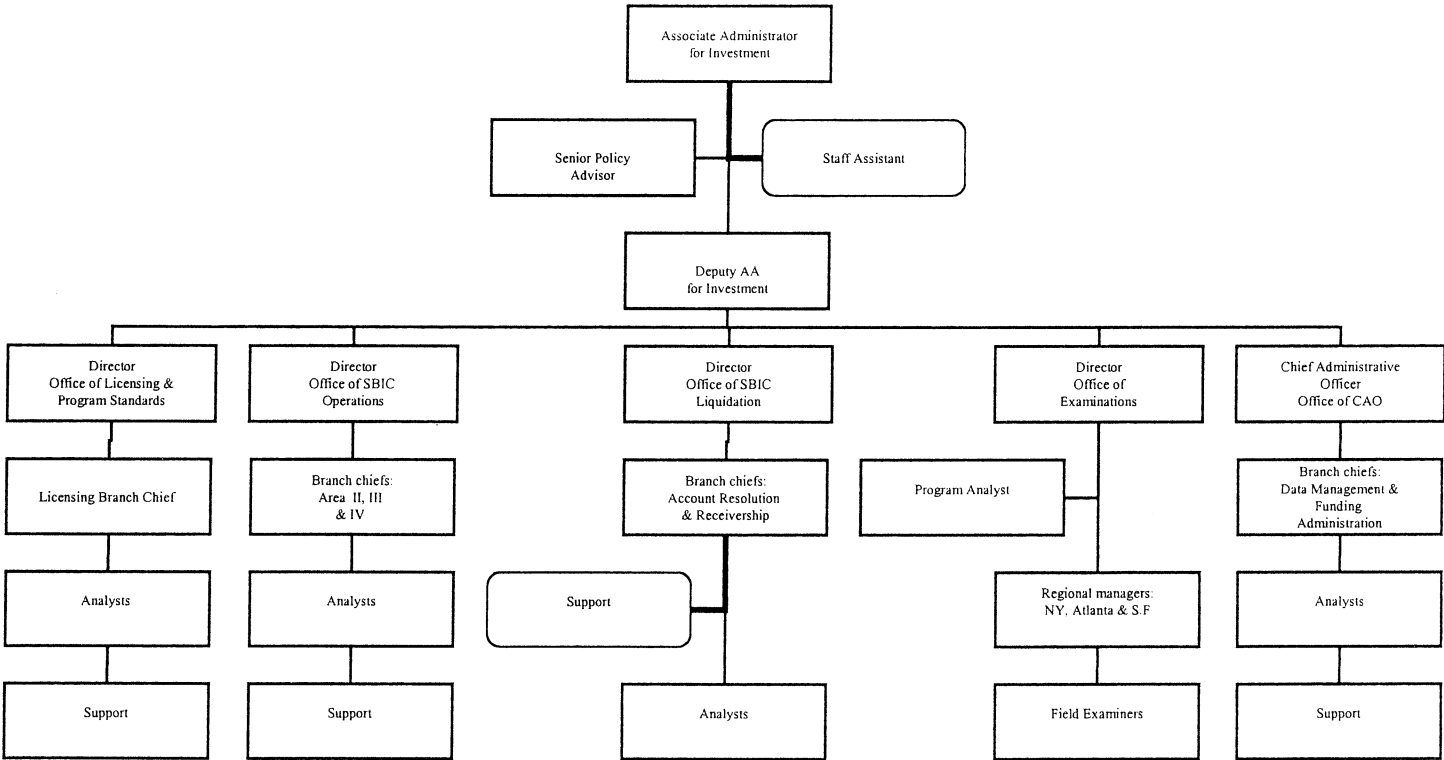


APPENDIX 1- 1

Organizational Chart of Investment Division

INVESTMENT DIVISION

March 2007



APPENDIX 1- 2

Delegation of Authority



INVESTMENT DIVISION
SUITE 6600
U. S. SMALL BUSINESS ADMINISTRATION
WASHINGTON, DC 20416

MEMORANDUM

DATE: MAY 26 1984

TO: Director, OI
Area Chiefs
Account Executives

FROM: Robert D. Stillman
Associate Administrator for Investment

SUBJECT: I. Delegation of Authority
II. Authorization to Sign Correspondence for
the Office of Investment, Investment Division

The April 4, 1984 delegation of authority covering the Office of Investment has been updated to reflect certain organizational changes.

Effective immediately, the following delegations and authorizations are to be followed until changed in writing by me or other higher authority. (References in this memorandum to SBICs includes Section 301(d) SBICs.)

Final Approvals Operating Functions

The Administrator will grant final approvals of applications for Licenses and Transfers of Control. The Associate Administrator for Investment will grant final approvals (or denials) of Leverage, Surrenders and Preferred Stock Redemptions. All recommendations for approval as above must include clearances (sign off) of the Financial Analyst, Area Chief, Director, and other agency jurisdictions (Legal etc.), as appropriate.

Federal Register Notices

All Federal Register Notices will be signed by the AA/I.

Office of Investment Correspondence

Attached is a schedule which lists all significant correspondence of the Office of Investment. This schedule is divided into four sub-schedules as follows: General Applicability, Licensing and Delicensing, SBIC Leverage, and SBIC Regulation.

Effective immediately, this schedule must be followed for all

written correspondence and oral (meetings and phone calls) communications on SBIC program matters. All written correspondence must continue to include clearances beginning with the preparer and continuing through appropriate oversight or supervisory levels and including clearances for other required agency jurisdictions (Legal, etc.).

All written correspondence, and the memoranda which documents oral communications must be coded on the left hand bottom portion of the signatory page with the applicable authority being used. For example, a letter signed by an Area Chief which follows-up for a response to a prior SBA letter would carry the code "A-11". One approving a transfer of control would be coded "B-5⁴¹".

The coding will be used to insure compliance with the authorization and to provide for indexing or cataloging agency decisions.

Documentation of meetings and phone calls is essential. Effective immediately, all meetings must be documented in writing, such documentation to include date, time, attendees, agenda, and a summary of the meeting including decisions made, agreements reached, information requested, and all material issues discussed. Phone calls of a significant nature, where decisions were made or agreements reached or information requested, should followed up with written correspondence.

Thank you for your continuing cooperation.

Attachment

A. GENERAL APPLICABILITY

<u>Correspondence or Action</u>	<u>To</u>	<u>Approving/Signing Official</u>
1. Correspondence designated by the Administrator	Any Person/Org.	AA/I
2. New policy or matters of special importance as determined by the AA/I	Any Person/Org.	AA/I
3. All matters of first impression or unique situations without precedent	Any Person/Org.	AA/I
4. Federal Register Notices	Federal Register (Public Notice)	AA/I
5. Extensions of time where formal agreements are involved or where unique or unprecedented matter is involved	SBICs/Other Persons	Dir/OI
6. Signature on SBA legal agreements with SBICs	SBICs	Dir/OI
7. Federal, State, or Local government correspondence not specifically reserved by, or delegated to other SBA officials	Gov't Agencies	AA/I
8. Request for legal opinions on cases	General Counsel	Area Chief**
9. Transfer of investigations to legal	General Counsel	Area Chief**
10. Comments to SEC on registrations or other SBIC filings with SEC (except for conflicts of interests)	SEC	Area Chief**
11. Follow-up letters	SBICs	Acnt. Exec. *
12. Acknowledgements	SBICs	Acnt. Exec.
13. Transmittal of forms, etc.	SBICs/Proponents	Acnt. Exec.
14. Transfer of checks to cashier	Program Support	Acnt. Exec.
15. Requests for current payment status	Fiscal Operations	Acnt. Exec.

* Clearance of Area Chief

** Clearance of Dir/OI

16.	Freedom of Information Requests	Public	Area Chief**
99.	Miscellaneous	Any Person	Area Chief

B. LICENSING AND DELICENSING

	<u>Correspondence or Action</u>	<u>To</u>	<u>Approving/Signing Official</u>
1.	Approvals or denials of new license applications	SBIC/Proponents	Administrator
2.	Letters to proposed licensees advising of approval or denial	SBIC/Proponents	AA/I
3.	Request for surrender of licenses	SBICs	Area Chief**
4.	Request for revocation of license	General Counsel	Dir/OI
5.	Approvals or denials of transfers of control	SBICs	Administrator
6.	Transfer of SBICs to OL pursuant to Pre-Liquidation Conference	OL/OGC	Dir/OI
7.	Special determinations on transfers of control	SBICs	<u>Dir. Lic.</u>
8.	Comments on new or amended license applications	SBICs/Proponents	Dir. Lic.
9.	Approvals of significant post-licensing amendments	SBICs	Area Chief**
10.	Approvals of non-significant post-licensing amendments	SBICs	Acnt. Exec. *
11.	All memos to Office of Liquidation	OL	Acnt. Exec. *
12.	Approval of Branch Offices and/or new Officers, Directors Stockholders	SBICs	Acnt. Exec. *
13.	Transmittal of license applications for legal comment	General Counsel	Acnt. Exec.
14.	Request for legal comments on transfer of control	General Counsel	Acnt. Exec.
15.	Approvals of name changes and fiscal years	SBICs	Acnt. Exec. *

* Clearance of Area Chief

** Clearance of Dir/OI

16.	Request for S&I clearances and follow-ups thereon	IG	Acnt. Exec.
17.	Requests for Field Office comments on licensing	SBA Field Offices	Area Chief
99.	Miscellaneous	Any Person	Dir/OI

C. SBIC LEVERAGE

	<u>Correspondence or Action</u>	<u>To</u>	<u>Approving/Signing Official</u>
1.	Approvals or denials of debenture, preferred stock, and participating security leverage applications; preferred stock redemptions	SBICs	AA/I
2.	Correspondence with other agencies or outside groups involving funding and leveraging mechanisms	Other Agencies Other Groups	Dir/OI
3.	Approval letters on leverage applications	SBICs	Acnt. Exec. *
4.	Denial letters on leverage applications	SBICs	Area Chief**
5.	Additional information requests on funding application when significant	SBICs	Acnt. Exec.
6.	Return of incomplete or withdrawn drawn leverage applications	SBICs	Area Chief
99.	Miscellaneous	Any Person	Dir/OI

