



March 21, 2020

The Honorable Jay Clayton
Chairman
U.S. Securities and Exchange Commission
100 F Street NE 20549

Dear Chairman Clayton:

The Small Business Investor Alliance (SBIA) is a national association that develops and advocates on behalf of policies that benefit investment funds which finance small and mid-size domestic businesses in the United States. Our membership includes nearly 50 funds electing business development company (“BDC”) status under the Investment Company Act of 1940 (the “1940 Act”).

Our capital markets are facing an economic shock, bordering on a stoppage, that has never been seen in America resulting from the COVID-19 outbreak, a steep drop in oil and gas prices, and a rapid decline in investor confidence. While nearly every asset class and investment fund has been impacted, BDCs in particular are experiencing severe pressure during this market turmoil. This is directly impacting their ability to lend and provide capital to the businesses in America that right now need it most.

The current pressure on BDCs is in part caused by their regulatory treatment under the “asset coverage test” of the 1940 Act. Under that test, as BDC valuations go down, the fund is limited in the amount it can borrow and if asset values fall below the applicable coverage requirement, BDCs are prohibited from borrowing at all. Without access to capital, BDCs will be unable to support existing investments in many sectors of the economy most impacted by COVID-19. The problem is compounded by the fact that BDCs are generally prohibited from issuing preferred stock under the 1940 Act. Without access to debt or equity capital, BDCs are unable to fund the small- and medium-sized businesses that will need capital to survive once this crisis subsides.

We strongly urge the Securities and Exchange Commission (“SEC”) to swiftly implement a temporary fix that would allow BDCs to consider only permanent impairments when valuing assets. The current asset coverage test and accounting standards will require BDCs to write down assets that are temporarily depressed due to a fast onset pandemic and an unprecedented deceleration of economic activity but will return to being a functional market as the pandemic peaks and then wanes over the coming weeks and months. We believe the SEC should – for a period extending through December 31, 2020 – allow BDCs to use the Small Business Administration’s valuation method required of small business investment companies (SBICs)

under CFR 107 503(c). This would allow assets to be written down not in a moment of economic panic, but because of their underlying value that extends beyond a single date in the market.

The SBIC valuation methodology would immediately stabilize BDCs and allow them to support capital flow into small- and medium-sized businesses at a moment when it is desperately needed. Capital provided by BDCs during this time can allow companies to continue to pay employees, stay current on bills and generally survive until they can safely re-open.

To illustrate the point, dental practices represent a niche within the economy that is broadly supported by BDCs. These businesses are a healthy and critical segment of the economy that offer great jobs for people in every town across America. Across the country, practices have been forced to close for no fault of their own. With government directed shutdowns which effectively cut off economic activity and near-term revenue, BDCs need to offer interest and principal deferrals and extend more capital. Under the current fair value accounting, offering to defer interest and principal for the benefit of the dental practice will force substantial fair-value markdowns of the original loans which reduce BDC's borrowing capacity to fund additional loans that can rescue these struggling businesses. On the other hand, the SBIC valuation methodology acknowledges the simple fact that the value of dental businesses across America is NOT impaired over the long term. Enabling BDCs to hold the unimpaired loan at cost gives BDCs flexibility to support near-term cash needs so that dental businesses can re-open and jobs can be saved.

Given that the current regulatory mark-to-market rules could trigger forced liquidation of BDCs in a broken market, the industry is seeing this relief as a *short-term* solution that will help BDCs navigate current market disruptions and remain a source of lending for Main Street businesses.

We thank you for your attention and consideration of this urgent matter and stand ready to assist in any way that we can.

Sincerely,

A handwritten signature in blue ink that reads "Brett Palmer". The signature is fluid and cursive, with the first name "Brett" and last name "Palmer" clearly distinguishable.

Brett Palmer
President
Small Business Investor Alliance

Cc: Commissioner Hester Peirce
Cc: Commissioner Allison Herren Lee
Cc: Commissioner Elad Roisman
Cc: Sagar Teotia, Chief Accountant, SEC
Cc: Russ Golden, Chairman, Financial Accounting Standards Board