



Guidance for SBIC Funds Providing Financial Assistance to Small Businesses
Consistent with the Paycheck Protection Act

Small Business Investment Companies (SBICs) are specifically designed and statutorily mandated to support American employment and domestic production. Involvement with an SBIC does not limit a small business' ability to access emergency relief through the Paycheck Protection Program (PPP).

Critical Provisions of the Small Business Investment Act

It is declared to be the policy of the Congress and the purpose of this Act to improve and stimulate the national economy in general and the small-business segment thereof in particular by establishing a program to stimulate and supplement the flow of private equity capital and long-term loan funds which small-business concerns need for the sound financing of their business operations and for their growth, expansion, and modernization, and which are not available in adequate supply: Provided, however, that this policy shall be carried out in such manner as to insure the maximum participation of private financing sources.

It is the intention of the Congress that the provisions of this Act shall be so administered that any financial assistance provided hereunder shall not result in a substantial increase of unemployment in any area of the country.

It is the intention of the Congress that in the award of financial assistance under this Act, when practicable, priority be accorded to small business concerns which lease or purchase equipment and supplies which are produced in the United States and that small business concerns receiving such assistance be encouraged to continue to lease or purchase such equipment and supplies.

Obligations of SBICs in providing financial assistance to small businesses that might otherwise not be permitted to access emergency capital through the Paycheck Protection Program.

SBICs must always:

- 1) Make investments consistent with their Limited Partner Agreement
 - SBICs may make investments to rescue financings of existing small businesses in their portfolio.
 - Provide capital to small businesses not yet in their portfolio in a manner consistent with their SBA-approved LPA and strategy.
- 2) Must comply with the statute and all regulations of the SBIC program
 - Provide long-term funds.
 - It is consistent with the Small Business Investment Act to provide capital alongside other private capital providers because the statutory mandate of SBICs includes insuring "the maximum participation of private financing sources".

- Small Businesses backed by SBICs are waived from the PPP’s affiliation rules regarding eligibility for a PPP loan; however, *the SBIC program’s affiliation rules and other limitations still apply to all SBIC investments.*
 - Comply with SBIC Affiliation rules (not the same as affiliation rules for other SBA programs).
 - Invest in a manner to promote American employment.
 - Invest in a manner that prioritizes purchasing and leasing goods and equipment that are made in the United States.
- 3) Make sure small businesses receiving SBIC investment and a PPP loan fully comply with the CARES Act and its rules for the PPP program
 - 4) Behave in an ethical manner that promotes the public interest consistent with the law and their Limited Partner Agreement.
 - 5) SBICs must not “rent” or otherwise abuse the public’s trust by making token investments as means to circumvent the PPP affiliation rules.
 - All investments must be real and on honest terms.

SBIC Best Practices

- 1) SBICs should provide meaningful assistance, not just financial assistance, to small businesses.
- 2) SBICs should keep the SBA informed of any issues that arise or are expected to arise that may require action by the SBA.
 - Provide SBA adequate time for overline and other regulatory requests
- 3) SBICs should comply with both the spirit and the letter of the Limited Partner agreement and keep their Limited Partners informed of all important developments.
- 4) SBICs must not operate off of assumptions or hearsay about regulations, but instead operate according to the most restrictive of both the letter and the spirit of the written law and regulations.