* Clearance of Area Chief ** Clearance of Dir/OI

D. SBIC REGULATION

<u>Correspondence or Action</u>	<u>To</u>	<u>Approving/Signing Official</u>
1. Prior approval requests in unique and/or unprecedented situations	SBICs	Dir/OI
2. Sale of portfolio securities to associates	SBICs	Area Chief**
3. Request for Pre-Liquidation Conference (SOP 50 53)	OGC/OL	Dir/OI
4. Acceptance of cures of violations in unique and/or unprecedented situations	SBICs	Dir/OI
5. Requests for legal action against SBICs	General Counsel	Dir/OI
6. Spec. determ. capital impairment	SBICs	Area Chief**
7. Spec. determ. control and divestiture situations	SBICs	Area Chief**
8. Spec. determ. Mgmt. and Inv. Advisory Agreements	SBICs	Area Chief**
9. Spec. determ. conflicts of interest	SBICs	Area Chief**
10. Spec. determ. cost of money matters	SBICs	Area Chief**
11. Spec. determ. recapitalizations	SBICs	Area Chief**
12. Spec. determ. salary and compensation increases for leveraged SBICs	SBICs	Area Chief**
13. Spec. determ. prior approvals not included elsewhere herein	SBICs	Area Chief**
14. Spec. determ. dividends and distributions in excess of 2%	SBICs	Area Chief**
15. All memos to Inspector General involving SBIC cases (cleared by RA/D)	IG	Dir/OI

** Clearance of Director/OI

16.	Except those reserved for AA/I, all acceptances of licensee's cures of violations on significant matters	SBICs	Area Chief**
17.	Extensions of time when involving impairment, control, cost of money, conflicts of interest, license appl.	SBICs	Area Chief**
18.	Examination letters to SBICs	SBICs	Area Chief**
19.	Request for additional information on regulatory matters	SBICs	Acnt. Exec. *
20.	Spec. determ. overline approvals	SBICs	Area Chief
21.	Spec. determ. size standards	SBICs	Acnt. Exec. *
22.	Spec. determ. capital increases	SBICs	Acnt. Exec. *
23.	Spec. determ. accounting treatment and regulations	SBICs	Acnt. Exec. *
24.	Comments on Fin. Statements (SBA 468)	SBICs	Acnt. Exec. *
25.	Extensions of time on routine matters	SBICs	Acnt. Exec. *
26.	Memos to files on reasons for exam findings not being cited	Files	Area Chief Dir/OI Office of Exams
27.	All other reg. matters not of significant nature	SBICs	Acnt. Exec. *
28.	§107.1201 Exemptions	SBICs	AA/I
29.	Plans of divestiture	SBICs	Acnt. Exec. *
30.	Inactivity	SBICs	Acnt. Exec. *
31.	§107.1004 Changes	SBICs	Acnt. Exec. *
39.	Miscellaneous	Any Person	Dir/OI

* Clearance of Area Chief

** Clearance of Director/OI

APPENDIX 3-1

SBIC TechNotes Number 5

TechNotes # 5

SBIC TechNotes

November 2000 - Number 5

CREDIT MANAGEMENT PROCEDURES

The purpose of this TechNote is to provide information with respect to certain procedures within the Office of Investment which affect the availability of SBA leverage and the management of SBA's risk as a creditor or as a preferred limited partner in certain SBICs. Any questions regarding these practices may be addressed to the appropriate party within the Office of SBIC Operations (the Director, or the appropriate Area Chief or Financial Analyst), or to the Chief of Licensing.

CONDITIONS FOR FIRST TAKEDOWN OF SBA LEVERAGE

Commitments for the funding of leverage are issued pursuant to 13 CFR 107.1200 through 107.1240. Normally, commitments will be offered only twice a year (May and November). Licensees should note these dates in their annual plans in order to prepare for them. New licensees do not need to wait until the next period of commitment availability, but will be given the opportunity to purchase leverage commitments for up to two tiers of Regulatory Capital at the time of licensing. In order to reduce the number of transactions and to save processing time, licensees are asked to submit commitment requests for a minimum of 25% of Regulatory Capital.

All licensees must obtain a commitment in order to draw leverage, regardless of the type of leverage utilized. Commitments expire on September 30 of the fourth full federal fiscal year following issuance and require the payment of a fee equal to 1 percent of the total commitment at the time of issuance. An additional fee equal to 2 percent of the amount drawn is deducted from each disbursement of funds to the licensee.

For newly licensed companies, SBA will not approve commitments until the company has submitted an opening SBA Form 468. In addition, in order to be eligible for its first draw on a commitment, the newly licensed SBIC must have invested at least 50 percent of its Leverageable Capital. Generally not more than one half tier (50%) of Regulatory Capital can be drawn for new licensees until there has been some investment activity and an examination to review that activity. Successor funds with management teams successful in the SBIC program will not be subject to this limitation.

LIMITS ON DEBENTURE LEVERAGE FOR EQUITY INVESTORS

Recently, most SBICs intending to invest in equity-type securities have chosen to be licensed as participating securities issuers, and some licensees with equity-oriented portfolios have converted from debentures to participating securities. However, there are still a number of debenture issuers investing predominantly in equity-type securities, despite their initial intentions and the business plans submitted in the licensing process. Equity-type securities are non-current-pay investments, including true equity securities

like common and preferred stock, and also subordinated debentures on which interest is payable only out of earnings.

SBA is providing guidance below for those licensees that are seeking debenture leverage and that also have a significant amount of equity-type securities in their portfolios. While unique conditions may warrant an individualized approach, SBA currently considers the following concepts appropriate as general guidance:

- Debenture issuers are not discouraged from making investments in equity-type securities. However, the current and prospective debt service requirements which would result from approving additional debenture leverage should be covered by the licensee's operating income.
- If a debenture issuer has no remaining undrawn Regulatory Capital and has a substantial shortfall between operating income and prospective debt service, it should not expect SBA to issue a commitment for additional debenture leverage.
- Because of the uncertainty of both timing and amounts, proceeds from anticipated sales of portfolio securities cannot be relied upon as the primary or sole source for covering debenture debt service. SBA will not assume that prior success in meeting debenture debt service payments from successful portfolio exits predicts future success in doing so.
- Decisions on granting additional commitments will be based on prospective total debt service assuming all potential committed leverage is outstanding.
- Commitments for up to two tiers of debenture leverage will be considered for a predominantly (greater than 50%) equity portfolio, as long as the portfolio has enough "current pay" securities to cover the debt service. If the existing portfolio cannot demonstrate sufficient "current pay" investments, commitments for debenture leverage will generally be limited to 1.5 tiers of Regulatory Capital.
- A major change in the portfolio mix from the original business plan or a recently submitted plan may be cause for declining additional debenture leverage.
- Conversion to a Participating Securities SBIC will be considered if the licensee has the required \$10 million of Regulatory Capital, the portfolio is expected to have enough qualifying Equity Capital Investments, management has demonstrated a successful track record of investing in equities, and the private limited partners agree to this change in investment direction and the additional licensing steps required to convert.
- A participating securities issuer seeking additional leverage in the form of debentures must demonstrate that "current pay" investments are in accordance with its business plan

THIRD PARTY DEBT

SBA regulations provide for the conditions under which SBA approval of secured third party debt may be requested by an SBIC. These regulations were last revised in 1996, and they were in response to conditions at the time. Specifically, the SBIC program had experienced periods when the amount of leverage fell short of demand. Also, the program at that time had offered leverage fundings only once per quarter and no leverage commitment program was in place. If a licensee missed a quarterly funding it would have to wait approximately 90 days to obtain additional SBA leverage, assuming there was enough available to satisfy the demand. Under these circumstances, third party debt was not only appropriate but advisable in order to meet investment and liquidity requirements.

With the arrival of five-year leverage commitments, Just-In-Time funding, and adequate levels of program leverage, SBA believes there is no longer a need for third party debt in

most situations. In fact, there is very little usage of third party debt in the SBIC program at the present time by current licensees.

While SBA is not requiring existing secured third party debt facilities to be cancelled, we are not approving most new secured credit facilities. With respect to license applicants, several have requested secured facilities to fund a high level of pre-licensing investments and to avoid a series of private investor capital calls during the licensing period. SBA has approved such temporary facilities under the following conditions:

1. SBA has been provided with a copy of the proposed credit agreement.
2. The terms of the third party credit facility require that it be repaid with the first draw of leverage and that the facility is then automatically cancelled.
3. The SBIC has not granted a blanket lien on all of the SBIC's assets.
4. The SBIC has \$2.5 million in cash or eligible investments, unencumbered by a security interest or pledge of any type. If so, the credit facility may be secured by security interests in the specific investments funded by draws under the credit facility and/or by the assignment of unfunded private investor capital commitments.
5. Any security interest in the investments and any assignment of unfunded commitments must terminate upon repayment of the facility with the first leverage draw.

WIND-UP ARRANGEMENTS FOR LIMITED LIFE SBICs ISSUING DEBENTURES

In the past, most debenture-issuing SBICs were corporations, and no particular planning was required for the wind up of their operations. Today, leveraged SBICs are increasingly choosing a limited life structure, with many debenture issuers choosing to organize as limited partnerships or, occasionally, as limited liability companies.

In SBA's experience, limited life SBICs often exhibit a pattern of operations as they mature. Typically, by year 6 of a 10 year limited life SBIC, all of the private capital has been drawn, no new investments are undertaken, investment activity is limited to add-on investments to existing portfolio positions, and the primary focus is on exiting the portfolio and winding up the SBIC. Limited life SBICs that issue SBA-guaranteed debentures, which are non-amortizing, are likely to enter the wind up phase of their lives with debentures still outstanding.

The only regulation that expressly addresses the wind up phase of an SBIC's life is 13 CFR 107.590, the activity requirement for SBICs. Other relevant provisions in SBA regulations are the optional return of capital provisions of 13 CFR 107.585, and the definition of Retained Earnings Available for Distribution in 13 CFR 107.50. However, limited life SBICs that issue debentures pose a different set of issues involving SBA's ability to protect its financial interests during the wind up of operations.

