



U.S. Small Business  
Administration

OFFICE OF INVESTMENT & INNOVATION  
WASHINGTON, DC 20416

## APPLICATION INSTRUCTIONS FOR COMMITMENT OF SBIC DEBENTURES

These instructions provide the information necessary for a small business investment company (SBIC or Licensee) to apply for a commitment by the Small Business Administration (SBA) to reserve financial assistance on its behalf for the future issuance of Debentures.

Any SBIC requesting the reservation of financial assistance ("Leverage") by obtaining SBA's conditional commitment to guarantee Debentures, must submit an application form and documents as described in these instructions. The application form and documents must be properly completed and executed and should be submitted via e-mail to [SBICFunding@sba.gov](mailto:SBICFunding@sba.gov) and copied to the SBIC's assigned Financial Analyst. All signatures in the application must be original wet signatures by persons authorized by the SBIC. The e-mailed submission must be a PDF scan of the original application and documents, and the SBIC must maintain the original versions in its files.

### APPLICATION FOR COMMITMENT

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- A. **LETTER REQUESTING COMMITMENT.** Any SBIC requesting a commitment from SBA for funding through Debentures must apply to SBA by submitting a letter requesting a commitment. The letter must include the following:
1. The name, address and license number of the Licensee.
  2. The requested amount of the commitment. The amount must be an increment of \$5,000.
  3. For SBA to approve a commitment application, the letter must be signed by an authorized official of the Licensee and dated. The letter must include all of the following certifications, except those certifications that are inapplicable to the Licensee as indicated in the bracketed text.

**The undersigned Licensee does hereby certify with the understanding that any commitment letter issued by SBA will be issued in reliance upon such certifications that:**

- a. **As of the date of execution of this application letter, [the corporate Licensee is not] [neither the limited partnership Licensee nor its Corporate (or Individual) General Partner is] in violation of its respective charter or Limited Partnership Agreement, as the case may be, or the license, or any of the provisions of the Small Business**

**Investment Act of 1958, as amended (the "Act"), or the regulations issued thereunder (the "Regulations").**

- b. The proceeds of the issuance and sale of the securities to be committed by SBA as requested herein will be used by the Licensee only for the purposes contemplated by the Act and the Regulations.**
- c. There has been no change in the officers, directors, beneficial owners of 10 or more percent of the securities [of the corporate Licensee] [of the limited partnership Licensee and its Corporate (or Individual) General Partner], or in the investment policy and strategy, operations, or capital of the Licensee since the issuance of its license except as indicated by post-licensing amendment(s) heretofore filed with and approved by SBA, or as filed herewith.**
- d. The Licensee shall not withdraw this application for a commitment without prior written approval of SBA.**
- e. There has been no material adverse change in the financial condition of the Licensee since the filing of the last Financial Report with SBA. Except as disclosed in writing to SBA in connection with this application letter, the Licensee has no knowledge of any existing or impending litigation or of any proceedings or actions for the assessment or collection of additional taxes, and the Licensee has no contingent liabilities not provided for or disclosed in the financial or other statements submitted to SBA in connection with this application letter.**
- f. The Licensee has not paid or incurred any obligation to pay to any Federal employee or special Federal employee any fee, gratuity or anything of value for obtaining the assistance hereby requested. If such fee, gratuity, etc., has been solicited by any such employee, the Licensee agrees to report such information to the Office of the Inspector General, Small Business Administration, Washington, D.C. 20416. The Licensee has not and will not, directly or indirectly, pay any amount to any person in connection with this application except for services actually performed on behalf of the Licensee.**
- g. All statements, warranties, and representations made herein and in the accompanying Exhibits as well as in any additional documents required by SBA to be filed in connection with this application letter are true and complete, are considered material, are made for the purpose of inducing SBA to issue a commitment and are made with full knowledge of the provisions of 15 U.S.C. 645, 18 U.S.C. 1001, and 18 U.S.C. 1006**

**which provide certain criminal penalties for making false statements or representations.**

- h. Any intentionally false statement or willful misrepresentation in connection with this application is a violation of Federal law, subject to criminal and civil prosecution under 18 U.S.C. Sections 287, 371, 1001, and 1006; and 15 U.S.C. Section 645; carrying fines up to \$10,000 and imprisonment up to five years.**
- i. [For Licensees with one or more leverage Commitments from SBA, all of which were issued on or after February 17, 2009 (including Licensees currently applying for their first leverage Commitment):]**

**The undersigned Licensee does hereby certify with the understanding that any Leverage issued by SBA will be issued in reliance upon such certification that not less than 25 percent of the aggregate dollar amount of the financings of the Licensee will be provided to Smaller Enterprises (as defined in 13 CFR §107.50).**

