Description of the Small Business Investment Company Debenture Program

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Christopher A. Rossi | rossic@pepperlaw.com

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 United States Small Business Administration (SBA).

The principal reason for a firm to become licensed as an SBIC is access to financing (Leverage) provided by SBA. In addition, 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 percent of the voting stock of a small business,[1] and can receive Community Reinvestment Act credit 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 Act. They also receive exemptions from certain capital charge regulations and lending "affiliation" rules under the Gramm-Leach-

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Bliley Act. A business seeking a U.S. Government contract that is a set aside for small businesses does not lose its status as a small business by reason of a control investment by an SBIC. Many Business Development Companies (BDCs) also have formed SBIC "subsidiaries" as part of their business strategies.

This document provides a summary description of the SBIC Debenture Program, SBA Leverage in the form of Debentures and a general overview of SBA regulations and policies applicable to Debenture SBICs.

The U.S. Small Business Administration

SBA administers the SBIC Program through its Investment Division (which employs approximately 80 people). 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 www.sba.gov/INV or may be obtained by contacting Samuel J. Boyd, Jr. (202.205.7546).

SBIA

The SBIC industry is served by an active trade association, the Small Business Investor Alliance (SBIA), which is located at 1100 H Street, NW, Suite 1200, Washington, DC 20005 (202.628.5055), www.sbia.org. SBIA's President is Brett Palmer. Harry Haskins, the long-term senior career SBA manager of the SBIC program, is SBIA's Director of SBIC Relations. SBIA provides a variety of information and services to its members and represents the industry with SBA and on Capitol Hill. SBIA publishes regular updates and is a resource for information concerning the SBIC Program.

Development of SBIC Program

Established by the United States 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, 2018, SBICs have provided approximately $97.6 billion of funding in more than 181,185 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 part-

nership 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 venture capital industry. Unlike the Debenture Program (where SBA is a creditor of the SBIC), which 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 consequence, 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 financial integrity of the Debenture Program.

As of March 31, 2019,[4] there were 304 licensed SBICs with approximately $16.2 billion of private capital and $10.83 billion of outstanding SBA Leverage (of which $10.78 billion is Debenture Leverage and $6 million is Participating Securities Leverage). Of these SBICs: 227 use Debentures; 23 use Participating Securities; 48 do not use Leverage; and six are specialized SBICs.

During the 2018 Federal fiscal year (October 1 - September 30) (Federal FY) ended September 30, 2018, SBA licensed a total of 25 SBICs with approximately $1.2 billion of private capital. Of those, 21 were Debenture SBICs and four were Unleveraged SBICs.

During the first two quarters the 2019 Federal FY ended March 31, 2019, SBA licensed a total of five SBICs (of which three were Debenture SBICs and two were Unleveraged SBICs) with approximately $490 million of private capital.

SBA Leverage

SBA currently provides financing (called "Leverage") to SBICs in the form of "Debentures." SBIC's borrow Leverage by issuing Debentures. Debentures are unsecured ten-year loans issued by the SBIC that have interest only payable semi-annually. Most Debentures bear a temporary interest rate based on LIBOR until they are pooled and sold to the public. The interest rate (excluding the annual SBA "Charge" described below) on these Debentures is fixed when the SBA pools Debentures from various SBICs and sells them to the public, with the pooled Debentures having a 10-year maturity from the sale date. The interest rate recently has been between 33.8 and 65.9 basis points in excess of the interest rate on Treasury Notes with 10-year maturities (the "Treasury Note Rate"). In the most recent March 2019 pooling, the interest rate was 3.113 percent (excluding the annual SBA "Charge" described below). This interest rate represented a 0.513 percent premium to the Treasury Note Rate and reflected a decrease from the 3.548 percent (excluding the annual SBA "Charge" described below) rate set in the September 2018 pooling. As of March 31, 2019, there were $10.78 billion of Debentures outstanding, plus $3.40 billion of undrawn commitments to issue Debentures.

LMI and Energy Saving Debentures

More than a decade ago SBA created "LMI Debentures" for use by SBICs making equity investments in Low and Moderate Income Zones (LMI Zones) or in companies with significant numbers of employees in LMI Zones that are more fully described below under the heading "LMI Debentures." In addition, on April 19, 2012, SBA published final regulations authorizing a limited amount of so-called energy saving Debentures which would enable SBICs licensed after 2008 to acquire equity securities in energy saving qualified investments using Debentures. No Energy Saving Debentures have been issued.

