



SMALL BUSINESS INVESTOR ALLIANCE

SBIC Regulations Pulse Check Survey October 2022
Survey

Survey results will be anonymous, but we need your information to analyze the data and follow up with you.

We also need your firm to fill out as many questions as possible, have only one submission per firm, and for you to be as candid as possible. If you do not put your real name of your platform in the survey then your submission will not only be ignored, it will be deleted.

Question Title

* 1. Name of Fund - all submissions without their real fund name will be deleted. 0

Question Title

* 2. Type of Platform 0

- ☐ GP of SBIC
- ☐ BDC with SBIC
- ☐ Other
- ☐ SBIC Fund in Formation

Question Title

* 3. Type of SBIC 0

- ☐ Leveraged
- ☐ Non-Leveraged
- ☐ We have both Levered and Non-Levered SBIC Funds

Question Title

* 4. Capital Provide By Your SBIC Fund 0

- ☐ Primarily Debt
- ☐ Primarily Equity
- ☐ Unitranche

Question Title

* 5. Point of Contact for Your Firm? 0

Question Title

* 6. SBA is defining “Equity Capital Investments” to include equity and equity-like investments to include common or preferred stocks, limited partnership interests, certain subordinated debt, and warrants. Is this an adequate or should the definition be expanded in some way? 0

- ☐ Adequate
- ☐ Inadequate, please expand definition

Question Title

* 7. The SBA is proposing a new model to expand capital access outside of the types of capital currently provided by existing SBICs. The idea is to keep current SBICs with the current model and to bring new funds into the SBIC universe to provide different types of capital. SBA is creating of “Accrual Debenture” for SBICs Licensed to offer only the new “Accrual Debenture” where the new debenture is 1) designed for equity investments 2) is limited to funds that invest at least 75% of their capital via equity investments in a non-control manner (growth equity, no buyouts) 3) have a debenture where there are no interest or principal payments due for 10 Years. SBA would guarantee both the Principal and Interest on the new Accrual Debenture. This does not change anything for current SBICs or the normal SBIC Debenture Program.

Would more types of SBICs providing more types of capital to a broader range of businesses be... 0

- ☐ Expanding Types of SBIC Capital Providers would be a NET POSITIVE for the SBIC Program and Industry
- ☐ Expanding Types of SBIC Capital Providers would be a NET NEGATIVE for the SBIC Program and Industry

Question Title

* 8. Modifying the definition of “Associate” from a 33% ownership stake to a 50% ownership stake to align with the financing practices of “Community Development Corporations” 0

- ☐ Net positive for the small business investing ecosystem
- ☐ Net Negative for the small business investing ecosystem
- ☐ Don’t know or don’t care

Question Title

* 9. Set a new floor (lower limit) on the “Annual Charge” of 50 bps 0

- ☐ Net positive for SBIC program because it acts as an insurance policy for the whole of the program in the event of market losses

- ☐ Net negative for the program because it has the potential to raise the costs of leverage during good times

Question Title

* 10. What “Annual Charge” lower limit would create a meaningful financial burden for SBIC funds? The historical average for the Annual Charge over the last 20 years has been 60 bps (from FY 2000 through FY 2022). There is currently a ceiling of 138 bps that will not change. 0

- ☐ 20 bps
- ☐ 30 bps
- ☐ 40 bps
- ☐ 50 bps
- ☐ 60 bps
- ☐ 70 bps
- ☐ 80 bps
- ☐ 90 bps
- ☐ 100 bps
- ☐ Over 100 bps

Question Title

* 11. SBA proposes amending the definition of “Control Person” to change what constitutes “a controlling relationship over a Limited Partnership Licensee with a government sponsored non-profit management company relationship.” New rule states that when over 30% of the private capital managed by the licensee comes from unaffiliated and unassociated entities (outside of their association as an investor in the Licensee), the management company of the Licensee is a government sponsored non-profit entity and the general partners of the licensee are bound 0

- ☐ by a fiduciary duty to the investors in the licensee, then the management of the licensee can be determined to be free from outside control.
- ☐ Good for the SBIC program to include government sponsored non-profits
- ☐ Bad for the SBIC program because government non-profits might encourage non-sustainable investments
- ☐ Other (please specify)

Question Title

* 12. Clearly Define a Leveraged SBIC License; a Leverage Accrual SBIC, and a Non-Levered SBIC License (they current regulations do not recognize them as different types of SBICs.) 0

- ☐ Net positive for SBIC program
- ☐ Net Negative for SBIC program
- ☐ Don't know or Don't Care

Question Title

* 13. Allow *Levered* SBICs to be treated as *Non-Levered* SBICs after they have paid off all their leverage (with commensurate reduced costs and reporting). 0

- ☐ Net positive for SBIC program
- ☐ Net Negative for SBIC program
- ☐ Don't know or Don't Care

Question Title

14. READ (Retained Earnings Available for Distribution) for Levered SBICs *licensed prior to October 2023* would basically stay the same, but requires any impending material adverse changes that could affect the READ calculation 0