[For Licensees with one or more leverage Commitments issued before February 17, 2009 and currently applying for their first leverage Commitment after February 17, 2009:]

**The undersigned Licensee does hereby certify with the understanding that any Leverage issued by SBA will be issued in reliance upon such certification that (i) with respect to the aggregate dollar amount of the financings made by the Licensee before the date on which it is awarded the leverage Commitment that is the subject of this application, not less than 20 percent of such financings will be provided to Smaller Enterprises (as defined in 13 CFR §107.50), and (ii) with respect to the aggregate dollar amount of the financings made by the Licensee on or after the date on which it is awarded the leverage Commitment that is the subject of this application, not less than 25 percent of such financings will be provided to Smaller Enterprises (as defined in 13 CFR §107.50).**

[For Licensees with multiple leverage Commitments from SBA, including one or more leverage Commitments issued before February 17, 2009 and one or more leverage Commitments issued after February 17, 2009:]

**The undersigned Licensee does hereby certify with the understanding that any Leverage issued by SBA will be issued in reliance upon such certification that: (i) with respect to the aggregate dollar amount of the financings made by the Licensee before [date of first Commitment**

**issued by SBA to Licensee after February 17, 2009], not less than 20 percent of such financings were provided to Smaller Enterprises (as defined in 13 CFR §107.50), and (ii) with respect to the aggregate dollar amount of the financings made by the Licensee on or after [date of first Commitment issued by SBA to Licensee after February 17, 2009], not less than 25 percent of such financings will be provided to Smaller Enterprises (as defined in 13 CFR §107.50).**

B. **EXHIBITS TO BE SUBMITTED.** The following is an explanation of the exhibits required to be submitted with the Licensee's letter of application for a commitment. Copies of forms can be obtained from the Office of Investment & Innovation's web page [SBIC Forms and Guides](#).

1. Financial Report, SBA Form 468. You must submit a certification that you have filed Form 468 in the SBIC-WEB system and that there has been no material adverse change in your financial position since that submission. (Do not provide a copy of the Form 468 with the Commitment Application.)
2. Resolution of the Board of Directors or General Partner, SBA Forms 25. There are three model resolutions: one for corporate licensees, one for partnership licensees with a corporate general partner, and one for partnership licensees with individual general partners. Licensees with organizational structures other than the above must modify the model closest to its structure for its own use. A Licensee's resolution must strictly follow the language in the applicable resolution and must be certified and executed as indicated.
3. Transferor's Liability Contract, SBA Form 2182. Please read and follow instructions on the form. File using the SBA Form that is provided on SBA's website. Form number and revision date must be visible on executed submission.
4. Applicant's Assurance of Compliance, SBA Form 652. This form is to be completed by the appropriate official of the Licensee. File using the SBA Form that is provided on SBA's website. Form number and revision date must be visible on executed submission.
5. Capital Certificate. Any Licensee which has unfunded commitments from Institutional Investors shall submit an updated capital certificate in SBIC-Web if the one on file with SBA is no longer accurate. (Do not provide a copy of the Capital Certificate with the Commitment Application.)
6. Applicant Licensee's Assurance of Compliance (Public Interest), SBA Form 1065. This form is to be completed by the appropriate official of the Licensee. File using the SBA Form that is provided on SBA's website. Form number and revision date must be visible on executed submission.

7. Investment Plan. The investment plan shall consist of a forecast for the use of Licensee's funds available for investment and the requested commitment from SBA. The plan shall identify formal written commitments (conditional or unconditional) to invest in small concerns, as well as funding requests from small concerns which are under active consideration but have not matured to the level of a commitment.
8. Disclosure of Third-Party Debt. The applicant Licensee must describe the amount of its outstanding non-SBA debt. The description should include the terms, conditions, security (if any), and priority of all such debt.
9. Statement for Loan Guarantees and Loan Insurance, SBA Form 1846. This form is to be completed by the appropriate official of the Licensee. File using the SBA Form that is provided on SBA's website. Form number and revision date must be visible on executed submission.
10. Opinion of Counsel – (File if not previously approved by SBA.) SBA requires that you submit a new legal opinion, as part of your draw application, each time you apply to draw funds under an approved commitment. SBA has prepared a model form of opinion of counsel for each type of leverage security and copies of the model forms can be found on SBA's website. Prior written approval of SBA's Office of General Counsel is required for any opinion submitted. If SBA has not previously approved the form of legal opinion your counsel plans to submit with each draw application, you must provide a form of your counsel's opinion as part of this commitment application.