Early Stage SBIC Initiative

On January 31, 2011, the Administration announced its "Start-Up America Initiative," which, among other things, had as its purpose to promote high-growth entrepreneurship across the country with new programs to help encourage private sector investment in startups and small firms. As part of this initiative, the SBA published final regulations on April 27, 2012, that established a new type of SBIC called an "Early Stage SBIC." By their own terms, these regulations provided that the Early Stage Program would terminate on September 30, 2016. On September 19, 2016, SBA published a "Notice of Proposed

Rulemaking" which proposed various changes to the Early Stage Program. The proposed rule reflected SBA's intent to continue licensing and providing SBA-guaranteed leverage to Early Stage SBICs beyond the initial five-year term previously announced and proposed regulatory changes. However, on September 28, 2017, SBA announced that it was not going to renew the Early Stage Program or finalize the proposed rule. In its memorandum announcing the non-renewal of the Early Stage Program, SBA encouraged venture capital fund managers to apply for a license as a non-leveraged SBIC (*i.e.*, an SBIC that does not utilize SBA debenture leverage).[5]

SBA licensed only five Early Stage SBIC's during the Early Stage Program's existence. SBA is no longer issuing leverage commitments to these Early Stage SBICs. However, they may continue to draw on their existing leverage commitments, subject to SBA regulations and policies.

Impact Investment Program

As part of the Start-Up American Program, the SBA also approved the creation of an Impact Investment Fund Program and set aside an aggregate of $1 billion of Debenture Leverage to be distributed over five years, beginning with Federal FY 2011. On September 25, 2014, SBA announced policy changes for this program, including an extension of the program past the original five year period and an intention to commit on average $200 million per year to Impact SBICs. On February 2, 2016, SBA published a proposed rule which would create a new class of SBIC's called "Impact SBICs." However, on September 28, 2017, SBA announced the termination of the Impact Investment Program. In its memorandum terminating the Impact Investment Program, SBA stated that, although it is terminating the Impact Investment Program, it remains committed to licensing qualified applicants which intend to finance small businesses located in underserved arears or employ an investment strategy focused on social, environmental, and/or economic impact.

Accordingly, since November 1, 2017, SBA has not accepted Management Assessment Questionnaires for applicants seeking to be licensed under the Impact Investment Program. Fund managers who have submitted Management Assessment Questionnaires before September 28, 2017 were given an opportunity to convert to a standard SBIC applicant by providing written notice to SBA no later than October 28, 2017. Fund managers with existing green light letters from SBA authorizing them to submit an application for an SBIC under the Impact Investment Program are permitted to submit the license application consistent with the requirements contained in the green light letter. If any such manager is approved as an Impact SBIC, then it must operate under the Impact SBIC policy guidance under which it is licensed.

Licensed SBICs that are operating under the Impact Investment Fund Program are required to continue operations under the Impact SBIC policy guidance under which they were licensed and, if they were approved to issue Debentures, SBA will continue its practice of approving leverage commitments and draws based upon SBA's regulations and credit policies that are applicable to all SBICs.

Business Development Companies

A significant number of the publicly traded BDCs have SBIC "subsidiaries" using Debentures. A BDC owned SBIC is generally able to use up to $175 million of Debentures on a 2:1 ratio to the amount of capital contributed to the SBIC. BDCs also may form more than one SBIC and thereby use up to $350 million of Debentures at one time. Formation of a second SBIC is subject to SBA policies that generally apply to the formation of second funds (requiring successful operations of the first fund for at least two years, among other requirements). SBIC subsidiaries of BDCs, like other SBICs, are required to have a limited life, typically with a five year investment period followed by a five year harvest period, and may not be formed with perpetual existence.

Reserving and Drawing Leverage

SBICs obtain Leverage by reserving a "Leverage Commitment" and then drawing down Leverage from that Commitment. Leverage Commitments may be obtained at the time of licensing for an amount up to one tier[6] of Leverage (subject to availability) and thereafter as needed for an amount of up to two tiers of Leverage,[7] but not more than twice in any Federal FY. When a Leverage Commitment is issued, the SBIC pays a "one time" commitment fee that is 1 percent of the amount of the Leverage Commitment. A Leverage Commitment expires on September 30 of the fourth Federal FY following the fiscal year of its issuance.

SBICs may apply twice each month to draw down Leverage Commitments. SBA's approval of a draw request is good for 58 days, and an SBA can make a draw against the approval on one day's notice. A newly licensed SBIC is permitted to draw only "one-half tier" of Leverage before SBA's first regulatory examination (generally 6-10 months after licensure).