- ☐ Reasonable
- ☐ Unreasonable

Question Title

* 15. Major Change in READ (Retained Earnings Available for Distribution) for Levered Funds Licensed AFTER October 2023 – SBA would require that leverage and distributions to private LPs be paid with the SBA being paid back at least on a Pro Rata Basis (thus reducing the risk of the SBA being left with defaulting debentures after LPs have been paid). 0

- ☐ Reasonable
- ☐ Unreasonable

Question Title

16. READ (Retained Earnings Available for Distribution) for Levered Funds Licensed AFTER October 2023 – would this negatively impact LPs. If so, how? 0

Question Title

* 17. SBA is proposing adding “Enhanced Monitoring”. The SBA will increase oversight and required reporting for the bottom quartile of SBICs (regardless of whether the funds are otherwise performing) Performance will likely be determined by new required performance reporting. Check all that apply: 0

- ☐ This seems fair
- ☐ This seems unfair if the SBICs are in the bottom quartile, but are still fully performing
- ☐ SBA should have enhanced monitoring for SBIC funds who have *indications of impending risk of non-performance* of their debentures due to struggles of their portfolio companies
- ☐ SBA should only have enhanced monitoring after a major breach of regulations or default on a debenture payment
- ☐ This appears to be a new "restricted operations" category without a fund necessarily doing anything wrong.

Question Title

* 18. SBA is proposing changing Ownership Diversification requirements to allow “indirect” government funds (state or federal) to be used as leverageable capital. Is this healthy or unhealthy to leverage indirect government money? 0

- ☐ Healthy for the ecosystem
- ☐ Unhealthy

Question Title

* 19. SBA proposes to expand the exception to the diversification ownership requirement (i.e., management of a Licensee must be sufficiently unaffiliated from the sources/ Regulatory Capital) to include non-profit entities that may own 70% or more/Licensee’s regulatory capital. This would allow non-profits to manage SBIC funds and access leverage. Is this... 0

- ☐ Good for the program to have non -profits running SBICs (both levered and non-levered)
- ☐ Bad for the program to have non-profits running SBICs (both levered and non-levered)

Question Title

* 20. Lower minimal capital raise to \$3 million with one tier of leverage available if serving an underserved market or is headquartered in an “under-licensed state” 0

- ☐ Good Policy – We need more “super small funds”
- ☐ Bad Policy – We need more smaller funds, but 3 million in AUM is way too small to be functional

Question Title

* 21. Changes to licensing fees – Lower fees for first time funds 0

- ☐ Helpful
- ☐ Doesn't make a difference, even for smaller funds

Question Title

* 22. Changes to Licensing fees for Repeat Funds – higher for repeat funds 0

- ☐ Fair, repeat funds can afford it and the cost is negligible
- ☐ Unfair, repeat funds are easier to relicense and should not pay more

Question Title

* 23. SBA is proposing approve total leverage commitments at time of licensure (basically underwrite the SBIC once at licensure and not re-underwrite later when more leverage would normally be reserved). Would having to have all the leverageable capital raised at time of licensure make fundraising or licensing harder or more problematic? 0

- ☐ Yes
- ☐ No
- ☐ Don't know

Question Title

* 24. SBA is proposing approving and SBIC's total leverage commitments at time of licensure. Would having to have pay reserving fees at time of licensure for all leverage substantially harm IRR of fund? 0

- ☐ Yes
- ☐ No
- ☐ Don't know

Question Title

* 25. SBA is proposing adding a Resubmission of License Application fee of \$10,000 – If a licensing application has to be withdrawn and then resubmitted is charging a resubmission fee of \$10,000 fair and reasonable? 0

- ☐ Yes
- ☐ No

Question Title

26. SBA is proposing adding requirements for additional management qualification for licensure – industry operational experience – Is adding this qualification reasonable and beneficial? 0

- ☐ Yes
- ☐ No

Question Title

* 27. SBA is proposing adding requirements for additional management qualification for licensure – experience managing regulated businesses (history of compliance in SBIC program). Is adding this qualification reasonable and beneficial? 0

- ☐ Yes
- ☐ No

Question Title

* 28. SBA is proposing adding giving itself the ability to determine its own “Portfolio Diversification” in granting leverage commitments at licensing based upon location, underserved state, asset class, etc. (Basically, ration licenses by investment type, industry, etc. to manage the risk of their entire portfolio as a whole) 0

- ☐ Reasonable new authority
- ☐ Unreasonable new authority

Question Title

* 29. SBA is proposing adding making changes to its Valuation Policies. Levered and Accrual Funds will have to report in both GAAP and SBA accounting until leverage is paid off, then the requirement will only be for GAAP. Is it reasonable to only require GAAP financials after leverage has been paid off or if no leverage was ever applied for? Currently, SBA valuation methods are still required even if there is no longer any outstanding leverage. 0

- ☐ Reasonable change – an improvement
- ☐ Unreasonable change – no improvement or a new headache

Question Title

* 30. SBA is proposing adding moving to quarterly reporting on valuations (currently semi-annual). How difficult would this be for SBICs? 0

