

**CORRESPONDING STATUTORY AND REGULATORY PROVISIONS INFORMATION  
COLLECTION 3245-0118**

*SBA FORM 856: DISCLOSURE STATEMENT LEVERAGED LICENSEES SBA FORM 856A:  
DISCLOSURE STATEMENT NON-LEVERAGED LICENSEES*

- 310(c) of the Small Business Investment Act of 1958, as amended;
- 15 U.S.C. Section 687b(c); and,
- 13 CFR 107.690 to 107.692

**310(c) of the Small Business Investment Act of 1958**

(c) Each small business investment company shall be examined at least every two years in such detail so as to determine whether or not--

- (1) it has engaged solely in lawful activities and those contemplated by this title;
- (2) it has engaged in prohibited conflicts of interest;
- (3) it has acquired or exercised illegal control of an assisted small business;
- (4) it has made investments in small businesses for not less than 1 year;
- (5) it has invested more than 20 per centum of its capital in any individual small business, if such restriction is applicable,
- (6) it has engaged in relending, foreign investments, or passive investments; or
- (7) it has charged an interest rate in excess of the maximum permitted by law:

Provided, That the Administration may waive the examination (A) for up to one additional year if, in its discretion, it determines such a delay would be appropriate, based upon the amount of debentures being issued by the company and its repayment record, the prior operating experience of the company, the contents and results of the last examination and the management expertise of the company, or (B) if it is a company whose operations have been suspended while the company is involved in litigation or is in receivership.

**15 U.S.C. Section 687b(c)**

(c) Examinations of small business investment companies

Each small business investment company shall be examined at least every two years in such detail so as to determine whether or not—

- (1) it has engaged solely in lawful activities and those contemplated by this subchapter;
- (2) it has engaged in prohibited conflicts of interest;
- (3) it has acquired or exercised illegal control of an assisted small business;
- (4) it has made investments in small businesses for not less than 1 year;
- (5) it has invested more than 20 per centum of its capital in any individual small business, if such restriction is applicable;
- (6) it has engaged in relending, foreign investments, or passive investments; or
- (7) it has charged an interest rate in excess of the maximum permitted by law:

Provided, That the Administration may waive the examination

- (A) for up to one additional year if, in its discretion, it determines such a delay would be appropriate, based upon the amount of debentures being issued by the company and its repayment record, the prior operating experience of the company, the contents and results of the last examination and the management expertise of the company, or
- (B) if it is a company whose operations have been suspended while the company is involved in litigation or is in receivership.

**Examinations of Licensees by SBA for Regulatory Compliance**

**§ 107.690 Examinations.**

SBA will examine all Licensees for the purpose of evaluating regulatory compliance.

**§ 107.691 Responsibilities of Licensee during examination.**

You must make all books, records and other pertinent documents and materials available for the examination, including any information required by the examiner under Sec. 107.620(c). In addition, the agreement between you and the independent public accountant performing your audit must provide that any information in the accountant's working papers be made available to SBA upon request.

**§ 107.692 Examination fees.**

**(a) General.** SBA will assess fees for examinations in accordance with this § 107.692.

Unless SBA determines otherwise on a case by case basis, SBA will not assess fees for special examinations to obtain specific information.

**(b) Base Fee.**

**(1)** The Base Fee will be assessed based on your total assets (at cost) as of the date of your latest certified financial statement, including if requested by SBA in connection with the examination, a more recently submitted interim statement. For purposes of this section, Base Fee means the Minimum Base Fee plus 0.024% of assets at cost, rounded to the nearest \$100, not to exceed the Maximum Base Fee. The Minimum and Maximum Base Fees are adjusted annually as follows:

Time period (Based on the examination start date)	Minimum base fee	Maximum base fee for non-leveraged SBICs	Maximum base fee for leveraged SBICs
December 13, 2017 to September 30, 2018	\$6,000	\$22,500	\$26,000
October 1, 2018 to September 30, 2019	7,000	25,000	32,000
October 1, 2019 to September 30, 2020	8,000	27,500	38,000
October 1, 2020 to September 30, 2021	9,000	30,000	44,000

**(2)** In the table in paragraph (b)(1) of this section, a Non-leveraged SBIC means any SBIC that, as of the date of the examination, has no outstanding Leverage or Leverage commitment, has no Earmarked Assets, and certifies to SBA that it will not seek Leverage in the future. Beginning on October 1, 2021, SBA will annually adjust the Minimum Base Fee and Maximum Base Fees using the Inflation Adjustment and will publish a Notice prior to such adjustment in the Federal Register identifying the amount of the fees.

**(c) Adjustments to Base Fee.** In order to determine the amount of your examination fee, your Base Fee, as determined in paragraph (b) of this section, will be increased based on the following criteria:

**(1)** If you were not fully responsive to the letter of notification of examination (that is, you did not provide all requested documents and information within the time period stipulated in the notification letter in a complete and accurate manner, or you did not prepare or did not have available all information requested by the examiner for on-site review) after a written warning by the SBA, you will pay an additional charge equal to 15% of your Base Fee;

**(2)** If you maintain your records/files in multiple locations (as permitted under § 107.600(b)), you will pay an additional charge equal to 10% of your Base Fee; and

**(3)** For any regulatory violation that remains unresolved 90 days from the date SBA notified you that you must take corrective action (as established by the date of the notification letter) or such later date as SBA sets forth in the notice, you will pay an additional charge equal to 5% of the Base Fee for every 30 days or portion thereof that the violation remains unresolved after the cure period, unless SBA resolves the finding in your favor.

**(d) Fee additions table.** The following table summarizes the additions noted in paragraph (c) of this section:

Examination fee additions	Amount of addition – % of base fee
Non-responsive	15%.
Records/Files at multiple locations	10%.
Unresolved Findings	5% of Base Fee for every 30 days or portion thereof beyond the 90 day cure period or such later date as SBA sets forth in the notice for each unresolved finding.

**(e) Delay fee.** If, in the judgment of SBA, the time required to complete your examination is delayed due to your lack of cooperation or the condition of your records, SBA may assess an additional fee of \$700 per day. Beginning on October 1, 2021, SBA will annually adjust this fee using the Inflation Adjustment and will publish a Notice prior to such adjustment in the Federal Register identifying the amount of the fee.