Debentures that will be pooled use an interim credit facility provided by the Federal Home Loan Bank of Chicago. At the time of each disbursement for these pooled Debentures, fees totaling 2.425 percent are deducted from the amount the SBIC receives (a 2 percent "user" fee payable to SBA, 37.5 basis points of underwriting fees and 5 basis points as

an administrative fee to the Selling Agent). The SBIC pays an interim interest rate on Debenture Leverage of LIBOR plus 30 basis points and the amount of SBA's "Charge" described below. In March and September of each year, all Debenture Leverage issued since the prior pooling is pooled by SBA and sold to the public in the form of Trust Certificates and a new interest rate for all such Debenture Leverage is established and fixed until the Leverage is repaid.

Typical Use of Leverage

A management team may hold a closing and form its fund at any time before or after it files its formal SBIC application.[8] However, it may not obtain Leverage until it receives its license, a process that currently is taking about 6-12 months from the date that SBA accepts a filed license application for processing.[9] After the license application is accepted by SBA for processing, many applicants draw their private capital to pay organization expenses and management fees and to make investments. In any event, an SBIC is required to have drawn at least $2.5 million of private investors' capital prior to licensing. Once licensed, most SBICs fund their operations solely by using SBA Leverage until the ratio of outstanding Leverage to paid-in capital from private investors (called "Leverageable Capital") reaches two-to-one, and they then coordinate capital calls from private investors with the use of Leverage to maintain a two-to-one Leverage-to-drawn Private Capital ratio.[10] SBICs are permitted to borrow money from banks or other unaffiliated third parties prior to their initial Leverage, but SBA requires such borrowings to be repaid when Leverage is first drawn.

Leverage Availability

A single SBIC may use up to $175 million of Debentures and the total amount of Debentures that may be outstanding among a group of commonly controlled SBICs is limited to an aggregate of $350 million.[11] The amount of Leverage Commitments available to an SBIC is its Regulatory Capital multiplied by the tiers of Leverage that SBA has approved for the SBIC.

SBA obtains funds enabling it to supply Leverage for pooled Debentures by guarantying payment of Trust Certificates that are purchased by traditional purchasers of government-guaranteed notes. SBA then invests the proceeds in SBICs in the form of Debentures. SBA Guaranteed Trust Certificates for Debentures are sold in March and September of each year. SBA obtains funds enabling it to supply Leverage for Debentures that are not pooled (including LMI Debentures and Early Stage SBIC Debentures) by guarantying loans made by the Federal Home Loan Bank of Chicago.

The amount of Leverage Commitments that may be issued each year is subject to the amount authorized by Congress. In recent years, Congress has enacted authorized levels in three-year cycles. For Federal FY 2019, $4 billion of Leverage Commitments is expected to be available. Leverage Commitments issued by SBA each year have been well below the amounts authorized by Congress. During the past five Federal FYs, SBA issued a total of $12.098 billion of Leverage Commitments as shown in the following chart:

Federal FY	Leverage Commitments Issued by SBA
2014	$2.549 billion
2015	$2.553 billion
2016	$2.514 billion
2017	$1.960 billion
2018	$2.522 billion

SBICs drew a total of $10.581 billion of Debenture Leverage during the past five Federal FYs in the amounts shown in the following chart:

Federal FY	Leverage Drawn by SBICs
2014	$2.065 billion
2015	$2.337 billion
2016	$2.157 billion
2017	$1.902 billion
2018	$2.119 billion

The Trust Certificates representing an interest in the pooled Debentures are sold with the assistance of investment bankers (who receive a 37.5 basis point fee) to institutional purchasers of government-guaranteed, fixed rate notes with 10-year maturities. The interest rate on Trust Certificates is a premium over the 10-year Treasury Note Rate. The premium has been as high as 2.273 percent in the pooling in September 2008. Since then the premium has decreased dramatically and, during the last five years, has been less than 1 percent. The premium over the 10-year Treasury Note Rate for each of the last ten (10) poolings is shown in the following chart:

Pooling Date	10 Year Treasury Rate	Premium	Total Interest Rate (excluding SBA Charge)
September 2014	2.591%	0.424%	3.051%
March 2015	2.059%	0.458%	2.517%
September 2015	2.170%	0.659%	2.829%
March 2016	1.996%	0.541%	2.507%
September 2016	1.713%	0.338%	2.051%
March 2017	2.430%	0.415%	2.845%
September 2017	2.202%	0.316%	2.518%
March 2018	2.812%	0.375%	3.187%
September 2018	2.958%	0.590%	3.548%
March 2019	2.600%	0.513%	3.113%

Historically, the amount of Leverage Commitments that SBA could issue each year was subject to annual Congressional appropriation of an amount necessary to cover anticipated losses on the Leverage issued. Thus, the amount of Congressional appropriation and the rate of loss anticipated on the issued Leverage (referred to as the "Subsidy Rate") determined the actual amount of Leverage that would be available each year. This typically resulted in significantly less Leverage being available than the level "authorized" by Congress. Beginning on September 1, 1996, SBA charged a 1.00 percent annual "Charge" on Leverage it provided to SBICs, causing significant reductions in required Congressional appropriations needed to support increasing amounts of available Leverage. The amount of the "Charge" is determined in the fiscal year in which a Leverage Commitment is issued and applies to all Leverage issued pursuant to that Commitment. The Subsidy Rate was substantially reduced in the case of Debentures to less than 1.00 percent with the result that no appropriations were required to support their issuance beginning in Federal FY 2000.