To address these issues, SBA has developed the following guidelines for the wind up phase of limited life debenture SBICs:

1. In accordance with 13 CFR 107.585, a distribution that would reduce Regulatory Capital by more than 2% in any fiscal year requires SBA's prior written approval. Such approval will only be considered as a part of a comprehensive wind up plan approved by SBA.

2. At the point when an SBIC is no longer making new investments, SBA encourages the licensee to submit its version of a wind up plan. We will review the plan and determine if it adequately protects SBA's position as creditor. SBA regulations at 13 CFR 107.590(c) provide general guidance for such plans.

3. In any windup plan submitted, plans for the repayment of SBA leverage should identify specific sources of funds (either realized sales of identified securities or segregation of funds for that purpose).

4. An integral part of any wind up arrangement is an agreed-upon plan showing pro forma distributions over the expected remaining life of the SBIC. This has been the case in all recently approved wind up plans.

A. The plan must show repayment of all SBA leverage prior to the private capital being returned in its entirety.

B. Sources of cash flow and related estimates of timing must be identified in the plan.

C. In the event of substantial deviations from the plan (say, annual cash flow being more than 10% off) previously agreed-upon distribution arrangements may be suspended.

5. At the beginning of Year 6 of a limited life debenture issuer, the financial analyst will normally request that the licensee submit an "end game" scenario with respect to its remaining life. This would generally be in the form of a narrative summary covering remaining liquidity events, amounts, and timing as well as general follow-on investment intentions.

6. Any leverage which is to be advanced during a wind up will be governed by the following principles:

A. The leverage should only be for add-ons to existing portfolio investments or to cover operating expenses. No new financings should be undertaken.

B. The expected duration of the investment made with the leverage proceeds should be within the remaining wind up period.

C. Specific exit strategies for each existing portfolio investment should be identified.

7. In reviewing requests for leverage during a wind up period, the Credit Committee will consider the advisability of requiring either a provision for the buildup of a liquidity reserve, (including an agreement to forego maximum distributions otherwise available from READ), or the commitment on the part of the licensee to prepay SBA debentures at the earliest practicable date.

8. All wind up plans will be reviewed and, if necessary, negotiated by the Area Chief and SBA analyst responsible. In the event of particularly complex cases or in the event of substantial disagreement between such individuals and the SBIC, wind up plans may be reviewed by the Credit Committee.

MAXIMUM LEVERAGE TO RELATED SBICs

Several licensees have inquired about whether SBA will consider exceptions to the leverage ceiling for groups of related licensees, as described in 13 CFR 107.1150. The ceiling establishes the maximum amount of leverage that a licensee or group of licensees under common control can have outstanding at any one time. It is adjusted annually to

reflect September-to-September increases in the consumer price index. Based on price changes for the year ended September 30, 2000, the ceiling is now \$108.8 million.

SBA's view is that outstanding leverage in excess of the ceiling will tend to concentrate SBA leverage (and the associated risks) in fewer hands. While SBA is prepared to extend leverage commitments to related SBICs in excess of the current ceiling, SBA has not yet been convinced that related SBICs should be permitted to have outstanding aggregate leverage in excess of the ceiling.

PLACEMENT OF AN SBIC ON THE WATCH LIST

The Office of SBIC Operations prepares a monthly Watch List Report. This report follows the progress of licensees that merit additional scrutiny for financial, regulatory, or other reasons.

Monitoring the financial performance of an SBIC is an oversight responsibility. One important indicator of financial condition in the SBIC program is a licensee's capital impairment percentage, as determined under 13 CFR 107.1830 - 107.1850. An SBIC will be placed on the Watch List when its capital impairment (as reported by the SBIC or as adjusted by SBA, whichever is higher) reaches 65% of the maximum permissible rate specified in 13 CFR 107.1830(c).

With respect to Participating Securities issuers, SBA also considers the effect of accumulated prioritized payments in evaluating financial condition. While prioritized payments are not a liability of the SBIC until profits are available to pay them, they represent an out of pocket cost to SBA and an ultimate loss if not reimbursed by the SBIC. Therefore, the total measure of SBA's financial exposure is best represented by the following adjusted impairment computation:

$$\frac{\text{Realized Losses} + \text{Net Unrealized Depreciation} + \text{Accumulated Prioritized Payments}}{\text{Regulatory Capital}}$$

Participating Securities issuers may be placed on the Watch List if the recalculated impairment is at least 50% of the maximum allowable impairment percentage applicable to the SBIC (in accordance with 13 CFR 107.1830 or 107.1850, as appropriate).

SBA may also place an SBIC on the watch list for other than financial reasons. For example, serious regulatory violations may be a cause for placement of the SBIC on the watch list.

If placed on the watch list, an SBIC will be asked to provide quarterly (or more frequent) financial statements to SBA, along with a plan to cure the situation that caused the company to be placed on the watch list.

Content comments or questions to: <mailto:leonard.fagan@sba.gov>

*** Last Modified: 06-18-02**

APPENDIX 3-2

SBIC Tech Notes Number 7 and 7A

TechNotes # 7

SBIC TechNotes

December 2000 - Number 7

GUIDELINES CONCERNING ALLOWABLE MANAGEMENT EXPENSES FOR LEVERAGED SBICS

The purpose of this TechNote is to describe SBA's practice in approving an SBIC's allowable management expenses for leveraged SBICs as required by §§107.140 and 107.520 of SBA regulations. It is intended to provide general guidance only; an SBIC should resolve specific situations with its financial analyst in the Office of SBIC Operations.

SBA recognizes the critical role that an SBIC's management plays in a fund's performance, and in licensing new SBICs we place great emphasis on establishing that the proposed management team is qualified. We similarly recognize the importance of providing adequate compensation and economic incentives for the members of the team. However, SBA also has a statutory obligation to assure that SBICs utilizing government-guaranteed leverage are financially sound and that the government's financial interests are protected. Expense levels are obviously an important consideration in this regard, and management fees are typically the most important expense category.

Under current regulations, SBA's approval is required for your management expenses at the time of licensing (§107.140) as well as for any subsequent increases (§107.520). In July, 1997, we issued a memorandum from the Associate Administrator for Investment stating that "during the first five years of operations, management expenses of up to 2.5 percent of the combination of Regulatory Capital and an assumed two tiers of leverage based on Regulatory Capital, plus an additional \$125,000 if the sum is less than \$20 million, would generally be acceptable." Thereafter, 2.5 percent of Combined Capital should generally be used, with an additional \$125,000 if Combined Capital is less than \$20 million. A subsequent memorandum in October 2000 reaffirmed this position and clarified that the calculation during the first five years is to be based upon the Regulatory Capital determined at the time the payment is made.

A number of SBIC managers have expressed an objection to our current practice of basing the fees on the Regulatory Capital when the fee is paid since this could result in a significant reduction in allowable fees should early distributions reduce Regulatory Capital. This could occur even though the fund was still in an active investment mode, which could make it difficult for the SBIC to retain the management needed to complete its investment plan

After surveying current private industry practice we have decided to permit SBICs during the first five years to add back to the base for calculating management fees any reductions in Regulatory Capital resulting from permitted distributions. Essentially, we will

use the same approach as was adopted for the investment overline limits in Regulation §107.740. In other words, we would expect to approve a request for management fees for the first five years on a base not exceeding three times the sum of:

- (a) Regulatory Capital at the time the fee is paid or begins to accrue (whichever is earlier),
- (b) Any Distributions previously made under §107.1570(b) which reduced Regulatory Capital, and
- (c) Any Distributions previously made under §107.585 which reduced Regulatory Capital by no more than two percent or which SBA approves for inclusion in the management fee calculation.

As before, an additional \$125,000 would be allowed if the sum on which the fee is based is less than \$20 million.

It must be emphasized that nothing in this TechNote eliminates your obligation to obtain specific SBA approval of your management fees as required by Regulations §107.140 and §107.520. Similarly, neither this formula nor the amount that might actually be approved by SBA modifies the computation of Earmarked Profit and Excess Management Expense under §107.1510(d)(2)(i)(A).

There are several other considerations in SBA's approval of management expenses that should be noted:

- (1) The first five years of operations commences when a management fee based upon assumed leverage is first paid or begins to accrue (whichever is earlier), even if this occurs before the SBIC is licensed.
- (2) If an SBIC's business plan contemplates the use of less than the assumed two tiers of leverage, the allowable management expense would be correspondingly reduced.
- (3) After the first five years, if an SBIC has repaid all of its SBA leverage but still has Earmarked Assets, the base for calculating the fee is the greater of Regulatory Capital or the SBIC's investment portfolio at cost less any net unrealized depreciation.
- (4) Where management fees are being prepaid by the SBIC, the period covered should not exceed three months.
- (5) The effect of increases in Regulatory Capital on management fees should be recognized no earlier than the fiscal quarter in which the SBIC notifies SBA of the increase. Such increases cannot be applied retroactively.
- (6) Amounts received as management fees must be used solely for management expenses of the SBIC (as defined in § 107.520(a)). They cannot be used for unrelated activities such as organizing a second fund.
- (7) All fees described under § 107.860 are supposed to benefit the SBIC. Accordingly, such fees must either be paid directly to the SBIC or treated as an offset to the management fee.
- (8) Lastly, you should remember that management fees are also controlled by your partnership agreement, and the above formula can only be used if the partnership agreement permits it.

Content comments or questions to: <mailto:leonard.fagan@sba.gov>

*** Last Modified: 06-18-02**



SBIC TechNotes

December 2003 – Number 7A

GUIDELINES CONCERNING ALLOWABLE MANAGEMENT EXPENSES FOR LEVERAGED SBICS

Effective for all acceptable SBIC license applications submitted to SBA on and after April 1, 2004

Introduction

The purpose of this Policy is to describe SBA's practice in approving allowable management expenses for leveraged SBICs as required by §107.140 and §107.520 of SBA regulations. It is intended to provide general guidance only; an SBIC should resolve specific situations with its financial analyst in the Office of SBIC Operations.

SBA recognizes the critical role that an SBIC's management plays in a fund's performance, and in licensing new SBICs we place great emphasis on establishing that the proposed management team is qualified. We similarly recognize the importance of providing adequate compensation and economic incentives for the members of the team. However, SBA also has a statutory obligation to assure that SBICs utilizing government-guaranteed leverage are financially sound and that the government's financial interests are protected. Expense levels are an important consideration in this regard, and management fees are typically the most important expense category.