- ☐ This would be significantly more expensive to comply with.
- ☐ This would not be significantly more expensive or time consuming

Question Title

* 31. SBA is proposing a clarification that clearly allows wind down plans to be considered in “active operation” to prevent technical violations at the end stage of a fund. Is this... 0

- ☐ Reasonable improvement
- ☐ Unreasonable change

Question Title

* 32. SBA is seeking to expand Portfolio Company Reporting to include more data on jobs created (numbers, how created) and demographic information on the employees. Is this... 0

- ☐ Reasonable reporting requirement for portfolio companies
- ☐ Unreasonable reporting requirement for portfolio companies

Question Title

33. SBA is proposing who files a 468 and when. SBA is proposing that ALL (not some) levered SBICs file a 468 within 45 days (currently 30 days) after then quarter end. Is this... 0

- ☐ Reasonable
- ☐ Unreasonable

Question Title

* 34. SBA is proposing adding Quarterly Filing of Form 1031 instead of filing after each investment. Is this... 0

- ☐ An improvement
- ☐ A new headache without significant benefit

Question Title

* 35. SBA is proposing “Voluntary” Demographic Reporting for SBICs and their portfolio companies. Do you have confidence this will really be voluntary and not be used for regulatory or licensing purposes? 0

- ☐ Yes
- ☐ No

Question Title

36. SBA is proposing formally requiring SBICs submit all reports that are shared with LPs also be shared with the SBA. Is this... check all that apply 0

- ☐ Reasonable
- ☐ Unreasonable because they don't read them anyway
- ☐ Unreasonable because this is a burden

Question Title

* 37. Rather than submitting SBA 468, Valuations, etc. quarterly to measure performance, would having the SBA accept a simple standardize performance spreadsheet using standard market metrics prepared by the SBIC industry be easier, more cost effective, and better data be preferable to the SBA forms? 0

- ☐ Yes
- ☐ No

Question Title

* 38. SBA is proposing Raising Exam Fees, and assessing Non-leveraged Licensees with over \$50 million/assets will be assessed an additional \$20,000 with their fee. 0

- ☐ Exam fees are already too high (above market rates) – don't raise them
- ☐ Exam fees are too low (below market rates)- they should be raised

Question Title

* 39. SBA is proposing a special exemption to the “no re-investment prohibition” to open SBIC Leverage to “underserved” Funds of Funds so they can invest in non-SBIC funds that in turn invest in businesses that are otherwise eligible to receive capital from SBICs. (Underserved is not defined by the regulations) 0

☐ Yes, there should be a special exemption for underserved Funds of Funds into non-SBIC funds

☐ No, there should not be a special exemption for underserved Funds of Funds to invest into non-SBIC funds. Using SBIC capital to invest in other funds should remain prohibited.

Question Title

* 40. Opening SBIC Leverage to “underserved” (undefined term) non-bank lenders that lend to businesses that are otherwise eligible to receive SBIC investment. (Underserved is not defined by the regulations) 0

☐ Yes, “underserved” non-bank lenders should receive a special exemption and be allowed to receive an SBIC license and access SBIC leverage to “re-lend” to qualified small businesses.

☐ No, non-bank lenders should be held to the same “no re-lending” standard as conventional SBICs

Question Title

* 41. SBA is proposing a safe harbor to the “Conflicts of Interest” limits for follow on investments. 0

☐ Reasonable

☐ Unreasonable

Question Title

* 42. SBA is proposing clarifications a safe harbor for “Prepayment Restrictions” to make sure that Pro Rata Prepayment requirements are explicitly allowed (which is also current practice). To ensure that there is a consistent understanding of the appropriate treatment of such provisions, SBA asking whether the regulations should be modified to clarify that pro rata distributions of prepayments in unitranche or multi-lender transactions (Loan and Debt Securities) should also not require SBA’s prior written approval. This clarification is... 0

☐ Reasonable

☐ Unreasonable

Question Title

* 43. Should there be an automatic license for repeat SBICs that have clean audits, raised adequate private capital, have no material adverse changes, and have basically the same strategy as their previous fund? 0

☐ Yes

☐ No

Question Title

* 44. Should SBA have clear, objective licensing criteria that is publicly posted? 0

☐ Yes

☐ No

Question Title

* 45. Does SBA have clear, objective licensing standards that are applied evenly and consistently to all applicants? 0

☐ Yes

☐ No

Question Title

* 46. Should SBA have defined timelines enshrined in regulations for licensing and regulatory approvals? 0

☐ Yes

☐ No

Question Title

* 47. When SBA requires a valuation study, should SBA perform and complete all valuation studies (by either internal staff or outside contractors) within 30 days and provide the results to the SBIC? 0

☐ Yes

☐ No

☐ Don't know

Question Title

* 48. The most painful and unreasonable SBIC regulation is... (fill in the blank) 0

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Question Title

49. Please identify any other item not identified in SBA's regulatory proposal that SBA should consider (provide specific examples, if appropriate): 0

Question Title

50. Is there anything else you want SBIA to know or start thinking about? 0

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