In December 2000 legislation was enacted requiring SBA to set the amount of the Charge it imposed on Commitments issued each fiscal year at the rate necessary so that the sum of all fees charged (including 1 percent commitment fees, 2 percent user fees, the annual "Charge" and anticipated profit distributions) would equal the amount of anticipated losses. The Charge for Leverage Commitments issued between Federal FY 2006 and Federal FY 2018 varied from a low of 0.285 percent, for Federal FY 2010 to a high of 0.94 percent for Federal FY 2006. The Charge for Leverage Commitments issued in Federal FYs 2014, 2015, 2016, 2017 and 2018 was 0.355 percent, 0.742 percent, 0.672 percent, 0.347 percent and 0.222 percent, respectively. The Charge for Leverage Commitments issued during Federal FY 2019 is 0.094 percent, an all-time low.

SBA's website contains historical information concerning the SBIC Program, including the amount and pricing of Leverage committed and issued since the SBIC Program was restructured in 1994.

Summary of Calculation of Interest Rate Charged on Conventional Pooled Debentures

The rate of interest payable by a conventional SBIC on pooled Debentures is the sum of the following:

1. The interest rate of Treasury Notes with 10-year maturities at the time the Trust Certificates are pooled and sold

2. The premium required by the purchasers of the Trust Certificates above the 10-year Treasury Note Rate, and

3. The annual Charge payable to SBA at the rate applicable in the fiscal year in which the Commitment was issued.

Thus, for example, the interest rate for Debentures issued in the March 2019 pooling pursuant to a Leverage Commitment issued during Federal FY 2018 was:

2.600%	10 Year Treasury Rate
0.513%	Premium required by Trust Certificate purchasers
3.113%	Trust Certificate Rate
0.222%	SBA Charge for Debenture Commitment issued in Federal FY 2018
3.335%	**Total Interest Rate**

Repayment of Debenture Leverage

Debentures that have 10-year maturities from the date of pooling, are not amortized prior to maturity, and bear interest payable semi-annually.[12] Debentures are unsecured, and the General Partner of the SBIC is generally not liable for their repayment. Beginning with the September 2006 issuance, Debentures may be prepaid without penalty, but a Debenture must be repaid in whole. Repayment of Debentures is subordinate to repayment of

loans from non-Associate lenders up to the lesser of $10 million or twice the amount of the SBIC's Regulatory Capital.[13] SBA is able to issue Debentures with maturities shorter than 10 years, but has not done so since 1991.

Unrelated Business Taxable Income Exemption

Prior to October 2004, certain tax-exempt entities that invested in SBICs were subject to recognition of unrelated business taxable income (UBTI) as a result of the issuance of Debentures. Tax legislation adopted in October 2004 exempts tax-exempt investors from UBTI that otherwise would be caused by the issuance of Debentures by SBICs licensed after enactment of the legislation, but only if no tax-exempt investor (other than a governmental unit) owns more than 25 percent of the capital or profits interest of the SBIC and all tax-exempt investors (including governmental units, other than any agency or instrumentality of the United States) own less than 50 percent of the capital and profits interest of the SBIC.

Distributions by Debenture SBICs

An SBIC using Debentures makes distributions among its Partners as provided in the SBIC's limited partnership or operating agreement. The sources of those distributions are limited as follows:

1. Distributions from positive Retained Earnings Available for Distribution, so-called "READ." An SBIC has READ if it has positive net realized cumulative retained earnings, that is the cumulative earnings after all expenses and realized and unrealized depreciation of investments have been deducted. An SBIC may distribute an amount equal to READ prior to repayment of its outstanding Debentures. Note that SBA determines whether distributions have been made in excess of READ as of the end of each calendar year.

2. In addition to distributions from READ described in paragraph one, except as provided in paragraph three below, until all Debentures have been repaid in full, an SBIC may make distributions in any calendar year up to two percent of its Regulatory Capital.[14]

3. After an SBIC has substantially completed making new investments, it generally files a "wind-up" plan with SBA. If SBA feels secure about repayment of outstanding Debentures, SBA may permit some repayment of Regulatory Capital prior to the repayment in full of all outstanding Debentures. SBA generally only gives that

approval when the SBIC has previously made significant repayments of Debentures, the remaining portfolio is performing well and SBA feels reasonably well assured that outstanding Debentures will be repaid in full. With respect to funds available for distribution, an SBIC will seek to negotiate with SBA the proportion of those funds that will be used to repay Debentures and to make distributions constituting a return of Regulatory Capital. While sometimes this proportion is 1:1, an SBIC cannot reliably predict what arrangement, if any, SBA may be willing to accept.