These guidelines are only for determining the maximum management expense permitted by SBA. SBA will permit any other calculation which results in a lower maximum management fee, including any lower management expenses negotiated by investors in the fund.

Management Fee Calculation

The maximum SBIC management expense allowed by the SBA will be determined in accordance with the following formula, which considers a combination of factors, including (a) age of the fund; (b) size of the fund; and (c) assets under management.

$$\text{Maximum SBIC Management Expense} = \text{Management Fee Base} \times \text{Management Fee Rate}$$

Management Fee Base and Management Fee Rate are defined in paragraphs A and B below, respectively.

A - Management Fee Base

The Management Fee Base varies based on whether or not the fund is in its Initial Investment Period, as set forth below.

A.1 Management Fee Base During the Initial Investment Period:

1. The Initial Investment Period for a fund commences on the earliest of the following: (a) date of license approval; (b) the first date of financing of a portfolio concern; or (c) the first date any management fee based on assumed leverage begins to accrue or is paid. The Initial Investment Period for a fund ends on the earlier of (a) the date five (5) years from the start of the Initial Investment Period or (b) the date at which total private capital called to date plus total SBA Leverage issued by the SBIC equals or exceeds 80% of the sum of Unreduced Regulatory Capital plus Assumed SBA Leverage. The SBIC's Assumed SBA Leverage must be consistent with the SBIC's business plan, as approved by SBA.
2. Unreduced Regulatory Capital is defined as the sum of:
 - a. Regulatory Capital at the time the fee is paid or begins to accrue (whichever is earlier). [Increases to Regulatory Capital will be recognized on the first day of the fiscal quarter in which the SBIC notifies SBA of the increase as evidenced by an executed Capital Certificate];
 - b. Any Distributions previously made under §107.1570(b) which reduced Regulatory Capital; and
 - c. Any Distributions previously made under §107.585 which reduced Regulatory Capital by no more than two percent or which SBA approves for inclusion in the management fee calculation. (Note that this approval is separate from the SBA approval required for the distribution itself; in other words, SBA can approve a distribution under §107.585, but disapprove the inclusion of the distribution amount in Unreduced Regulatory Capital).
3. During the Initial Investment Period, the Management Fee Base shall be
$$\text{Unreduced Regulatory Capital} + \text{Assumed SBA Leverage}$$

A.2 Management Fee Base After the Initial Investment Period:

After the Initial Investment Period, the Management Fee Base shall be the cost of loans and investments for all "active" portfolio companies. An "active" portfolio company is defined as a company in which the SBIC has not written off its investment and which remains an ongoing concern. Companies valued at zero are considered written off for the purposes of calculating the management fee. The "active" status of a portfolio company is subject to SBA's review. The cost of loans and investments used in this calculation will be the cost as of the first day of the fiscal quarter for which the fee is paid or begins to accrue (whichever is earlier).

B - Calculation of Management Fee Rate

The maximum Management Fee Rate is dependent upon the Management Fee Base as follows:

- a. If Management Fee Base is less than or equal to \$60 million, then the Management Fee Rate is 2.5%
- b. If Management Fee Base is greater than \$60 million and less than \$120 million, then the Management Fee Rate is:

$$(2.5\% - (.5\% \times ((\text{Management Fee Base} - \$60 \text{ million}) / \$60 \text{ million})))$$

- c. If Management Fee Base is greater than or equal to \$120 million, the Management Fee Rate is: 2%

An embedded worksheet is provided on the next page to help you calculate expenses using this formula.

Double-click on worksheet to use.

Management Fee Worksheet

Fund Variables

<u>Fund Variables</u>	Comments
Unreduced Regulatory Capital (\$)	Used for Initial Investment Period management fee calculation.
Assumed SBA Leverage (\$)	Used for Initial Investment Period management fee calculation. Must be consistent with SBIC's business plan as approved by SBA.
Private Capital Called to Date	Used to see if fund is out of its Initial Investment Period.
SBA Leverage Issued To Date	Used to see if fund is out of its Initial Investment Period.
Total Active Loans and Investments, at Cost, in SBIC (\$)	Used for management fee base after Initial Investment Period is over.
Starting Date of Initial Investment Period (mm/dd/yy)	The Initial Investment Period commences on the earliest of the following: (a) date of license approval; (b) the first date of financing of a portfolio concern; or (c) the first date any management fee based on assumed leverage begins to accrue or is paid.
Date of Management Fee Calculation (mm/dd/yy)	Used to see if fund is out of its Initial Investment Period.

Calculations

Private Capital + SBA Leverage Called to Date -
 80% of Unreduced Regulatory Capital + Assumed SBA leverage -

Initial Investment Period or After?

Over 5 years or 80% capital called to date equals or exceeds fully invested minimum amount.

Management Fee Base \$ -

Management Fee Rate

Annual Management Fee

Quarterly Management Fee

General Management Fee Policy Notes:

There are several other considerations in SBA's approval of management expenses that should be noted as described below.

- (1) It must be emphasized that nothing in this memorandum eliminates your obligation to obtain specific SBA approval of your management fees as required by Regulations §107.140 and §107.520. Similarly, neither this formula nor the amount that might actually be approved by SBA modifies the computation of Earmarked Profit and Excess Management Expense under §107.1510(d)(2)(i)(A).
- (2) The SBIC's Assumed SBA Leverage must be consistent with the SBIC's business plan, as approved by SBA.
- (3) Where management fees are being prepaid by the SBIC, the period covered should not exceed three months.
- (4) The effect of increases in Unreduced Regulatory Capital on management fees should be recognized no earlier than the first day of the fiscal quarter in which the SBIC notifies SBA of the increase as evidenced by an executed Capital Certificate. Such increases cannot be applied retroactively to previous quarters. The effect of decreases in Unreduced Regulatory Capital must be recognized as of the first day of the fiscal quarter in which the decrease occurs.
- (5) Amounts received as management fees must be used solely for management expenses of the SBIC (as defined in § 107.520(a)). They cannot be used for unrelated activities such as organizing a second fund.
- (6) All fees described under § 107.860 and fees earned by SBIC associates under § 107.900 are supposed to benefit the SBIC. Accordingly, such fees must either be paid directly to the SBIC or treated as an offset to the management fee.
- (7) The formula outlined in this policy assumes a stand-alone license which bears all of the expenses of its management. Where such expenses are shared with another institution or entity, the allowable expenses for the licensee should be reduced appropriately.
- (8) Lastly, you should remember that management fees are also controlled by your partnership agreement, and the above formula can only be used if the partnership agreement permits it. SBA will permit any other calculation which results in a lower maximum management fee, including any lower management expenses negotiated by investors in the fund.

APPENDIX 3-3

SBIC TechNotes Number 9

TechNotes # 9

SBIC TechNotes

April 2002 - Number 9

GUIDELINES FOR SBA APPROVAL OF REQUESTS FOR OVERLINE INVESTMENTS

Regulations which pertain to Overline investments are found at 13 CFR 107.740. The general rule at §107.740 (a) states in relevant part:

(a) General Rule. This §107.740 applies if you have outstanding Leverage or intend to issue Leverage in the future. Without SBA's prior written approval, you may provide Financing or a Commitment to a Small Business only if the resulting amount of your aggregate outstanding Financings and Commitments to such Small Business and its Affiliates does not exceed:

(1) For a Section 301 (c) Licensee, 20 percent of the sum of:

(i) Your Regulatory Capital as of the date of the Financing or Commitment; plus

(ii) Any Distribution(s) you made under §107.1570(b), during the five years preceding the date of the Financing or Commitment, which reduced your Regulatory Capital; plus

(iii) Any Distribution(s) you made under §107.585, during the five years preceding the date of the Financing or Commitment, which reduced your Regulatory Capital by no more than two percent or which SBA approves for inclusion in the sum determined in this paragraph (a)(1).

(2) For a Section 301 (d) Licensee, 30 percent of a sum determined in the manner set forth in paragraph (a) (1) (i) through (iii) of this section.

Although SBA believes that SBICs should make every effort to plan for follow-on investments within their overline limit at the time their initial investment is made, SBA recognizes that many SBICs are asked to fund amounts which place the investment in overline status. Often, these financings take the form of bridge loans to provide liquidity to the small concern until the next round of equity financing can be put in place. However, SBA is also seeing situations in which the SBIC's investment is not being made to "bridge" the small concern to the next identified round of financing or some identifiable liquidity event. Rather, they are being made for an indefinite period of time and without any identifiable means of exiting or reducing the overline investment position. Unfortunately, in many such cases, the SBIC is the only source of financing for the small concern, and in the absence of the requested financing, the small concern will go out of business and the SBIC will be forced to write off its investment.

SBA's overline regulation was liberalized in December 1999 to allow the Regulatory Capital for overline purposes to be increased by return of capital distributions (as permitted under §107.1570(b) or §107.585) made during the five years preceding the investment. Because of the higher overline limit resulting from the add-back of up to five

years of return of capital distributions as well as concerns about current economic and market conditions, SBA undertook a review of its practices with respect to approval of overline requests and noted in particular

- The interpretation by many SBICs of SBA's Policy and Procedure Release (PPR) #2001 that SBA will automatically approve overline requests which do not exceed 30% of Regulatory Capital. It should be noted that PPR # 2001 was issued July 15, 1989 and did not contemplate the increase in overline limit resulting from the add back of Regulatory Capital as now allowed.
- The increase of overline requests from SBICs which are approaching maturation and de facto wind down of their operations.

