

(2) in clause (iii) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

“(iv) \$4,000,000 for each project that reduces the borrower’s energy consumption by at least 10 percent; and

“(v) \$4,000,000 for each project that generates renewable energy or renewable fuels, such as biodiesel or ethanol production.”.

SEC. 1205. ENERGY SAVING DEBENTURES.

(a) **IN GENERAL.**—Section 303 of the Small Business Investment Act of 1958 (15 U.S.C. 683) is amended by adding at the end the following:

“(k) **ENERGY SAVING DEBENTURES.**—In addition to any other authority under this Act, a small business investment company licensed in the first fiscal year after the date of enactment of this subsection or any fiscal year thereafter may issue Energy Saving debentures.”.

(b) **DEFINITIONS.**—Section 103 of the Small Business Investment Act of 1958 (15 U.S.C. 662) is amended—

(1) in paragraph (16), by striking “and” at the end;

(2) in paragraph (17), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

“(18) the term ‘Energy Saving debenture’ means a deferred interest debenture that—

“(A) is issued at a discount;

“(B) has a 5-year maturity or a 10-year maturity;

“(C) requires no interest payment or annual charge for the first 5 years;

“(D) is restricted to Energy Saving qualified investments; and

“(E) is issued at no cost (as defined in section 502 of the Credit Reform Act of 1990) with respect to purchasing and guaranteeing the debenture; and

“(19) the term ‘Energy Saving qualified investment’ means investment in a small business concern that is primarily engaged in researching, manufacturing, developing, or providing products, goods, or services that reduce the use or consumption of non-renewable energy resources.”.

SEC. 1206. INVESTMENTS IN ENERGY SAVING SMALL BUSINESSES.

(a) **MAXIMUM LEVERAGE.**—Section 303(b)(2) of the Small Business Investment Act of 1958 (15 U.S.C. 303(b)(2)) is amended by adding at the end the following: 15 USC 683.

“(D) **INVESTMENTS IN ENERGY SAVING SMALL BUSINESSES.**—

“(i) **IN GENERAL.**—Subject to clause (ii), in calculating the outstanding leverage of a company for purposes of subparagraph (A), the Administrator shall exclude the amount of the cost basis of any Energy Saving qualified investment in a smaller enterprise made in the first fiscal year after the date of enactment of this subparagraph or any fiscal year thereafter by a company licensed in the applicable fiscal year.

“(ii) **LIMITATIONS.**—

“(I) AMOUNT OF EXCLUSION.—The amount excluded under clause (i) for a company shall not exceed 33 percent of the private capital of that company.

“(II) MAXIMUM INVESTMENT.—A company shall not make an Energy Saving qualified investment in any one entity in an amount equal to more than 20 percent of the private capital of that company.

“(III) OTHER TERMS.—The exclusion of amounts under clause (i) shall be subject to such terms as the Administrator may impose to ensure that there is no cost (as that term is defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)) with respect to purchasing or guaranteeing any debenture involved.”.

15 USC 683 (b) MAXIMUM AGGREGATE AMOUNT OF LEVERAGE.—Section 303(b)(4) of the Small Business Investment Act of 1958 (15 U.S.C. 303(b)(4)) is amended by adding at the end the following:

“(E) INVESTMENTS IN ENERGY SAVING SMALL BUSINESSES.—

“(i) IN GENERAL.—Subject to clause (ii), in calculating the aggregate outstanding leverage of a company for purposes of subparagraph (A), the Administrator shall exclude the amount of the cost basis of any Energy Saving qualified investment in a smaller enterprise made in the first fiscal year after the date of enactment of this subparagraph or any fiscal year thereafter by a company licensed in the applicable fiscal year.

“(ii) LIMITATIONS.—

“(I) AMOUNT OF EXCLUSION.—The amount excluded under clause (i) for a company shall not exceed 33 percent of the private capital of that company.

“(II) MAXIMUM INVESTMENT.—A company shall not make an Energy Saving qualified investment in any one entity in an amount equal to more than 20 percent of the private capital of that company.

“(III) OTHER TERMS.—The exclusion of amounts under clause (i) shall be subject to such terms as the Administrator may impose to ensure that there is no cost (as that term is defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)) with respect to purchasing or guaranteeing any debenture involved.”.

SEC. 1207. RENEWABLE FUEL CAPITAL INVESTMENT COMPANY.

Title III of the Small Business Investment Act of 1958 (15 U.S.C. 681 et seq.) is amended by adding at the end the following:

**“PART C—RENEWABLE FUEL CAPITAL
INVESTMENT PILOT PROGRAM**

15 USC 690.

“SEC. 381. DEFINITIONS.