SBICs are permitted to make distributions before the end of a fiscal year. In situations where an SBIC made a distribution mid-year from READ that then existed, but at the end of the year the SBIC did not have READ for the year (for example, if the SBIC wrote off an investment after mid-year), SBA has taken the position that the SBIC's distribution was improper and that event of default occurred under the Debenture Leverage. In such case, the SBIC would be given a specified period of time to cure the default, not less than fifteen days. The failure to cure could result in SBA declaring all Debentures immediately due and payable and seeking the appointment of SBA or its designee as a receiver.

Unlike conventional Debentures which are permitted to make distributions to its investors from READ before Debentures are repaid, an Early Stage SBIC must make distributions to SBA concurrently with the making of any distributions to its investors. The amount that an Early Stage SBIC must distribute to SBA is determined by a formula based on the degree of Capital Impairment,[15] a Leverage Ratio and amounts previously distributed to SBA.

Just in Time Financing

The SBIC Program permits the funds from investors and SBA Leverage to be taken down by the Partnership in "lock step," thereby delaying investor capital calls and potentially increasing investor returns. An SBIC using Debentures is required to have total Regulatory Capital of at least $5 million ($20 million in the case of an Early Stage SBIC).[16] However, SBA requires an SBIC applicant to have firm commitments when it files its formal license application in an amount equal to the amount of capital that is sufficient to enable the applicant to have a first closing and conduct its operations even if does not subsequently raise additional funds (generally, at least $20-$25 million). While an applicant needs to have binding subscriptions for the full amount of its Regulatory Capital, only $2.5 million of the SBIC's Regulatory Capital needs to be paid-in prior to issuance of the SBIC License.[17]

LMI Debentures

On September 30, 1999, SBA adopted regulations providing incentives for SBICs to invest in Low and Moderate Income Zones (LMI Zones). An LMI Zone is a geographic area that satisfies one of five definitions that currently are used by different Federal agencies in determining areas requiring special attention. Debenture SBICs also may use LMI Debentures. Highlights of the regulations are as follows:

1. SBICs making venture capital type investments (equity or certain subordinated loans) in small businesses with 50 percent or more of its employees or tangible assets in an LMI Zone, or to a small business that has 35 percent of its employees residing in an LMI Zone, will be eligible to obtain SBA financing in the form of a deferred interest Debenture. SBA intends to issue non-amortizing Debentures with maturities of 5 or 10 years, each with a "zero coupon" for the first five years. If the interest rate is 5 percent, this means that the SBIC would receive approximately $75,000 in proceeds for issuing a $100,000 Debenture. On the 10-year Debentures, interest would be payable semi-annually commencing in the sixth year.

2. The Small Business financed by the SBIC must either satisfy the employee or asset test described above at the time of applying to the SBIC for financing, or within 180 days after the closing of the financing.

3. LMI Debentures will be issuable to SBICs that have reserved Debenture Leverage. At the time of making a draw request, the SBIC specifies whether it will use an LMI Debenture or a regular Debenture. The interest rate for the LMI Debenture is fixed when it is initially issued for its full term. LMI Debentures will be held by the Federal Home Loan Bank of Chicago and are not pooled in the same manner as other Leverage.

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. 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 and Dodd-Frank Act Exemptions

As part of the implementation of the Gramm-Leach-Bliley Act (the "GLB Act"), 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 percent Tier 1 capital deduction applies on covered investments that in the aggregate are less than 15 percent of an organization's Tier 1 capital, a 12 percent deduction applies to investments aggregating 15-24.99 percent of Tier 1 capital, and a 25 percent deduction applies to investments aggregating 25 percent and above of Tier 1 capital. The regulations exempt SBIC investments from such capital charges so long as their value is less than 15 percent of Tier 1 capital. However, the amount of SBIC investments will be considered when determining capital charges with respect to 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 percent 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, non-bank financial companies that engage in proprietary trading or 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.