As a result, SBA has determined that the following general guidelines will apply to overline investments:

1. As a general rule, overline requests should only be made in unusual circumstances.
2. There is no automatic or routine approval of any overline request, including overline requests up to 30% of Regulatory Capital. SBA will review all requests on their individual merits.
3. In reviewing overline requests, SBA will assess the financial condition of the SBIC and where it is in its investment process (is it making investments in new portfolio concerns, or making only follow-on investments). For those SBICs experiencing significant capital impairment or which are substantially invested, approval of such requests requires strong evidence that the provision of additional funding will significantly enhance the prospects for a successful exit from the investment. On a case-by-case basis, SBA may ask the SBIC's principals to share the risks of the increased portfolio concentration, e.g. by personally guaranteeing the SBIC's overline investment if the value of the portfolio company falls. Also, SBA is less likely to approve an overline request for a portfolio company which is experiencing serious or continuing financial difficulty than for a company which exhibits positive performance and is growing rapidly.
4. All overline requests must be accompanied by the following documents:
 - A. Financial Statements. Financial statements (pages 2 through 4) of SBA Form 468 as of a date not in excess of 60 days prior to the date of the request. A previously filed report meeting this requirement may be incorporated by reference.
 - B. Schedule of All Overlines. A schedule of all portfolio securities and assets acquired in liquidation that are overline must be submitted. The schedule should include the name of the small concern, the original principal amount of the investment, the amounts and dates of subsequent disbursements, and the amount outstanding at the date of the request for approval.
 - C. Affiliation with the Small Concern(s). A description of any direct or indirect affiliation between the SBIC and the small concern.
 - D. Financial Statements of the Small Concern. Fiscal year end financial statements and statements not more than sixty days old on the small concern must be submitted.

E. Description of the Investment. A complete description of all investments made by the SBIC in the small concern either current or proposed is to be furnished, including amounts and the major terms of the financing, in particular any conversion rights and any amortization requirements.

F. Other Participants in the Financing. The names of any other parties, SBICs or non-SBICs, which are participating in the financing, and the amount of the participation by each party.

G. Reasons for Overline Investment. The SBIC must provide a complete explanation of the need for the overline investment, including evidence of the requirements of the small concern for the funds and evidence that such funds are not available from other SBICs or other financing sources.

H. Anticipated Exit. A description of the anticipated exit from this investment (or the source of the reduction in the Overline position) including the approximate timing of the exit, identification of the parties (or types of parties) involved, and the amounts and timing of subsequent financing expected.

5. The amount of the capital distributions added back, compared to the then current Regulatory Capital will be a factor in the overline approval decision. For example, consider the case of an SBIC which currently has \$10 million of Regulatory Capital and which had made \$8 million of return of capital distributions to its private investors during the last 5 years. The SBIC requests an additional investment in a small concern which would bring its total, cumulative investment to \$4 million. After adding back the \$8 million, the investment would be 22.2 % of adjusted Regulatory Capital for overline purposes. However, it would represent 40% of the actual Regulatory Capital at the time the overline investment is made. Absent other mitigating factors, SBA would not be likely to approve this request. As a general statement, the greater the proportion of the distributed capital added back, the less likely SBA is to approve the requested overline investment. SBA will also consider the current stage of the fund (is the SBIC a recently started fund or is it a mature fund), the source of the previous return of capital distributions (were they the result of one large winner or several successful investments), the number of remaining small concerns in the portfolio, and the financial condition of the remaining portfolio.

Content comments or questions to: <mailto:leonard.fagan@sba.gov>

*** Last Modified: 06-18-02**

Appendix 4-1.

Memorandum of Instructions for Application for
Commitment

MEMORANDUM OF INSTRUCTIONS APPLICATION FOR COMMITMENT OF SBIC PARTICIPATING SECURITIES OR DEBENTURES

INTRODUCTION. This Memorandum of Instructions provides the information necessary for a small business investment company (SBIC) to apply for a commitment by the Small Business Administration (SBA) to reserve financial assistance on its behalf for the future issuance of Participating Securities or Debentures.

Any SBIC requesting the reservation of financial assistance ("Leverage") by obtaining SBA's conditional commitment to guarantee Participating Securities or Debentures, must submit the appropriate enclosed application forms and documents. The application forms and documents described below must be properly completed and executed, and should be submitted to the Office of Investment, Suite 6300, Mail Code 7050, Small Business Administration, 409 3rd Street SW, Washington, D.C. 20416. The Small Business Investment Act of 1958 as amended 12-21-01 and current SBIC regulations can be found on the Investment Division web page (<http://www.sba.gov/inv/regulations.html>).

I. APPLICATION FOR COMMITMENT. Any SBIC requesting a commitment from SBA for funding through participating securities or debentures, must apply to SBA by submitting a letter requesting a commitment. The letter must include the following:

1. The name, address and license number of the applicant.
2. The requested amount of the commitment.
3. The type of security to be issued under the commitment: Participating Security or Debenture.
4. For SBA to approve a commitment application, the letter shall include the following language which is printed below in bold typeface:

The undersigned Licensee does hereby certify with the understanding that any commitment letter issued by SBA will be issued in reliance upon such certifications that:

- A. **As of the date of execution of this application letter, [the corporate Licensee is not] [neither the limited partnership Licensee nor its Corporate (or Individual) General Partner is] in violation of its respective charter or Limited Partnership Agreement, as the case may be, or the license, or any of the provisions of the Small Business Investment Act of 1958, as amended (the "Act"), or the regulations issued thereunder (the "Regulations").**

- B. The proceeds of the issuance and sale of the securities to be committed by SBA as requested herein will be used by the Licensee only for the purposes contemplated by the Act and the Regulations.**
- C. There has been no change in the officers, directors, beneficial owners of 10 or more percent of the securities [of the corporate Licensee] [of the limited partnership Licensee and its Corporate (or Individual) General Partner], or in the investment policy, operations, or capital of the Licensee since the issuance of its license except as indicated by post-licensing amendment(s) heretofore filed with and approved by SBA, or as filed herewith.**
- D. The Licensee shall not withdraw this application for a commitment without prior written approval of SBA.**
- E. There has been no material adverse change in the financial condition of the Licensee since the filing of the last Financial Report (SBA Form 468), except as indicated by the Financial Report filed herewith as an Exhibit. Except as disclosed in writing to SBA in connection with this application letter, the Licensee has no knowledge of any existing or impending litigation or of any proceedings or actions for the assessment or collection of additional taxes, and the Licensee has no contingent liabilities not provided for or disclosed in the financial or other statements submitted to SBA in connection with this application letter.**
- F. The Licensee has not paid or incurred any obligation to pay to any Federal employee or special Federal employee any fee, gratuity or anything of value for obtaining the assistance hereby requested. If such fee, gratuity, etc., has been solicited by any such employee, the Licensee agrees to report such information to the Office of the Inspector General, Small Business Administration, Washington, D.C. 20416. The Licensee has not and will not, directly or indirectly, pay any amount to any person in connection with this application except for services actually performed on behalf of the Licensee.**

Furthermore, the amount of payment for such services shall not exceed an amount deemed reasonable by SBA. If such payment exceeds \$300 then an itemization thereof will be submitted as an Exhibit.

- G. All statements, warranties, and representations made herein and in the accompanying Exhibits as well as in any additional documents required by SBA to be filed in connection with this application letter are true and complete, are considered material, are made for the purpose of inducing SBA to issue a commitment and are made with full knowledge of the provisions of 15 U.S.C. 645, 18 U.S.C. 1001, and 18 U.S.C. 1006 which provide certain criminal penalties for making false statements or representations.**
- H. Any intentionally false statement or willful misrepresentation in connection with this application is a violation of Federal law, subject to criminal and**

civil prosecution under 18 U.S.C. Sections 287, 371, 1001, and 1006; 15 U.S.C. Section 645; and 31 U.S.C. Section 231; carrying fines up to \$10,000 and imprisonment up to five years.

- I. [If (i) you were licensed before October 1, 1996 and you are either a Participating Security applicant with Regulatory Capital of at least \$10 million or a Debenture applicant with Regulatory Capital of at least \$5 million, or (ii) you were licensed after September 30, 1996, please include the following sentence:] At least 20 percent of the aggregate dollar amount of the financings of the Licensee after October 1, 1996 will be provided to Smaller Enterprises (as defined in 13 CFR § 107.50).

[If you were licensed before October 1, 1996, and you are either a Participating Security applicant with Regulatory Capital of less than \$10 million or a Debenture applicant with Regulatory Capital of less than \$5 million, include the following sentence:] At least 50 percent of the aggregate dollar amount of the financings of the Licensee after October 1, 1996 will be provided to Smaller Enterprises (as defined in 13 CFR § 107.50).

The letter needs to be signed by an authorized official of the Licensee and dated.

II. EXHIBITS TO BE SUBMITTED. The following is an explanation of the Exhibits required to be submitted with the Licensee's letter of application for a commitment.

1. Financial Report, SBA Form 468. If you have an outstanding SBA leverage commitment you must continue to meet the quarterly filing requirements for Financial Report, SBA Form 468. If you do not currently have an outstanding SBA leverage commitment, a Short Form SBA Form 468 is required to be filed as part of your commitment application. That Short Form must be submitted on diskette using the electronic software previously provided to you by SBA and must cover the period stated below: (A signed paper copy of that electronic submission must also be filed.)

Beginning date: The first day of the Licensee's current fiscal year.

Ending date: No earlier than the end of the third month preceding the month in which the commitment is issued (for example, for a commitment issued in the month of November, the Short Form must be dated August 31 or later).

Note: Notes to the financial statements are an integral part of the Financial Report and should be included.

The SBA is now required by statute to provide annual economic data to Congress to support the SBIC program. It is therefore extremely important that you fully complete the Economic Data For Portfolio Concerns (EDFPC) schedule that is part of the Annual Financial Statement, Form 468 (Long Form), and electronically file the schedule with SBA no later than five months after your fiscal year end. Henceforth, the completeness and accuracy of a Licensee's most recent required EDFPC schedule is an important consideration in approving leverage applications.

