

SUPPORTING STATEMENT
SBA FORM 2428: FINANCING ELIGIBILITY STATEMENT FOR USAGE OF ENERGY
SAVING DEBENTURE

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”). The Energy Independence and Security Act of 2007 (“Energy Act”), Public Law 110-140, Title XII, section 1205, authorized SBICs licensed after September 30, 2008, to issue “energy saving debentures” for the purpose of making “energy saving qualified investments.” OMB is currently reviewing a proposed rule to implement these statutory provisions. Proposed 13 CFR 107.50 sets forth the regulatory definition of an “Energy Saving Qualified Investment”.

Section 1206 of the Energy Act amended section 303(b)(2) of the Small Business Investment Act of 1958 to make SBICs licensed after September 30, 2008, eligible for additional leverage if they have made energy saving qualified investments in smaller enterprises.

In order to qualify as an “Energy Saving Qualified Investment”, the Small Business receiving the proceeds of energy saving debentures must be “primarily engaged” in business activities that reduce the use or consumption of non-renewable energy sources (“Energy Saving Activities”). In many cases, the SBIC will be able to determine that a proposed investment qualifies by meeting specific criteria listed in the definition (for example, the investment is in a business that generates most of its revenues by manufacturing Energy Star-rated clothes dryers or installing energy-efficient windows that are eligible for a Federal tax credit). However, if the proposed investment does not meet the specific criteria, the SBIC can still request a determination from SBA as to whether it qualifies. To make this determination, SBA must collect certain information about the business and activities of the Small Business.

SBA included a discussion of this collection of information in a proposed rule published in the Federal Register on January 11, 2011. SBA received no comments specifically related to the proposed information collection. However, as a result of two comments received on §107.610(f) of the proposed regulations, SBA has eliminated the requirement for certification of the information by the SBIC submitting the request. Only the Small Business providing the information must certify that it is true and correct.

2. How, by whom, and for what purpose information will be used. The Financing Eligibility Statement for Usage of Energy Saving Debentures will be used by SBICs requesting either or both of the SBA determinations that may be requested under the proposed rule: (1) whether a particular activity in which a Small Business is engaged is an “Energy Saving Activity”, as

described in the definition of that term and as used in §107.610(f)(2), and/or (2) whether a Small Business is “primarily engaged” in Energy Saving Activities, as described in the definition of “Energy Saving Qualified Investment” in §107.50 and as used in §107.610(f) (3). The SBIC must provide supporting evidence of the Small Business’s eligibility based on the factors listed in the proposed rule.

3. Technological collection techniques. SBA will make the Financing Eligibility Statement for Usage of Energy Saving Debentures available electronically, either on SBA’s web site or by email upon request. SBICs will be able to return the completed form to SBA by email.
4. Avoidance of Duplication. SBICs will use the form to describe the Small Business and its activities in order to enable SBA to determine whether the Small Business is “primarily engaged in Energy Saving Activities. 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 information on the form must be certified by the Small Business in which the SBIC proposes to invest. All companies in which an SBIC is permitted to invest are small businesses; however, the impact on small entities will not be significant. There are approximately 300 active SBICs; only about 10% of these were licensed after September 30, 2008, and are eligible to issue energy saving debentures to make Energy Saving Qualified Investments. Based on anticipated new licensing activity, SBA is estimating the number of eligible SBICs at 60. Assuming each of these SBICs will invest in five companies per year, that 5% of all investments will be in energy-saving companies, and that one-third of those will require SBA to make a pre-financing determination of eligibility, SBA estimates five responses per year.
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 use of the energy saving debenture, a riskier security than the standard debenture.
7. Existence of special circumstances. SBICs that want to make an Energy Saving Qualified Investment to a Small Business that does not satisfy the criteria listed in the rule will be required to submit the form prior to the provision of assistance to a small business, so that SBA can determine whether the proposed financing meets the eligibility requirements. Since the form must be completed in conjunction with a specific financing, the frequency of collection may be more than quarterly. However, based on SBA’s projections of the usage of the energy saving debenture, it is very unlikely that any SBIC will request a determination of eligibility more than once a quarter.
8. Solicitation of public comment. A proposed rule establishing eligibility criteria for the energy saving debenture was published in the Federal Register on January 11, 2011. The public had an opportunity to comment on the proposed rule, including this proposed information collection. No comments specific to the information collection were received. However, as discussed above under item 1, SBA has modified the certification requirements

for the information collection in response to comments on § 107.610 of the proposed regulations.

9. Payment or gifts. No payments or gifts are provided to respondents.
10. Assurance of confidentiality. The information collected includes financial data and product information of the portfolio company, which is protected from disclosure under the Freedom of Information Act; exemptions 4, 6 and 8 of the Freedom of Information Act allow SBA to withhold financial data on individual companies. The information collected will be protected to the extent permitted by law.
11. Questions of a sensitive nature. No questions of a sensitive nature are asked.
12. Estimate of the hourly burden of the collection of information. SBA estimates the burden of this collection of information as follows: An applicant will complete this collection once for each prospective Energy Saving Qualified Investment that requires SBA to make a pre-financing determination of eligibility. SBA estimates that the time needed to complete this collection will average 10 hours. SBA estimates that the cost to complete this collection will be approximately \$150 per hour. Total estimated aggregate burden is 50 hours per annum costing a total of \$7,500 for the year.
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 annualized cost to the Federal government for this collection is estimated as follows:

Cost of analysis by financial analyst (GS-13): 8 hrs @ \$50	\$400
Supervisory review: 2 hrs @ \$60 (GS-14) + 1 hr @ \$70 (GS-15)	190
Total cost per response to Federal government	0590
Estimated number of responses	5
Total annual cost to Federal government of application review	02,950
15. Explanation of program changes in Items 13 or 14 on OMB Form 83-I. This question is inapplicable because the information collection is new.
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.