Investment Advisers Act Exemption

An adviser that solely advises SBICs, an entity that has received a "green light letter" authorizing it to submit a formal SBIC license application to SBA and an applicant that is affiliated with one or more SBICs and that has applied for another SBIC license are expressly exempted from the Dodd-Frank Act amendments to the Investment Advisers Act of 1940 (the "Advisors Act") which generally require advisers to certain types of private funds to register with the Securities and Exchange Commission 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, and for investment advisers that advise venture funds and SBICs. Before the enactment of the SBIC Advisers Relief Act, only advisers solely to private funds that had assets under management in the United States 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, prior to 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 towards the $150 million threshold for purposes of determining whether an investment adviser satisfies 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.

SBIC Investments

An SBIC can only invest in "Small Businesses" and must invest at least 25 percent of its invested funds in "Smaller Enterprises."[18] 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 carry-forwards) 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.[19] 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 which meets the alternative test. 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 restrict the amount that an SBIC is permitted to invest in any company and its affiliates (the so-called "overline limit"). The Stimulus Legislation of 2009 changed the overline limit from 20 percent of "Regulatory Capital" to 10 percent of the sum of Regulatory Capital[20] and the total amount of Leverage that is projected to be used by the SBIC in its business plan that was approved at the time its SBIC's license was granted (*i.e.*, 30 percent of Regulatory Capital if Regulatory Capital is $75 million or less and the Regulatory Capital is proposed to be fully leveraged with two tiers of Leverage). By way of example, if an SBIC has Regulatory Capital of $25 million, it may not invest more than $7.5 million in a single company without SBA's approval (assuming the SBIC was approved for two tiers of Leverage at the time it was licensed as an SBIC). SBA may approve a larger percentage if necessary to protect the SBIC's investment, but has indicated it will give such consent only in unusual circumstances.

SBIC regulations preclude investment in the following types of businesses: companies whose principal business is re-lending or re-investing (venture capital firms, leasing companies, factors, banks); many kinds of real estate projects; single-purpose projects that are not continuing businesses; companies that will use the proceeds outside of the United States or have more than 49 percent of their tangible assets or employees outside the United States 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 percent or more of the funds to buy goods or services from an associated supplier.

Historically, SBA regulations prevented an SBIC (or two or more SBICs acting together) and its Associates (controlled or related persons) from controlling a small business, except on a temporary basis to protect its investment or if the small business was a "start-up." In December 2000, legislation was enacted eliminating the legislative basis for regulating "control during the investment period." Effective November 21, 2002, SBA adopted final regulations permitting an SBIC and its Associates to control a small business for up to seven years, and with SBA's consent, for a longer period, to 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[19] 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 are fair 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 not less than 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 "straight line." The permissible interest rate depends on the type of debt. For straight Loans, the maximum permitted rate is the higher of (i) 19 percent or (ii) 11 percent over the higher of the SBIC's weighted cost of Debenture Leverage or the current Debenture Rate. For Debt Securities, the maximum permitted rate is the higher of (i) 14 percent or (ii) 6 percent 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 percent of the proposed financing and closing fees of up to 4 percent of the financing if it is a Debt Security, or 2 percent for Loans, (ii) permitted prepayment penalties, and (iii) reasonable monitoring expenses, 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). In addition, SBICs may 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 percent 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 (i) the purchase price or (ii) a price determined at the time of redemption based on (a) a reasonable formula that reflects the performance of the company (*e.g.,* based on the book value or earnings) or (b) 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 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 include:

An SBIC using Leverage must invest its "idle funds" not invested in Small Businesses, in liquid, safe, short-term investments specified in the regulations: principally, U.S. government obligations, repurchase obligations with federally insured institutions with a maturity of 7 days or less and whose underlying securities are direct U.S. government obligations, federally-insured deposits, and deposits in "well-capitalized" federally-insured financial institutions.

An SBIC and its Associates may provide management services to Small Businesses in which the SBIC invests, but only may charge for services at competitive rates for services actually rendered. SBA requires that SBICs applying for a license after April 1, 2004, must credit 100 percent of such fees (if not paid to the SBIC) against the management fee otherwise payable by the SBIC to the management team (except for placement fees paid to associated licensed broker-dealers).

SBICs are required to value their assets annually (semi-annually, if Leverage is used) pursuant to valuation guidelines approved by SBA. SBA has issued model valuation guidelines that are similar to those customarily used by venture capital firms, but do not conform with generally accepted accounting principles.

An SBIC's ability to borrow funds from third parties is subject to SBA regulation. SBICs may only incur unsecured debt.

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 which is 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" and "Leverageable 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.