C. **SELLING DOCUMENTATION TO BE SUBMITTED**. The only required documentation that must accompany the application letter is the following:

1. Bank Identification, SBA Form 34. This form provides SBA with the necessary routing instructions to credit your designated account with the appropriate amounts by electronic funds transfer (after your commitment application and subsequent draw request(s) have been approved). If your account is not with a member bank of the Federal Reserve System, you must identify the member bank whose routing code is utilized as your correspondent or affiliate bank. All Licensees applying for a commitment must complete this form. File using the most recent version of SBA Form 34 that is provided on SBA's website. SBA advises that SBICs take appropriate measures to secure this information when submitting this form to SBA.
2. Debit Authorization. Debit Authorization establishes an efficient and low-cost way for licensees to make the scheduled payments after pooling on SBA Form 444C Debentures ("Standard Debentures") by Automated Clearinghouse (ACH) debit. The covering instructions to this authorization explain its purpose in more detail. It must be properly completed and executed. Please submit a

Debit Authorization even if you expect to issue only non-pooled Debentures under your commitment, so that you will have the option of issuing Standard Debentures as well. File using the most recent version of the form that is provided on SBA's website. SBA advises that SBICs take appropriate measures to secure this information when submitting this form to SBA.

3. Authorization to Disburse Proceeds, SBA Form 33 [Refunding Maturing Debenture(s)]. Only those applying for SBA's commitment of guaranteed Debenture Leverage for the purpose of refunding maturing Debenture(s) are to file this form. File using the SBA Form that is provided SBA's website. Form number and revision date must be visible on executed submission.

## FEES & INTEREST RATES

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- A. Leverage Fee. Debentures are subject to a 3% leverage fee. 1% of the total amount of the commitment is due to SBA by the earlier of the date that you apply to SBA to draw funds under a newly approved commitment or within 30 days of the issuance of the commitment. ***The 1% commitment fee payment must be made to SBA by wire transfer. Checks will not be accepted for this payment.*** Upon the approval of a leverage commitment, SBA will e-mail the SBIC a commitment approval notification which will include: the amount approved, the commitment account number, a link to the current draw instructions, and the wiring instructions to pay the 1% commitment fee. The remaining leverage fee of 2% (of the face amount disbursed) is deducted from the proceeds of each disbursement at the time of disbursement.
- B. Annual Charge. The annual charge is payable to SBA under the same terms and conditions as interest for Debentures. The annual charge is adjusted each federal fiscal year on commitments issued during that fiscal year. Once established, the annual charge rate remains the same for all draws on a commitment though its entire term (of up to five fiscal years). Annual charge rates by fiscal year can be found on SBA's website at [SBIC Annual Charge](#).
- C. Underwriter Fee. An underwriter fee will be collected each time funds are disbursed to the Licensee. This fee will not be collected as part of the commitment process but will be deducted from the proceeds of each disbursement. The underwriter fee is 0.375% of the face amount. There is no underwriter fee for LMI Debentures or Energy Saving Debentures.
- D. Selling Agent Fee. A Selling Agent fee will be collected each time funds are disbursed to the Licensee. This fee will not be collected as part of the commitment process but will be deducted from the proceeds of each disbursement. The Selling Agent fee is withheld for payment to the SBIC Funding Corp. for services rendered on behalf of SBICs as the Selling Agent. The Selling Agent fee is 0.05% of the face amount. There is no Selling Agent fee for LMI Debentures or Energy Saving Debentures.

- E. Trustee Fee. A trustee fee will be collected each time funds are disbursed to the Licensee. This fee will not be collected as part of the commitment process but will be deducted from the proceeds of each disbursement. The trustee fee is withheld for payment to the Bank of New York Mellon for services related to the pooling of Debentures. The trustee fee is 0.01% of the face amount. There is no trustee fee for LMI Debentures or Energy Saving Debentures.
- F. Interest Rates. For Standard Debentures, a short term (interim) interest rate is charged prior to pooling and is calculated on an interpolated Federal Home Loan Bank of Chicago Advance Rate plus 41 basis points. At pooling, the rate converts to a long term (pooled) interest rate, which is set at the 10-year treasury rate plus a spread that is based on market conditions. [Historical Pooled Rates](#) are available online.

If there are any questions concerning the preparation of the commitment application letter, any Exhibits or accompanying Selling Documentation, please contact your analyst.

PLEASE NOTE: The burden hour estimate for the completion of all forms required in this application (excluding SBA Form 468) is three hours per application. You are not required to respond to any collection of information unless it displays a currently valid OMB approval number. Comments on the burden should be sent to U.S. Small Business Administration, Chief, AIB, 409 3rd St., S.W., Washington D.C. 20416 and Desk Officer for the Small Business Administration, Office of Management and Budget, New Executive Office Building, Room 10202, Washington, D.C. 20503. OMB Approval (3245-0081).