“In this part:

For the reasons stated in the preamble, SBA proposes to amend part 107 of title 13 of the Code of Federal Regulations as follows:

PART 107 - SMALL BUSINESS INVESTMENT COMPANIES

1. The authority citation for part 107 continues to read as follows:

Authority: 15 USC 681 et seq., 683, 687(c), 687b, 687d, 687g, 687m and Pub. L. 106-554, 114 Stat. 2763; and Pub. L. 111-5, 123 Stat. 115.

2. Amend §107.50 by adding definitions of “Energy Saving Activities” and “Energy Saving Qualified Investment”, to read as follows:

§107.50 Definitions of terms.

Energy Saving Activities means any of the following:

(1) Manufacturing or research and development of products, integral product components, integral material, or related software that meet one or more of the following:

(i) Improves residential energy efficiency as demonstrated by meeting Department of Energy and Environmental Protection Agency criteria for use of the Energy Star trademark label;

(ii) Improves commercial energy efficiency as demonstrated by being in the upper 25% of efficiency for all similar products as designated by the Department of Energy's Federal Energy Management Program;

(iii) Improves automobile efficiency or reduces petroleum consumption through the use of advanced batteries, power electronics, or electric motors; advanced combustion engine technology; or advanced materials technologies, such as lightweighting;

(iv) Improves industrial energy efficiency through combined heat and power (CHP) prime mover or power generation technologies, heat recovery units, absorption

chillers, desiccant dehumidifiers, packaged CHP systems, more efficient process heating equipment, more efficient steam generation equipment, or heat recovery steam generators for industrial application;

(v) Reduces the consumption of non-renewable energy by providing renewable energy sources, as demonstrated by meeting the standards, applicable to the year in which the investment is made, for receiving a Renewable Electricity Production Tax Credit as defined in Internal Revenue Code Section 45 or an Energy Credit as defined in Internal Revenue Code Section 48; or

(vi) Improves electricity delivery efficiency by supporting the smart grid functions as identified in 42 U.S.C. 17386(d) by delivering a product, service, or functionality that serves one or more of the following operational domains: equipment manufacturing, customer systems, advanced metering infrastructure, electric distribution systems, electric transmission systems, or grid cyber security.

(2) Installation and/or inspection services associated with the deployment of energy saving products as identified by meeting one or more of the following standards:

(i) Deploys products that qualify, in the year in which the investment is made, for installation-related Federal Tax Credits for Consumer Energy Efficiency;

(ii) Deploys products related to commercial energy efficiency as demonstrated by deploying commercial equipment that is in the upper 25% of efficiency for all similar products as designated by the Department of Energy's Federal Energy Management Program;

(iii) Deploys combined heat and power products, goods, or services;

(iv) Deploys products that qualify, in the year in which the investment is made, for receiving a Renewable Electricity Production Tax Credit as defined in Internal Revenue Code Section 45 or an Energy Credit as defined in Internal Revenue Code Section 48; or

(v) Deploys a product, service, or functionality that improves electricity delivery efficiency by supporting the smart grid functions as identified in 42 U.S.C. 17386(d) serving one or more of the following operational domains: equipment manufacturing, customer systems, advanced metering infrastructure, electric distribution systems, electric transmission systems, or grid cyber security.

(3) Auditing and/or consulting services performed with the objective of identifying potential improvements of the type described in paragraph (1) or (2) of this definition.

(4) Other manufacturing, service, or research and development activities that use less energy to provide the same level of energy service or reduce the consumption of non-renewable energy by providing renewable energy sources, as determined by SBA. A Licensee must obtain such determination in writing prior to providing Financing to a Small Business. SBA will consider factors including but not limited to:

(i) Results of energy efficiency testing performed in accordance with recognized professional standards, preferably by a qualified third-party professional, such as a certified energy assessor, energy auditor, or energy engineer;

(ii) Patents or grants awarded to or licenses held by the Small Business related to Energy Saving Activities listed in subsection (1) or (2) above;

(iii) For research and development of products or services that are anticipated to reduce the consumption of non-renewable energy, written evidence from an independent

certified third-party professional of the feasibility, commercial potential, and projected energy savings of such products or services;

(iv) Eligibility of the product or service for a Federal tax credit cited in this definition that is not available in the year in which the investment is made, but was available in a previous year.

Energy Saving Qualified Investment means a Financing which:

(1) Is made by a Licensee licensed after September 30, 2008;

(2) Is in the form of a Loan, Debt Security, or Equity Security, each as defined in this § 107.50; and

(3) Is made to a Small Business that is primarily engaged in Energy Saving Activities. A Small Business that derived at least 50% of its revenues during its most recently completed fiscal year from Energy Saving Activities is presumed to be primarily engaged in such activities. Alternatively, a Licensee licensed after September 30, 2008 may request a determination from SBA prior to the provision of Financing as to whether a Small Business is primarily engaged in Energy Saving Activities. SBA will consider the distribution of revenues, employees and expenditures, intellectual property rights held, and Energy Saving Activities described in a business plan presented to investors as part of a formal solicitation in making its determination.