A key regulatory metric for SBA is the extent of "Capital Impairment," which is the extent of realized (and, in certain circumstances, net unrealized) losses of an SBIC compared with the SBIC's Regulatory Capital. Interest payments, management fees, organization and other expenses are included in determining "realized losses." SBA regulations preclude the full amount of "unrealized appreciation" in the value of an SBIC's portfolio companies from being considered when calculating Capital Impairment in certain circumstances. If an SBIC issues Leverage, it will be required to avoid Capital Impairment. Capital Impairment will be considered to exist if the SBIC's "Capital Impairment Ratio" (calculated by adding the SBIC's realized losses and net unrealized depreciation[22] and dividing the result by the SBIC's private capital) exceeds permitted levels detailed in the regulations and which vary depending on the proportion of equity investments made by the SBIC and the ratio of outstanding Leverage to Leverageable Capital.

SBA has certain rights and remedies if the SBIC violates SBA regulations, which include being in a condition of Capital Impairment. Remedies for regulatory violations are graduated in severity depending on the seriousness of Capital Impairment or other regulatory violation. For minor regulatory infractions, warnings are given. For serious infractions the use of Debentures may be limited or prohibited, outstanding Debentures may be declared to be immediately due and payable, 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 Partnership'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. SBA strongly encourages Debenture SBICs to be organized as limited partnerships.

Investors

Investors may be either domestic or foreign individuals or entities. The SBIC Act specifically authorizes banks and Federal savings associations to invest up to 5 percent of their capital and surplus in SBICs. Certain investors owning 33 percent 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 percent or more of any investor owning 10 percent of an SBIC must be identified to SBA in the SBIC's license application.

Diversity of Ownership

SBA has regulations and policies designed to assure that Leveraged SBICs receive significant investments from investors who do not participate in or otherwise control the SBIC's management. Additionally, a Leveraged SBIC must receive at least 30 percent of its private capital from a total of three or more investors who are unrelated to the management and who are not affiliated with one another or from a single such investor meeting certain limited qualifications (such as a bank, insurance company or certain publicly traded corporations). No single investor, together with its affiliates, may own more than 70 percent of a Leveraged SBIC's private capital.

Restrictions on Transfer

Investors in an SBIC may not transfer their interests without SBA's prior consent. Additionally, as a condition to providing Leverage to the SBIC, SBA presently requires investors owning 50 percent or more of an SBIC that uses Leverage (as well as the SBIC's managers and other "control persons") to enter into a written agreement with SBA providing for personal liability for repayment of Leverage for directly or indirectly participating in a change of control of an SBIC 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.

Management Fee

Management fees paid by SBICs using Leverage are subject to SBA's prior approval. Leveraged SBICs that submit license applications from and after April 1, 2004 and that

intend to use Leverage, are permitted to charge an annual management fee of up to 2.5 percent of the sum of (i) the amount of its “Regulatory Capital” (adding back certain distributions made which reduced Regulatory Capital) and (ii) the amount of Debenture Leverage the SBIC plans to use that is approved by SBA, for five years, and thereafter 2.5 percent of the cost basis of loans and investments in active portfolio companies. However, if the base on which the fee is calculated exceeds $60 million, the permissible rate declines to 2 percent when the base is $120 million or more. SBA policies require that management fees for Leveraged SBICs be reduced by 100 percent consulting, board and other fees received from portfolio companies by affiliates of the SBIC’s general partner (except for fees paid to licensed broker-dealers). SBA only permits increases in Regulatory Capital to create a prospective entitlement to increased management fees (*i.e.*, the increased level of management fees only may be charged from the beginning of the calendar quarter in which the Regulatory Capital is increased, not the date of the initial closing). SBA’s policies concerning Management Fees are quite detailed and are set forth in Tech Note 7A.[23]

Licensing

SBA uses a two-step licensing process for “first time” SBICs. In the first phase, an applicant completes and submits to SBA a form entitled Management Assessment Questionnaire (MAQ). An applicant must pay SBA a non-refundable fee of $10,000 at the time it submits the MAQ.[24] 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 ten 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 percent or more of the carried interest, unless there are only two Principals and they each have 50 percent.

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 turn the application down or issue a "green light letter" indicating that the applicant has passed the first part of the application process and now 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. Applicants must pay SBA an additional non-refundable license application fee of $20,000 at the time they submit their formal application for an SBIC license.[25]

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 which 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 that is 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 $20–25 million of private commitments, or more, at the time the application is filed. During the formal licensing process, SBA seeks to determine that there is a qualified management team and that 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 presently is taking approximately 6-12 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 they are 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. SBA requires all principal members of the management team to attend a one-day regulations class run by SBA and will only permit one “pre-licensing” investment to be made prior to at least one person from applicant attending the class. Arrangements for attending the regulations class are made by contacting SBIA.

Timeline

Applicants should assume the following timeline for securing a license and Leverage.