2. Resolution of the Board of Directors or General Partner. Attached are sample resolutions; one for corporate licensees, one for partnership licensees with a corporate general partner, and one for partnership licensees with individual general partners. Limited partnerships which have a limited partnership as the general partner need to conform the sample resolutions to their own use. A licensee's resolution must strictly follow the language in the applicable resolution, and must be certified and executed as indicated.
3. Transferor's Liability Contract, CO Form 158. This form is to be executed and signed by all Control Persons of the Licensee as defined in 13 CFR §107.50. (File original only.)
4. Compensation Agreement, SBA Form 159. This form is to be completed by the person(s) providing service to the Licensee in connection with its application, and must be certified by the proper official of the Licensee. If no person assisted with the application, so state in the form. (File original only).
5. Applicant's Assurance of Compliance, SBA Form 652. This form is to be completed by the appropriate official of the Licensee. (File original only.)
6. Capital Certificate. Any Licensee which has unfunded commitments from Institutional Investors shall submit an updated capital certificate if the one on file with SBA is no longer accurate.
7. Applicant Licensee's Assurance of Compliance (Public Interest), SBA Form 1065. This form is to be completed by the appropriate official of the Licensee (File original only).
8. Investment Plan. The investment plan shall consist of a forecast for the use of Licensee's funds available for investment and the requested commitment from SBA. The plan shall identify formal written commitments (conditional or unconditional) to invest in small concerns, as well as funding requests from small concerns which are under active consideration but have not matured to the level of a commitment. Participating Security applicants that are also applying to draw-down a portion of this requested commitment in this funding should consolidate the additionally required Statement of Need with this Investment Plan.
9. Disclosure of Third Party Debt. The applicant Licensee must describe the amount of its outstanding non-SBA debt. The description should include the terms, conditions, security (if any), and priority of all such debt.
10. Statement For Loan Guarantees and Loan Insurance, SBA Form 1846. This form is to be completed by the appropriate official of the Licensee. **Do not file SBA Form 1846 if you are applying only for the commitment of Participating Securities.** (File original only.)
11. Evidence of Amended Articles of Incorporation or Limited Partnership Agreement. Please see attached supplement to this Memorandum of Instructions entitled *REQUIREMENTS NECESSARY TO COMPLY WITH 13 CFR § 107.1810(i) AND/OR § 107.1820, AS APPLICABLE, EFFECTIVE APRIL 25, 1994, FOR COMMITMENT ELIGIBILITY*. Licensees who have adopted Annex PS or Annex GDP have already complied with this requirement.

III. SELLING DOCUMENTATION TO BE SUBMITTED. The only required documentation that must accompany the application letter is the following:

1. Bank Identification, SBA Form 34. This form provides us with the necessary routing instructions to credit your designated account with the appropriate amounts by electronic funds transfer (after your commitment application and subsequent draw request(s) have been approved). If your account is not with a member bank of the Federal Reserve System, you must identify the member bank whose routing code is utilized as your correspondent or affiliate bank. All Licensees applying for a commitment must complete this form.
2. Debit Authorization. Only those applying for the SBA's commitment of guaranteed debenture Leverage are to file Debit Authorizations. Do not file if you are applying solely for the commitment of Participating Securities. These authorizations establish an efficient and low cost way for licensees to make the scheduled payments after pooling on SBA Form 444C Debentures ("Standard Debentures") by Automated Clearinghouse (ACH) debit. The covering instructions to this authorization explain its purpose in more detail. It must be properly completed and executed as indicated on the attached sample form and filed in two copies, and must have attached to each copy a blank check of the account indicated in the authorization for ACH debit (the check may be marked "void" or "sample"). Please submit Debit Authorizations even if you expect to issue only LMI Debentures under your commitment, so that you will have the option of issuing Standard Debentures as well.
3. Authorization to Disburse Proceeds, SBA Form 33 [Refunding Maturing Debenture(s)] Only those applying for SBA's commitment of guaranteed debenture Leverage for the purpose of refunding maturing debenture(s) are to file this form.

IV. FEES.

1. Leverage Fee. Participating securities and debentures are subject to a 3% leverage fee. Effective December 2, 1997, only 1% of the issued amount of the commitment is due up-front. The 1% fee is due SBA by the earlier of the date that you apply to SBA to draw funds under this Commitment Letter, or within 30 days of the issuance of the commitment. The payment should be made to SBA by wire transfer. The wire instructions for sending funds to SBA are as follows: Treas NYC (Bank Name); 021 030 004 (ABA#); Small Business Administration (Beneficiary) and 73000001 (Bank Account #). In the message portion of the instructions, please provide SBA's commitment account number (i.e., the account to be further credited after the payment is received by SBA), and include the phrase "tran code 360" (to indicate that the payment is a leverage fee). The remaining leverage fee of 2% (of the face amount disbursed) is deducted from the proceeds of each disbursement.
2. Annual Charge. An annual charge (fee) is payable to SBA on participating securities and debentures guaranteed with federal funds appropriated on or after October 1, 1996. The annual charge is payable to SBA under the same terms and conditions as prioritized payments for participating securities, and interest for debentures. For the last several years (FY 2001 for debentures & FY 2002 for participating securities), the annual charge has been adjusted each federal fiscal year on commitments issued during that fiscal year. Once established, the annual charge rate remains the same for all draws on a commitment though its entire term (of up to 5 fiscal years). The current SBA annual charge rates for disbursements from FY 2003

commitments are as follows: 1.311% for participating securities and 0.887% for debentures. SBA annual charge rates remain unchanged for draws on commitments issued in prior federal fiscal years. Prior annual charge rates (still in effect) for draws from commitments issued in prior fiscal years are as follows: 1) participating securities-- a) 1% on draws from commitments issued prior to FY 2002, and b) 1.376% on draws from FY 2002 commitments; and 2) debentures-- a) 1% on draws from commitments issued prior to FY 2001, b) 0.88% on draws from FY 2001 commitments and c) 0.866% on draws from FY 2002 commitments.

3. Underwriter Fee. For Participating Securities and Standard Debentures, an underwriter fee will be collected each time funds are disbursed to the Licensee. This fee will not be collected as part of the commitment process, but will be deducted from the proceeds remitted to the Licensee. The underwriter fee for 10-year securities is 0.5% of the face amount. There is no underwriter fee for LMI Debentures.

If there are any questions concerning the preparation of the commitment application letter, any Exhibits or accompanying Selling Documentation, please call your analyst.

PLEASE NOTE: The burden hour estimate for the completion of all forms required in this application (excluding SBA Form 468) is 3 hrs. per application. You are not required to respond to any collection of information unless it displays a currently valid OMB approval number. Comments on the burden should be sent to U.S. Small Business Administration, Chief, AIB, 409 3rd St., S.W., Washington D.C. 20416 and Desk Officer for the Small Business Administration, Office of Management and Budget, New Executive Office Building, Room 10202, Washington, D.C. 20503. OMB Approval (3245-0081).

Supplement to Memorandum of Instructions

REQUIREMENTS NECESSARY TO COMPLY WITH 13 CFR § 107.1810(i) AND/OR § 107.1820, AS APPLICABLE, EFFECTIVE APRIL 25, 1994, FOR COMMITMENT ELIGIBILITY

Any licensee applying for commitment eligibility after April 25, 1994, must provide the SBA with evidence that it has amended its respective Articles of Incorporation or Limited Partnership Agreement so as to be in compliance with 13 CFR § 107.1810(i) and/or § 107.1820. The evidence must be provided to the SBA upon the first submission of a leverage application by the licensee after April 25, 1994.

- 1.) The submission of any of the following as part of the application will be considered evidence of the required amendment:

- a) Corporate Licensees -- (i) Submit the amendment to SBA and provide evidence to SBA that the amendment has been filed, or (ii) Submit the amendment to SBA together with an affidavit stating that the licensee has filed the amendment. Where an affidavit is provided as evidence, subsequent confirmation of the amendment filing must be provided to SBA.

- b) Unincorporated Licensees -- Submit the amendment to SBA and provide certification to SBA that such amendment has been adopted by the partnership.

- 2.) Provided below is the suggested wording for the required changes to the licensee's Articles of Incorporation or Limited Partnership Agreement. However, corporate licensees should confirm with their own counsel that this wording would comply with the filing requirements in the state of incorporation:

[Please include only the applicable section(s) of the Regulations in place of the blank brackets. Include either: (i) 13 CFR § 107.1810(i) (ii) 13 CFR § 107.1820 or (iii) 13 CFR § 107.1810(i) and § 107.1820]:

- a) Corporate Licensees: "The provisions of [] are hereby incorporated by reference in these Articles of Incorporation as if fully set forth herein. This corporation hereby consents to the exercise by SBA of all of the rights of SBA under [], and agrees to take all actions which SBA may require in accordance with such provision."

- b) Unincorporated Licensees: "The provisions of [] are hereby incorporated by reference into this Agreement of Limited Partnership as if fully set forth herein. The Partnership and the partners hereby consent to the exercise by SBA of all the rights of SBA under [], and agree to take all actions which SBA may require in accordance with such provision."

Appendix 4-2.

Objectives of Just In Time Funding Mechanism

OBJECTIVES OF JUST IN TIME FUNDING MECHANISM

1. To allow for more timely draw of Private Capital and SBA Leverage in order to fund specific investments or provide for liquidity
2. To avoid the concentration of resources in SBICs well in advance of the need for resources (up to three months in advance under quarterly pooling concept)
3. To Provide SBICs with up to 45 days of flexibility regarding funding of investments whose closing is subject to slippage
4. To avoid taking down SBA leverage for investments which end up not closing
5. To allow some part of an SBIC's financing costs to be tied to short term rates, which are generally less than long term rates (LIBOR in the case of J.I.T.)

Appendix 4-3.

List of Parties Involved

List of Parties Involved

Servicer:

Small Business Administration/Investment Division

- Processes and approves SBIC commitment applications.
- Processes and approves draw applications and leverage takedown requests.
- Administers and services participating securities and debentures.
- Guarantees payment of principal and interim interest/prioritized payment to Interim Funding Provider. Guarantees payment of principal and interest/prioritized payments to holders of Trust Certificates for pooled debentures/participating securities.
- Wires interim prioritized payment due on participating securities scheduled to be pooled to Custodian. Wires prioritized payments and redemption payments (if required) on pooled participating securities to Collection Agent.

Amended and Restated Collection Agency Agreement (February 1, 1997), Trust Agreement (February 1, 1997)

**Fiscal Agent/
Selling Agent:**

SBIC Funding Corporation.

- Executes/Signs the Interim partial assignment (for participating securities).
- Executes/Signs the Partial Assignment (for participating securities) and agreements for the purchase of the Partial Assignment or Debentures and issuance of pooled Trust Certificates.

Amended and Restated Fiscal Agency Agreement (February 1, 1995) and Amended and Restated Selling Agent Agreement (February 1, 1995), Amended (April 1, 1998)

Custodian:

JP Morgan Chase Bank.

