fund IV+	\$20,000	\$30,000

The “final licensing fee” would consist of the “final licensing base fee” plus 1.25 basis points multiplied by the leverage dollar amount requested by the applicant. For example, if an applicant is seeking \$175 million in leverage, then the applicant would pay a final licensing fee equal to \$21,875 plus the final licensing base fee. SBA’s changes effectively lower the combined licensing fee for all nonleveraged applicants and lower the fees for applicants with less SBA capital at risk and new funds.

In addition, if an applicant has withdrawn its application or is otherwise not approved for a license, SBA will assess a \$10,000 penalty fee if the applicant resubmits an application. The penalty fee must be paid in addition to the Initial and Final Licensing Fees at the time the applicant resubmits its application.[\[23\]](#)

### **Leverage Fees and Annual Charges**

SBA is required to establish an “annual charge” (not to exceed 1.38%) on leverage commitments issued each federal fiscal year at the rate necessary, so the sum of all fees charged by SBA would equal the amount of anticipated losses on the leverage issued. Since 2000, this “annual charge” has varied from a low of 0.047% for the current 2023 federal fiscal year to a high of 0.94% for the 2006 federal fiscal year. The average annual charge over the last 20 years is 57 basis points. The updated rules provides that “annual charge” may not be less than 0.40% or 40 basis points, which is being phased in over the next six years as follows: not less than 10 basis points for the 2024 federal fiscal year, not less than 20 basis points for the 2025 federal fiscal year, not less than 25 basis points for the 2026 federal fiscal year, not less than 30 basis points for the 2027 federal fiscal year, not less than 35 basis points for the 2028 federal fiscal year, and not less than 40 basis points for the 2029 federal fiscal year and thereafter.[\[24\]](#)

### **Licensee’s Capital Impairment**

The updated rules remove the prior requirement for SBICs to calculate their capital impairment percentage and notify SBA if they have a condition of capital impairment.[\[25\]](#) Instead, SBA will calculate the SBIC’s capital impairment percentage each quarter and notify the SBIC if they are capitally impaired.[\[26\]](#)

### **Watchlist**

In an effort to proactively identify and manage risk, SBA has implemented regulations to introduce a Watchlist.[\[27\]](#) SBICs on the Watchlist are subject to a heightened level of reporting and monitoring. A SBIC can be added to the Watchlist for a series of actions, including, but not limited to, bottom quartile performance relative to the SBIC’s stated industry benchmark for more than four consecutive quarters, invoking a key person clause in the SBIC’s limited partnership agreement (or governing agreement), violation of a material provision in the SBIC’s limited partnership agreement (or governing agreement), or regulatory compliance and reporting failures defined in SBIC



program policies and procedures. While on the Watchlist, the SBIC must file Form 1031s within 30 days of the financing date of a portfolio company investment, participate in monthly portfolio review meetings with SBA and file quarterly valuation reports on portfolio company holdings, as requested by SBA. In general, an SBIC on the Watchlist can expect increased communication with SBA.

### **Minimum Regulatory Capital Exceptions and Priority Considerations for Licensees for “Good Cause,” Including Being Headquartered in Underlicensed States**

The updated rules permit SBA to reduce the \$5 million minimum regulatory capital requirement for SBICs to \$3 million if SBA determines, in its sole discretion and based on a showing special circumstances and good cause, the applicant: (i) meets its licensing standards with the exception of minimum capital; (ii) has a viable business plan reasonably projecting profitable operations; and (iii) has a reasonable timetable for achieving regulatory capital of at least \$5 million.<sup>[28]</sup> One example of “good cause” would be if the SBIC was licensed because it is headquartered in an “underlicensed state.”<sup>[29]</sup> Such licensees are limited to leverage up to 100% of leverageable capital until they raise \$5 million in regulatory capital. SBA will also give priority in both phases of the licensing process (initial review and final licensing) and with respect to approving leverage commitments to SBICs headquartered in underlicensed states with below median SBIC financing dollars.<sup>[30]</sup> Regardless of the amount of regulatory capital, a SBIC applicant must still have at least \$2.5 million of leverageable capital prior to licensure.

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<sup>[1]</sup> SBA assumes a higher default risk profile and net loss rate for Accrual Debenture Leverage compared to Standard Debenture leverage.

<sup>[2]</sup> Non-leveraged SBICs are permitted to make distributions without regard to these limitations, so long as they notify SBA of any reductions in regulatory capital within 30 days and meet the minimum capital requirements under SBIC regulations.

<sup>[3]</sup> 13 CFR 107.585(b) and 13 CFR 107.585(c)

<sup>[4]</sup> 13 CFR 107.305

<sup>[5]</sup> 13 CFR 107.305(e)

<sup>[6]</sup> SBA Form 468. Net Distributions to Paid In Capital (DPI) is defined as total distributions, including both cash and distributed securities (valued as of distribution date), a private fund has returned to investors net of fund expenses and carried interest, divided by the amount of money investors have paid into the fund.

<sup>[7]</sup> SBA Form 468. Net Total Value to Paid In Capital (TVPI) is defined as the total distributions, including both cash and distributed securities (valued as of the distribution date) plus the net asset value of a private fund’s

portfolio net of carried interest and expenses, divided by the capital that has been paid in by investors.

[8] Total Intended Leverage Commitment means the dollar amount or ratio of SBA Leverage commitments to private capital commitments. For Accrual SBICs, the final Total Intended Leverage Commitment dollar amount applied in the Accrual Debenture SBA Share calculation will be finalized no later than 12 months after licensure or upon the Accrual SBIC's final close, whichever occurs first.

[9] 13 CFR 107.300

[10] 13 CFR 107.550(b)

[11] 13 CFR 107.550(c)

[12] The definition "Regulatory Capital" means an SBIC's private capital, less any capital that SBA considered to be a questionable commitment.

[13] 13 CFR 121.103(b)(5)

[14] 13 CFR 107.720

[15] 13 CFR 107.730(a)

[16] 13 CFR 107.503(d)(1)

[17] 13 CFR 107.503(d)(4); 13 CFR 107.650

[18] SBA defines the term "GAAP" as "generally accepted accounting principles" as established by the Financial Accounting Standards Board, which refer to financial accounting and reporting standards for public and private companies and not-for-profit organizations in the United States.

[19] 13 CFR 107.503(b)

[20] 13 CFR 107.630

[21] 13 CFR 107.1220

[22] 13 CFR 107.640

[23] 13 CFR 107.300(c)

[24] 13 CFR 107.1130

[25] 13 CRF 107.1830

[26] 13 CFR 107.1830; 13 CFR 107.1840; 13 CFR 107.1845

[27] 13 CFR 107.1850

[28] 13 CR 107.210

[29] 13 CFR 107.50. An “underlicensed state” means a state in which the number of operating licensees per capita is fewer than the median number for all states.

[30] 13 CFR 107.300; 13 CFR 107.320

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