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(Original Signature of Member)

117TH CONGRESS
1ST SESSION

H. R. _____

To establish a MicroCap small business investment company designation,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. NEGUSE introduced the following bill; which was referred to the
Committee on _____

A BILL

To establish a MicroCap small business investment company
designation, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “MicroCap Small Busi-
5 ness Investing Act of 2021”.

1 **SEC. 2. MICROCAP SMALL BUSINESS INVESTMENT COM-**
2 **PANY DESIGNATION.**

3 (a) IN GENERAL.—Title III of the Small Business
4 Investment Act of 1958 (15 U.S.C. 681 et seq.) is amend-
5 ed—

6 (1) in section 301(c) (15 U.S.C. 681(c)), by
7 adding at the end the following:

8 “(5) MICROCAP SMALL BUSINESS INVESTMENT
9 COMPANY LICENSE.—

10 “(A) IN GENERAL.—Notwithstanding any
11 other provision of law, the Administrator may
12 approve an application and issue not more than
13 10 licenses annually under this subsection with
14 respect to any applicant—

15 “(i) that would otherwise be issued a
16 license under this subsection, except that
17 the management of the applicant does not
18 satisfy the qualification requirements
19 under paragraph (3)(A)(ii) to the extent
20 that such requirements relate to invest-
21 ment experience and track record, includ-
22 ing any such requirements further set
23 forth in section 107.305 of title 13, Code
24 of Federal Regulations, or any successor
25 regulation;

1 “(ii) for which the fund managers
2 have—

3 “(I) a documented record of suc-
4 cessful business experience;

5 “(II) a record of business man-
6 agement success; or

7 “(III) knowledge in the par-
8 ticular industry or business in which
9 the investment strategy is being pur-
10 sued; and

11 “(iii) that, in addition to any other re-
12 quirement applicable to the applicant
13 under this title or the rules issued to carry
14 out this title (including section
15 121.301(e)(2) of title 13, Code of Federal
16 Regulations, or any successor regulation),
17 will make not less than 25 percent of its
18 investments in—

19 “(I) low-income communities, as
20 that term is defined in section 45D(e)
21 of the Internal Revenue Code of 1986;

22 “(II) a community that has been
23 designated as a qualified opportunity
24 zone under section 1400Z-1 of the In-
25 ternal Revenue Code of 1986;

1 “(III) businesses primarily en-
2 gaged in research and development;

3 “(IV) manufacturers;

4 “(V) businesses primarily owned
5 or controlled by individuals in under-
6 served communities before receiving
7 capital from the applicant; and

8 “(VI) rural areas, as that term is
9 defined by the Bureau of the Census.

10 “(B) PRIORITY; STREAMLINED PROCESS.—

11 With respect to an application for a license pur-
12 suant to this paragraph, the Administrator
13 shall—

14 “(i) give priority to an applicant for
15 such a license that is located in an under-
16 licensed State; and

17 “(ii) establish a streamlined process
18 for applicants submitting such an applica-
19 tion.

20 “(C) TIMING FOR ISSUANCE OF LI-
21 CENSE.—Notwithstanding paragraph (2), with
22 respect to an application for a license submitted
23 to the Administrator pursuant to this para-
24 graph, the Administrator shall—

1 “(i) not later than 60 days after the
2 date on which the application is submitted
3 to the Administrator, process and provide
4 complete feedback with respect to any pre-
5 license application requirements applicable
6 to the applicant;

7 “(ii) not restrict the submission of
8 any application materials; and

9 “(iii) not later than 90 days after the
10 date on which the application is submitted
11 to the Administrator—

12 “(I) approve the application and
13 issue a license for such operation to
14 the applicant, if the requirements for
15 the license are satisfied; or

16 “(II) based upon facts in the
17 record—

18 “(aa) disapprove the appli-
19 cation; and

20 “(bb) provide the applicant
21 with—

22 “(AA) a clear, written
23 explanation of the reason for
24 the disapproval; and

1 “(BB) a chance to rem-
2 edy any issues with the ap-
3 plication and immediately
4 reapply, with technical as-
5 sistance provided as needed
6 and a new determination
7 made by the Administrator
8 not later than 30 days after
9 the date on which the appli-
10 cant re-submits the applica-
11 tion.

12 “(D) LEVERAGE.—A company licensed
13 pursuant to this paragraph shall—

14 “(i) not be eligible to receive leverage
15 in an amount that is more than
16 \$25,000,000; and

17 “(ii) access leverage in an amount
18 that is not more than 100 percent of the
19 private capital of the applicant.

20 “(E) INVESTMENT COMMITTEE.—

21 “(i) IN GENERAL.—Each company li-
22 censed pursuant to this paragraph shall
23 have not fewer than 2 independent mem-
24 bers on the investment committee of the

1 company in a manner that complies with
2 the following requirements:

3 “(I) The independent members of
4 the investment committee are or have
5 been licensed managers of small busi-
6 ness investment companies within the
7 preceding 10-year period.

8 “(II) No small business invest-
9 ment company described in subclause
10 (I) may adversely affected by the rela-
11 tionship of the independent members
12 of the investment committee with the
13 company licensed pursuant to this
14 paragraph.

15 “(III) The independent members
16 of the investment committee are re-
17 quired to approve each investment
18 made by the company.

19 “(IV) The independent members
20 of the investment committee shall not
21 be paid a management fee, but may
22 receive paid expenses and a portion of
23 any carried interest.

24 “(ii) LEVERAGE LIMITS.—Any lever-
25 age associated with a company licensed

1 pursuant to this paragraph shall not be
2 counted toward the leverage limits of the
3 independent members of the investment
4 committee of the company under this
5 title.”; and

6 (2) in section 303(d) (15 U.S.C. 683(d)), by in-
7 serting “(or, with respect to a company licensed
8 under section 301(c)(5), 50 percent)” after “25 per-
9 cent”.

10 (b) SBA REQUIREMENTS.—

11 (1) DEFINITIONS.—In this subsection—

12 (A) the term “Administrator” means the
13 Administrator of the Small Business Adminis-
14 tration; and

15 (B) the term “covered company” means an
16 entity that is licensed to operate as a small
17 business investment company pursuant to para-
18 graph (5) of section 301(c) of the Small Busi-
19 ness Investment Act of 1958 (15 U.S.C.
20 681(c)), as added by subsection (a).

21 (2) RULES.—Not later than 90 days after the
22 date of enactment of this Act, the Administrator
23 shall issue rules to carry out this section and the
24 amendments made by this section.

1 (3) ANNUAL REPORT.—Not later than 1 year
2 after the date of enactment of this Act, and annually
3 thereafter, the Administrator shall publicly publish a
4 report that details, for the year covered by the re-
5 port—

6 (A) the number of covered companies li-
7 censed by the Administrator;

8 (B) the industries in which covered compa-
9 nies have invested;

10 (C) the geographic locations of covered
11 companies; and

12 (D) the aggregate performance of covered
13 companies.