- Receives debentures from SBA and interim partial assignments from SBIC Funding Corporation and holds securities until their sale to Interim Funding Provider.
- Confirms or rejects SBICs executed Notice and Confirmation to takedown funds.
- Delivers securities to the Bailee on settlement date against Bailee's payment of the purchase price for the securities.
- Wires net disbursement amount to SBIC.
- Receives interest payments from SBICs and prioritized payments from SBA for the interim period for securities being pooled.
- Forwards refunding price of securities to the Bailee on each pooling date and receives the securities from the Escrow Agent.
- Delivers securities to the Trustee.
- Collection agent for LMI debentures

Custody and Administration Agreement (April 27, 1998)

LMI Custody and Administration Agreement (June 5, 2000)

Interim Funding Provider and Funding Provider For LMI. Debentures: Bailee: *Federal Home Loan Bank of Chicago.* Provides interim funding to SBICs by purchasing securities from the Selling Agent on each settlement date, and selling the securities back to the Selling Agent on the subsequent pooling date.
Master Placement and Investment Agreement (April 27, 1998)
Amendment to Master Placement and Investment Agreement (June 5, 2000)
Deutsche Bank

- Serves as third party bailee for the Interim Funding Provider.
 - Receives debentures and interim partial assignments to be funded by Interim Funding Provider from Custodian and immediately pays/wires purchase price to Custodian.
 - Delivers securities scheduled to be pooled to the Escrow Agent.
 - Receives wire transfer from Custodian equal to refunding price (purchase price plus interim interest less 20 basis points for Selling Agent) for securities to be pooled.
- Deutsche Bank Custodial Agreement (December 18, 1997) and Master Placement and Investment Agreement (April 27, 1998)*

Escrow Agent: *JP Morgan Chase Bank.*

- Receives debentures and interim partial assignments from Bailee on day prior to scheduled pooling date.
 - Holds securities in escrow pending payment to the Bailee.
 - Provides securities to Custodian on pooling date.
- Escrow Agreement (April 27, 1998)*

Underwriters: *Goldman, Sachs & Co., Chase Securities Inc., Credit Suisse First Boston Corporation.*

- Purchases either the Partial Assignment of Participating Securities or the Debentures for each public offering, together with the related Guarantee Agreements from SBA.
 - Combines Partial Assignment or Debentures and related SBA Guarantee Agreement into a pool.
 - Assigns all the rights, title, and interest in each pool to the Trustee to be held in trust, in exchange for Trust Certificates.
- Participating Security Partial Assignment Purchase, Pooling and Exchange Agreement*

Trustee: *JP Morgan Chase Bank.*

- Issues Trust Certificates representing fractional undivided interests in each pool.
 - Holds legal title for the pooled securities in trust for the holder of Trust Certificates.
 - Central Registration Agent for the public holders of record.
 - Acts as custodian for pooled Participating Security Partial Assignments and Debentures.
 - Receives from Collection Agent all prioritized payments and redemption payments collected from the SBICs and SBA on the business day prior to each distribution date.
 - Receives payments due on debentures from SBICs.
 - Distributes either prioritized payments and redemption payments for participating securities or interest and principal for debentures to trust certificate holders.
- Trust Agreement (February 1, 1997)*

DTC: *Depository Trust Company.*

- Maintains book-entry certificates for debenture and participating security trust certificates.
- Holds securities for participating organizations and facilitates the clearance and settlement of securities transactions between its participants thorough electronic book-entries, thereby eliminating the need for physical movement of certificates.

Collection Agent: *JP Morgan Chase Bank.*

- Collects all payments on pooled participating securities (prioritized payments, profit participation, redemptions, adjustments, annual charges) from SBICs on payment dates.
- Remits all participating security payments to Trustee one business day prior to the related distribution date for distribution to the holders or SBA.

Amended and Restated Collection Agency Agreement (February, 1, 1997)

Appendix 4-4.

Procedures for Funding Under Just In Time

PROCEDURES FOR FUNDING UNDER "JUST IN TIME"

OVERVIEW

The Just In Time (JIT) funding process will involve significant evaluation of an SBIC's financial position and operations at two points: the granting of a commitment to draw leverage, and the annual review of the SBIC's position in order to ratify the licensee's continued eligibility to draw under previously granted commitments. Because of the anticipated increase in the frequency of draw requests under the JIT process, and in view of the additional analysis and review of the SBIC's position at time of commitment and time of annual review, Investment Division activities associated with each draw will be limited. The following actions will form the basis of funding approval under JIT:

- ◆ Eligibility under existing commitments
- ◆ Regulatory compliance as measured by Exam matters
- ◆ Demonstration of need, evidenced by a list of pending or anticipated financings or explanation of the need for liquidity
- ◆ Recommendations by the Analyst and Area Chief
- ◆ Review of all documentation associated with the draw request for completion and execution

Please refer to the attached Just In Time Leverage Action for the format in which these matters are to be presented for approval.

ELIGIBILITY UNDER EXISTING COMMITMENTS

Since funding will be under existing commitments, the analyst must determine if sufficient remaining commitments are available for the requested draw. Data Management will also be performing this function upon initial receipt of a draw request. The OI Information system will be accessed to verify remaining commitments. In addition, sufficient leverageable capital must have been invested in the SBIC to accommodate the draw (2:1 or 3:1 for Participating Securities and Debentures, respectively). This information must be filed and approved within 7 days prior to the draw request, and it must be verified as of the date of the request.

REGULATORY COMPLIANCE

The analyst will review the last exam report and identify all unresolved matters. Any 'Big Nine' violation which has not been resolved may be grounds for denial. The analyst will also review any other unresolved regulatory matters. If potential major violations have been identified, this may be grounds for denial or delay in approval pending the resolution of these items.

DEMONSTRATION OF NEED

As a part of the documents submitted with the request for funding, the SBIC will provide a list of the small concerns it expects to finance with the proceeds of the draw, or to provide liquidity. This list will consist of the name of the proposed investee company, the type of financing (e.g., subordinated debt, preferred stock, or common stock), the approximate date of the funding, and the contemplated dollar amount of financing. The analyst will review this list to determine if it reflects the business activities of the licensee (e.g., if the list is primarily equity investments and the SBIC was licensed as a debenture issuer to do debt financings). The analyst will also make a cursory review to determine if it contains previously identified potential investments by the applicant. If the draw request is to maintain liquidity of the SBIC, the analyst will review the statement of resources available to the SBIC which was filed in conjunction with the draw request.

Appendix 4-5.

Memorandum # 98-11 (Just In Time Funding Procedures)



U.S. SMALL BUSINESS ADMINISTRATION

INVESTMENT DIVISION
WASHINGTON, DC 20416

Date: April 22, 1998

To: All SBIC Program Licensees

From: Don A. Christensen
Associate Administrator for Investment

Subject: Memorandum #98-11:
Just-in-time funding procedures

As we approach the launch of our new "Just-in-time" funding mechanism, I would like to give you an overview of the procedures that we expect to use. Detailed instructions will be provided later, along with the necessary documentation. Undoubtedly, modifications will be necessary as we develop experience with the new process.

We anticipate that the February 1998 participating security funding and the March 1998 debenture funding will have been the last **direct** fundings to be offered. Henceforth, all fundings will be provided through the Federal Home Loan Bank of Chicago ("Chicago Bank"). Although we are still finalizing some of the details and further delays may occur, our current plan is to initiate the process by accepting initial draw applications in mid-May for disbursement on a once a week basis beginning approximately 10 days later. By June we expect to accept draw applications twice monthly and to be able to disburse funds on any business day requested, all as described below. *As soon as specific details are finalized, they will be made available.*

There are five elements to the new funding process:

1. A leverage commitment,
2. An annual authorization,
3. A draw request and approval,
4. A settlement request for disbursement of the funds, and
5. The ultimate pooling of SBA-guaranteed securities.

1. **Leverage Commitments:** Commitments for the funding of leverage are issued pursuant to SBA regulations at §107.1200. They normally will be offered three times per year, tentatively November, February, and August, with a memo notifying you of the commitment window sent in advance. (This year we are also offering commitments in May to facilitate the transition.) New licensees need not wait for the next scheduled commitment date but will be given the opportunity to purchase commitments for up to two tiers of leverage, depending upon availability, at the time of licensing upon filing an updated capital certificate.

All licensees will need a commitment in order to obtain leverage, regardless of the type of leverage utilized. Commitments generally will expire on September 30th of the fourth federal fiscal year following issuance, and will require payment of a 1 percent fee at the time of issuance, with the additional 2 percent fee payable at the time funds are actually disbursed. Up to two tiers of regulatory capital may be committed at any one time; however, it will probably be necessary for

SBA to allocate the available leverage during the next few years to accommodate the accelerated demand resulting from the longer term commitments.

2. Annual authorization: The second element of the funding process is the annual authorization, which authorizes a maximum amount of the commitment for disbursement during the ensuing year. Approximately once a year, the Investment Division Credit Committee will review each SBIC with outstanding commitments and authorize a maximum amount of the committed leverage that can be drawn over the next 12 months. This usually will be up to one tier of regulatory capital; however, an SBIC may request a larger amount or, if the SBIC has drawn the entire amount previously authorized, it may request a new authorization even though less than a year may have elapsed. This procedure is similar to the annual renewal of bank credit facilities and will allow us to make certain that there has not been serious regulatory or financial deterioration of the SBIC being reviewed.

For newly licensed companies, SBA will not authorize draws on commitments until the company has submitted an opening SBA Form 468 and has invested at least 50% of its leverageable capital. Generally not more than one-half tier of regulatory capital will be *authorized* for new licensees until there has been some investment activity and an examination to review that activity. Successor funds with management teams successful in the SBIC Program will not be subject to this limitation.

3. Draw approval: Licensees will be able to request draw approvals on outstanding commitments twice monthly, tentatively the second and fourth Wednesdays of each month, by submitting draw request documents (including an opinion of counsel) which will be provided by SBA. The Investment Division will review the draw request documents and the SBIC's regulatory and financial status, and will make a funding decision. Essentially we will be confirming that the assumptions on which the leverage commitment and the annual authorization were granted are still valid. An approval will then be faxed to the SBIC, the SBIC Funding Corporation (acting as selling agent for the licensee), the Chicago Bank (interim funding source), and The Chase Manhattan Bank (Custodian) by close of business the following Wednesday.

