

SMALL BUSINESS INVESTMENT ACT OF 1958

(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.

TITLE II -- SMALL BUSINESS INVESTMENT DIVISION OF THE SMALL BUSINESS ADMINISTRATION

Sec. 201. ESTABLISHMENT OF SMALL BUSINESS INVESTMENT DIVISION

There is hereby established in the Small Business Administration a division to be known as the Small Business Investment Division. The Division shall be headed by an Associate Administrator who shall be appointed by the Administrator, and shall receive compensation at the rate provided by law for other Associate Administrators of the Small Business Administration.

TITLE III—INVESTMENT DIVISION PROGRAMS

PART A—SMALL BUSINESS INVESTMENT COMPANIES

Sec. 301. ORGANIZATION OF SMALL BUSINESS INVESTMENT COMPANIES

(a) A small business investment company shall be an incorporated body, a limited liability company, or a limited partnership organized and chartered or otherwise existing under State law solely for the purpose of performing the functions and conducting the activities contemplated under this title, which, if incorporated, has succession for a period of not less than thirty years unless sooner dissolved by its shareholders, and if a limited partnership, has succession for a period of not less than ten years, and possesses the powers reasonably necessary to perform such functions and conduct such activities. The area in which the company is to conduct its operations, and the establishment of branch offices or agencies (if authorized by the articles), shall be subject to the approval of the Administration.

(b) The articles of any small business investment company shall specify in general terms the objects for which the company is formed, the name assumed by such company, the area or areas in which its operations are to be carried on, the place where its principal office is to be located, and the amount and classes of its shares of capital stock. Such articles may contain any other provisions not inconsistent with this Act that the company may see fit to adopt for the regulation of its business and the conduct of its affairs. Such articles and any amendments thereto adopted from time to time shall be subject to the approval of the Administration.

(c) ISSUANCE OF LICENSE.—

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(1) SUBMISSION OF APPLICATION.—Each applicant for a license to operate as a small business investment company under this Act shall submit to the Administrator an application, in a form and including such documentation as may be prescribed by the Administrator.

(2) PROCEDURES.—

(A) STATUS.—Not later than 90 days after the initial receipt by the Administrator of an application under this subsection, the Administrator shall provide the applicant with a written report detailing the status of the application and any requirements remaining for completion of the application.

(B) APPROVAL OR DISAPPROVAL.—Within a reasonable time after receiving a completed application submitted in accordance with this subsection and in accordance with such requirements as the Administrator may prescribe by regulation, the Administrator shall—

(i) approve the application and issue a license for such operation to the applicant if the requirements of this section are satisfied; or

(ii) disapprove the application and notify the applicant in writing of the disapproval.

(3) MATTERS CONSIDERED.—In reviewing and processing any application under this subsection, the Administrator—

(A) shall determine whether—

(i) the applicant meets the requirements of subsections (a) and (c) of section 302; and

(ii) the management of the applicant is qualified and has the knowledge, experience, and capability necessary to comply with this Act;

(B) shall take into consideration—

(i) the need for and availability of financing for small business concerns in the geographic area in which the applicant is to commence business;

(ii) the general business reputation of the owners and management of the applicant; and

(iii) the probability of successful operations of the applicant, including adequate probability [profitability] and financial soundness; and

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(C) shall not take into consideration any projected shortage or unavailability of leverage.

(4) EXCEPTION.—

(A) IN GENERAL.—Notwithstanding any other provision of this Act, the Administrator may, in the discretion of the Administrator and based on a showing of special circumstances and good cause, approve an application and issue a license under this subsection with respect to any applicant that—

(i) has private capital of not less than \$3,000,000;

(ii) would otherwise be issued a license under this subsection, except that the applicant does not satisfy the requirements of section 302(a); and

(iii) has a viable business plan reasonably projecting profitable operations and a reasonable timetable for achieving a level of private capital that satisfies the requirements of section 302(a).

(B) LEVERAGE.—An applicant licensed pursuant to the exception provided in this paragraph shall not be eligible to receive leverage as a licensee until the applicant satisfies the requirements of section 302(a), unless the applicant—

(i) files an application for a license not later than 180 days after the date of enactment of the Small Business Reauthorization Act of 1997;

(ii) is located in a State that is not served by a licensee; and

(iii) agrees to be limited to 1 tier of leverage available under section 302(b), until the applicant meets the requirements of section 302(a).

(d) [Repealed].

(e) FEES—

(1) IN GENERAL.—The Administration may prescribe fees to be paid by each applicant for a license to operate as a small business investment company under this Act.

(2) USE OF AMOUNTS.—Fees collected under this subsection—

(A) shall be deposited in the account for salaries and expenses of the Administration; and

(B) are authorized to be appropriated solely to cover the costs of licensing examinations.