Management Assessment Questionnaire	3-6 months
Formal License Approval	6-12 months
Receipt of Leverage Following Licensing	1-2 months
	10-20 months
Use of More than One-Half of One Tier of Leverage Following Licensing	6-10 months after licensing

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, there should be substantially the same management team that is pursuing an investment strategy that is substantially similar to 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 percent of its investable capital with the other SBIC.

Endnotes

1 This longtime ability of banks, Federal savings associations and their holdings companies to invest in SBICs was preserved in the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act").

2 U.S. Small Business Administration Offering Circular, Series SBIC 2019-10 A, March 12, 2019.

3 Small Business Administration – 2017 SBIC Update Summary.

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

5 A more detailed description of the Non-Leveraged SBIC Program is available from Pepper Hamilton LLP.

6 A "tier" is SBA jargon for the multiple of an SBIC's "Regulatory Capital" the SBIC may obtain in Leverage. "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 its unfunded commitment that is less than 10 percent 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 percent of their net worth, $2 million. Not more than 33 percent of the SBIC's Regulatory Capital may be invested by state or local government entities that are not pension plans.

7 SBA permits Debenture SBICs that are performing well and have seasoned portfolios to use a "third tier" of Leverage in certain limited circumstances. See the section below entitled "Just in Time Financing."

8 See the section below entitled "Licensing."

9 An SBIC that makes an investment prior to the acceptance of its license application by SBA will not be able to include the amount so invested in the SBIC's Regulatory Capital.

10 SBA policies, however, require that an SBIC must have invested in portfolio companies at least 50 percent of the Private Capital that it had drawn prior to receipt of Leverage. Some SBICs that have incurred sizeable organization expenses and/or management fees prior to making investments have found it necessary to draw more than $2.5 million of Private Capital in order to comply with this policy. Additionally, Debenture funds may draw at a three-to-one ratio in certain limited circumstances.

11 The regulations implementing the New Markets Venture Capital Program Act of 2000 provide that an SBIC may have outstanding Leverage in excess of the generally applicable Leverage ceiling based on investments in "low income geographic areas." For SBIC's licensed before October 1, 2009, the Leverage ceiling is calculated without regard to the amount of the cost basis of equity investments in "Smaller Enterprises" located in a "low income geographic area" (but only to the extent that such amounts do not exceed 50 percent of the SBIC's "Leverageable Capital"). For SBIC's licensed from and after October 1, 2009, the single SBIC leverage ceiling is increased to $175 million if at least 50 percent of each such SBIC's financings has been and will be invested in "Small Businesses" located in a "low income geographic area."

12 Early Stage SBIC Debentures require quarterly interest payments.

13 Currently SBA does not permit SBICs with outstanding Leverage to have secured debt.

14 The restrictions on distributions set forth in paragraphs one and two may cause a "phantom income" issue when an SBIC using Debentures realizes income in a year that does not exceed the amount of prior cumulative net losses. Distribution of such "income" would reduce the amount of the SBIC's Regulatory Capital and, therefore, is subject to the 2 percent limitation. While investors may have received the benefit of deductions for these losses in prior years (although use of such losses is severely restricted for individuals), they may incur phantom income in the year in which such profits arise. These restrictions also may cause operating issues for SBICs whose limited partnership agreements restrict the reinvestment of realized investment proceeds.

15 See discussion under "SBIC Operations."

16 See "Licensing" for a discussion of the minimum private capitalization required to file a license application.

17 SBA policies, however, require that an SBIC must have invested in portfolio companies at least 50 percent of the Private Capital that it had drawn prior to receipt of Leverage. Some SBICs that have incurred sizeable organization expenses and/or management fees prior to making investments have found it necessary to draw more than $2.5 million of Private Capital in order to comply with this policy. Additionally, Debenture funds may draw at a three-to-one ratio in certain limited circumstances.

18 This percentage may be lower for certain SBICs licensed before February 17, 2009.

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

20 Regulatory Capital for this purpose has a somewhat more expansive definition in determining overline limits because certain distributions may be added back in.

21 The definition of an Associate is complex, generally covering all control persons and their respective control persons, but also includes other persons.

22 The actual calculation is complex as certain types of unrealized appreciation are not fully credited.

23 On June 21, 2017, SBA published for comment a draft TechNote 7b which, upon its effectiveness, will supersede TechNote 7A.

24 Before December 13, 2017, SBA did not charge a fee for MAQ filings. The $10,000 fee for MAQ filings will apply until September 30, 2021. Beginning October 1, 2021, the fee for MAQ filings will be adjusted for inflation.

25 Starting October 1, 2018, the fee for formal SBIC license applications increased from $20,000 to $25,000 and will increase annually on a Federal FY basis in $5,000 increments through September 30, 2021. Beginning October 1, 2021, the fee for formal SBIC license applications will be adjusted for inflation.