4. Settlement request: Once a draw is approved, the SBIC will have 45 days in which to request disbursement of the funds. It will do this by faxing the settlement request to the Custodian which, in turn, will inform the Chicago Bank. Funds for valid settlement requests received before 2 p.m. will be transferred to the SBIC's account by 4 p.m. the following business day. An amount equal to the 2 percent disbursement fee due SBA and the 50 basis point underwriting fee for the marketing of the pool trust certificates will be deducted from the proceeds.

The interim interest or prioritized payments at a rate of LIBOR plus 50 basis points (of which 20 basis points goes to SBIC Funding Corporation as selling agent for the SBIC) and the annual 1 percent charge to SBA will be calculated for the period remaining until the date of the next scheduled pooling. SBICs issuing debentures must pay these amounts on the day before the scheduled pooling. For SBICs issuing participating securities, SBA will advance these amounts.

5. Pooling: The final element of the funding process is the pooling of the SBA-guaranteed securities and sale of trust certificates. This will be largely transparent to the issuing SBICs since the debenture or participating security originally issued by an SBIC in drawing the funds will

incorporate the terms of both the interim funding through the Chicago Bank and the long term funding of the securities through the sale of 10 year SBA-guaranteed trust certificates. The transition from interim to long term will occur with no further action required of the SBIC other than, in the case of debentures, paying the previously calculated interest and annual SBA charge for the interim funding period. The current quarterly poolings of debentures and participating securities will be replaced with semi-annual poolings for each security, expected to be scheduled in February and August for participating securities and in March and September for debentures. On the pooling date, securities issued since the last pooling will be combined into a new pool and participations will be sold publicly on the same basis as currently used. The interest rate will be negotiated with the underwriters based upon the then current ten year treasury rate and the SBIC informed.

Within the next six months, we expect to begin utilizing the internet and e-mail for much of the funding process. Thereafter, each SBIC will need to have an e-mail address to receive funding.

It should be noted that by utilizing the interim credit facility, an SBIC basically is agreeing to convert at the next pooling date to a long term credit facility whose interest rate is unknown at the time the interim facility is commenced. As a consequence, licensees will have an exposure to interest rate risk for up to six months. SBIC Funding Corporation currently is exploring programs under which this risk can be mitigated or avoided through the use of contract hedging techniques to provide protection against interest rate increases. Such hedging will involve additional cost depending upon the size of the transaction being hedged, its duration, and market conditions at the time the hedge is commenced. Techniques being explored include "collars" which can provide protection outside a stated band of interest rates and "caps" which put a ceiling on interest rates. Any views on the subject of hedging should be directed to Lee Mercer at (202) 628-5055.

Appendix 4-6.

Memorandum Issued April 28, 1998, Subject: Just In Time
Funding

**Investment
Division**



Memo

To: All Licensees Holding Leverage Commitments
From: Don A. Christensen, Associate Administrator for Investment
Date: April 28, 1998
Re: Just in Time Funding

I am pleased to announce that we are ready to begin the Just in Time funding process, with the first funding to take place in May. Enclosed is a "Draw Request" package, with detailed instructions. You may submit a Draw Request to SBA's Funding Control Officer at any time, in accordance with the attached *Memorandum of Instructions*. Please note that you do NOT send requests to your analyst. Each Draw Request that you submit may be for multiple takedowns, each of which will have its own instrument. Each takedown must be either for specific investments or for liquidity.

Each month, there will be two periods for SBA to process Draw Requests, with cutoff dates on the second and fourth Wednesdays. Any Draw Requests that have been received by SBA by 10:30 A.M. (Eastern time) on those days will be processed over the next six days. Each Licensee will be notified of approval or denial no later than the following Wednesday. Approval will be evidenced by Section I of a 3-part form called Notice and Confirmation (sample attached), which will be faxed to each SBIC for which a draw has been approved. (For denials, your analyst will contact you immediately upon making this determination.)

The calendar on the next page visually reflects the key dates associated with the first processing of Draw Requests and takedowns. The chart below it identifies the activities that will occur on each highlighted date with a reference letter. In the chart, day zero represents the day the Draw Request is approved.

# Weeks	Sun	Mon	Tu	Wed	Th	Fri	Sat
After							
Approval				MAY			
				6 (a)	7	8	9
	10	11	12	13 (b)	14	15	16
	17	18	19	20 (c)	21 (d)	22 (e)	23
1	24	25	26	27	28	29	30
2	31						
				JUNE			
2		1	2	3	4	5	6
3	7	8	9	10	11	12	13
4	14	15	16	17	18	19	20
5	21	22	23	24	25	26	27
6	28	29	30				
				JULY			
6				1 (f)	2 (g)		

Ref	Day	Date	Activity
a	-14	May 6 - C.O.B.	Last date for increases in Leverageable Capital upon which Draw Request is based to be filed with SBA analyst
b	-7	May 13 - 10:30 A.M.	Cutoff time for Draw Request (Next cutoff: May 27 th)
c	0	May 20 - 3:00 P.M.	Notification of Draw Request Approval
d	+1	May 21 - 2:00 P.M.	Earliest time to request takedown
e	+2	May 22 - C.O.B.	First possible takedown (also on following Fridays)
f	+42	July 1 - 2:00 P.M.	Last day to request takedown before approval expires
g	+43	July 2 - C.O.B.	Last day for takedown

Please note that the last two days would normally be +43 and +44, but July 3rd is a holiday.

During the start-up phase of Just in Time funding, which will last a few weeks, we are limiting funding takedowns to Friday of each week. That means that you may submit the Notice and Confirmation, with Section II completed, to the Custodian (The Chase Manhattan Bank) any time until Thursday at 2:00 P.M. in order to receive funds on Friday. When we are confident that the process is working smoothly, which we anticipate will be mid-June, we will then be able to provide daily takedowns.

In order not to overload the start-up phase, we ask that, if you do not anticipate requiring funds before June 5th, please wait until May 27th or later to submit a Draw Request. May 27th is the cutoff date for the second processing of Draw Requests and takedowns.

Once a Draw Request has been approved by SBA, you have until the seventh Thursday following our faxing of a Notice and Confirmation in which to complete Section II and submit the entire document (in other words, to request a takedown). If a specific Draw Request should expire without all approved funds being utilized, you may submit a new Draw Request. There are no penalties for non-use; your commitments are not affected in any way, and we charge no additional fees.

If you have any questions, please hold them until May 6th (or later) when the process will be initiated, and then please direct questions to your analyst. We look forward to implementing this new funding process with you.

SAMPLE

I.D. Control # _____

INTERIM FUNDING APPROVAL NOTICE AND CONFIRMATION

Section I. SBA Approval and Guarantee Notification

SBIC Name: _____ Disbursement Amount must be wired to: _____
License #: _____
SBIC Address: _____
SBIC Fax #: _____
Approval Date: _____

Participating Security/Debenture (circle one)

The United States Small Business Administration ("SBA") certifies that the SBIC listed above has been approved for SBA guaranteed leverage as set forth below.

Maximum guaranteed disbursement: \$ _____ (only one disbursement permitted)

[Scheduled Pooling Date: _____.] or [Scheduled Pooling Date: _____, if Settlement Date is on or before _____; and _____ if Settlement Date is after _____].

THIS APPROVAL EXPIRES ON _____.

IN ORDER TO REQUEST FUNDS, THE SBIC NAMED ABOVE MUST COMPLETE SECTION II "SBIC CONFIRMATION" BELOW AND MUST RETURN AN EXECUTED COPY OF THIS DOCUMENT BY FACSIMILE TO THE CHASE MANHATTAN BANK (ATT'N: STRUCTURED FINANCE SERVICES FAX#: (212) 946-3240) BY NO LATER THAN 2:00 P.M. (NEW YORK CITY TIME) ON _____ (THE "FINAL CONFIRMATION DATE"). SBIC CONFIRMATIONS SERVE AS REQUESTS FOR FUNDS ON THE NEXT BUSINESS DAY. SBIC CONFIRMATIONS RECEIVED BY THE CUSTODIAN AFTER 2:00 P.M. NEW YORK CITY TIME ARE DEEMED RECEIVED ON THE FOLLOWING BUSINESS DAY. A "BUSINESS DAY" IS ANY DAY OTHER THAN (I) A SATURDAY OR A SUNDAY, (II) A LEGAL HOLIDAY IN WASHINGTON, D.C., AND (III) A DAY ON WHICH BANKING INSTITUTIONS IN NEW YORK CITY ARE AUTHORIZED OR OBLIGATED BY LAW OR EXECUTIVE ORDER TO BE CLOSED.

THE U.S. SMALL BUSINESS ADMINISTRATION

By: _____
Name: _____
Title: _____

SAMPLE

Section II. SBIC Confirmation

The above-referenced SBIC, through its duly authorized signatory, affirms to SBA that:

- (i) there has been no material adverse change in the financial condition of the SBIC since the date of the SBIC's most recent SBA Form 468 filed with SBA;
- (ii) the Board of Directors resolutions or General Partner's Certificate, as appropriate, authorizing the issuance of the requested leverage and authorizing SBIC Funding Corporation to act as the SBIC's agent to sell such leverage is still in effect in the same form submitted to SBA; and
- (iii) to the best of my knowledge and belief, the SBIC is in compliance with all applicable provisions of the Small Business Investment Act of 1958, as amended, and the regulations promulgated thereunder, except as previously disclosed to SBA in the Statement of Compliance submitted in connection with the application for the requested leverage or as subsequently disclosed to SBA in writing;

and irrevocably requests the following (only one disbursement is permitted):

Amount of disbursement: \$ _____.

By: _____
Name: _____
Title: _____
Date: _____

Section III. Custodian Confirmation

Disbursement	Confirmed <input type="checkbox"/>	Settlement Date: _____
	Rejected <input type="checkbox"/>	Reason for rejection of confirmation:
		Expired Approval <input type="checkbox"/>
		Incomplete Submission <input type="checkbox"/>

THE CHASE MANHATTAN BANK,
as Custodian

By: _____
Title: _____