

SBA Releases Annual Investor Recertification Memorandum for SBICs

Written by Jennifer V. Audeh, Robert G. Sawyer

August 19, 2019

The U.S. Small Business Administration (“SBA”) has issued the Fiscal Year 2019 Annual Investor Recertification Memorandum for licensed Small Business Investment Companies (“SBICs”) with outstanding SBA leverage and with unfunded commitments from institutional investors.¹

The SBA requires SBICs to certify the qualification of any institutional investors included on an SBIC’s capital certificate on a regular basis to ensure all such institutional investors remain qualified as such and their unfunded commitments can be included in regulatory capital. If an SBIC’s investor no longer qualifies as an institutional investor, the SBIC must file a new capital certificate and its regulatory capital will be adjusted accordingly.

An SBIC may meet the annual recertification requirement by submitting to the SBA either:

- a letter certifying that a review of the SBIC’s unfunded commitments from institutional investors has occurred and no changes are required to the most recent capital certificate filed by the SBIC with the SBA; or
- a letter summarizing the changes as to the status of the SBIC’s institutional investors and a new capital certificate that reflects the changes to the SBIC’s institutional investors and/or regulatory capital.

Based on the level of regulatory capital reflected on the last capital certificate submitted to the SBA by an SBIC, the SBIC must provide the required recertification documents to the SBA pursuant to the following schedule:

Filing Deadlines and Unfunded Commitment Range

- August 31, 2019 – from \$20,000,000 and above
- September 30, 2019 – from \$15,000,000 to \$19,999,999
- October 31, 2019 – from \$10,000,000 to \$14,999,999
- November 30, 2019 – from \$5,000,000 to \$9,999,999
- December 31, 2019 – from \$1 to \$4,999,999

SBA does not require recertification if all of an SBIC’s private capital has been fully funded, or the SBIC was licensed after October 1, 2018.

1. For the purposes of the SBIC program, “Institutional Investors” are entities or natural persons that satisfy certain net worth criteria and an Institutional Investor’s unfunded commitment to an SBIC is included when calculating the SBIC’s regulatory capital.

RELATED INDUSTRIES

- [Investment Advisers & Private Funds](#)
- [Professional Services](#)

RELATED PRACTICES

- [SBIC](#)

This communication is intended for general information purposes and as a service to clients and friends of Foley Hoag LLP. This communication should not be construed as legal advice or a legal opinion on any specific facts or circumstances, and does not create an attorney-client relationship.

United States Treasury Regulations require us to disclose the following: Any tax advice included in this document was not intended or written to be used, and it cannot be used, for the purpose of avoiding penalties under the Internal Revenue Code.

Attorney advertising. Prior results do not guarantee a similar outcome. © 2017 Foley Hoag LLP. All rights reserved.