

SUPPORTING STATEMENT
SBA FORM 1941A: FINANCING ELIGIBILITY STATEMENT – SOCIAL
DISADVANTAGE (Member of a designated group)
SBA FORM 1941B: FINANCING ELIGIBILITY STATEMENT – SOCIAL
DISADVANTAGE (Not a member of a designated group)
SBA FORM 1941C: FINANCING ELIGIBILITY STATEMENT – ECONOMIC
DISADVANTAGE

A. Justification

1. Circumstances necessitating the collection of information. The Investment Division of the Small Business Administration (SBA) licenses and regulates small business investment companies (“SBICs”). Among current licensees, there are approximately 17 “specialized” SBICs (SSBICs) that were originally licensed under section 301(d) the Small Business Investment Act, as amended. Section 301(d), which was repealed on September 30, 1996, authorized the licensing of SSBICs to invest solely in small business concerns owned by “persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.” Section 208(b)(3)(A) of Public Law 104-208, which contained the repeal provision, also provided that “[t]he repeal under subparagraph (A) shall not be construed to require the Administrator to cancel, revoke, withdraw, or modify any license issued under section 301(d) of the Small Business Investment Act of 1958 before the date of enactment of this Act.” As a result, a number of SSBICs continue to operate. Section 308(h) of the Act requires these SSBICs, before providing financial assistance to a company, to obtain the company’s certification that it meets the eligibility requirements of the SSBIC program. The SSBICs themselves must review the information provided by the company and certify that the information supports the eligibility of the company.

13 CFR 107.50 sets forth the regulatory definition of a “Disadvantaged Business” that is eligible to receive financing from an SSBIC. Additional criteria for the determination of social or economic disadvantage are set forth in SBA Policy and Procedural Release #2017. A small business concern can qualify as a Disadvantaged Business if it is at least 50 percent owned, and controlled and managed on a day to day basis, by a person or persons who qualify as either socially or economically disadvantaged. SBA Form 1941A, B or C, as appropriate, is used to certify that a small business concern qualifies for assistance from an SSBIC because of social or economic disadvantage experienced by the business owner(s).

2. How, by whom, and for what purpose information will be used. The information collected is a certification of eligibility for SSBIC financial assistance based on social or economic disadvantage. The completed form is retained by the SSBIC in its files as required by section 308(h) of the Small Business Investment Act and 13 CFR 107.610. Completed forms are reviewed periodically by an SBA examiner as part of his/her on-site examination of the SBIC. SBA conducts these examinations pursuant to the statutory requirement of section 310(c) of the Small Business Investment Act, as amended, and 13 CFR 107.690. The purpose of the examination as stated in the statute is to determine, in part, whether or not the

SBIC has engaged “solely in lawful activities and those [activities] contemplated” by title III of the Small Business Investment Act.

The information collected on Form 1941A, B and C is used to confirm that all financings by SSBICs are made to Disadvantaged Businesses as defined by 13 CFR 107.50. Without such a certification, it is more likely that businesses that do not conform to the eligibility criteria would benefit from program resources meant for Disadvantaged Businesses.

3. Technological collection techniques. SBA Form 1941A, B and C are available electronically to SSBICs and small businesses. The forms can be downloaded from SBA’s web site and can be completed electronically. No provision has been made for electronic submission of the form because it is retained by the SSBIC in its own files and is not submitted to SBA.
4. Avoidance of Duplication. SBA Forms 1941A, B and C are self-certifications of eligibility for SSBIC financing. This information is not reported in any other format. Therefore, there is no duplication of information with this form.
5. Impact on small business or other small entities. The concerns that are asked to complete the form are small businesses, but the impact on these businesses is not significant. The number of financings completed by SSBICs has declined in recent years to fewer than 100 annually. The number of individual small businesses assisted may be less because some businesses receive more than one round of financing. SBA Forms 1941A, B and C have been designed to capture the minimum amount of information necessary to determine compliance with the Small Business Investment Act and SBA regulations.
6. Consequences if collection of information is not conducted. There is no similar information available that can be used to accomplish the purposes of this collection. If the information was not collected, businesses that do not conform to SBA eligibility criteria could benefit from a program created to assist only disadvantaged small businesses.
7. Existence of special circumstances. Small businesses are required to complete SBA Form 1941A, B or C prior to the provision of assistance by an SSBIC. The SSBIC, in turn, will certify that the small business does qualify as a Disadvantaged Business, based on all the information available to the SSBIC. Since the form must be completed in conjunction with each financing of a small business, the frequency of collection may be more than quarterly. In SBA’s experience, this procedure is necessary to ensure that the company receiving financial assistance is eligible. In addition, collection of the information prior to the provision of financial assistance is necessary to meet the statutory requirement for certification of a small business’s disadvantaged status pursuant to section 308(h) of the Small Business Investment Act.
8. Solicitation of public comment. A notice was published in the Federal Register on May 23, 2007, Volume 72, Number 99, page 29028. No comments were received.
9. Payment or gifts. No payments or gifts are provided to respondents.

10. Assurance of confidentiality. The information collected includes personal information and individual financial information. This information is maintained in the files of individual SSBICs and is not sent to SBA. The information is periodically reviewed on site by SBA examiners and it is possible that some of the information collected may be captured in the examiner's working papers, although personal information is not retrievable by individual identifiers. The information collected is protected from disclosure under the Freedom of Information Act, specifically exemptions 4, 6 and 8. The information collected will be protected to the extent permitted by law.
11. Questions of a sensitive nature. The forms request information that may be considered sensitive (e.g., disadvantage experienced in connection with race/ethnicity, physical disability). SBA considers this information essential to the fulfillment of the requirements of the Small Business Investment Act. The Act requires that companies seeking financial assistance from SSBICs provide information supporting their eligibility for such assistance. Such information is maintained in the files of individual SSBICs and is not sent to SBA. The information is periodically reviewed on site by SBA examiners and it is possible that some of the information collected may be captured in the examiner's working papers. The information collected will be protected in accordance with the Privacy Act and the Freedom of Information Act.
12. Estimate of the hourly burden of the collection of information. The estimated completion time is derived from estimates for similar forms used in SBA's 8(a) program (for which applicants must demonstrate social and economic disadvantage). Estimated annual hour burden of collection:
- Estimated number of respondents – 80
Number of responses per respondent – 1
Estimated hours to complete form – 2 hours
Total burden hours – 160
- The estimated aggregate cost of the hour burden is computed as follows:
- Completion time per response – 2 hours
Hourly wage for administrative staff – \$25
Total cost per form – \$50
Estimated number of responses – 80
Total cost – \$4,000
13. Estimate of total annual cost burden. There is no cost to respondents exclusive of the cost of the hour burden given in item 12.
14. Estimated annualized cost to the Federal government. The information collected on SBA Forms 1941A, B and C is retained by each SSBIC in its own files. SBIC program examiners review the information collected at the time of their examination of an SSBIC. The review of these forms is a very small part of the total examination. As a result, the cost to the Federal government is nominal.

15. Explanation of program changes in Items 13 or 14 on OMB Form 83-I. The program change indicated in Item 13 reflects the decreased number of SSBIC financings. As a result of the repeal of section 301(d) of the Small Business Investment Act, no new SSBICs have been licensed since 1996. The number of active operating SSBICs has declined from 35 to 17 in the last three years.
16. Collection of information whose results will be published. Results of this collection of information will not be published.
17. Expiration date for collection of information. Not applicable.
18. Exceptions to certifications in Block 19 on OMB Form 83-I. Not applicable.

B. Collection of Information Employing Statistical Methods

This collection of information does not employ statistical methods.