

§ 107.835

13 CFR Ch. I (1–1–10 Edition)

§ 107.835 Exceptions to minimum duration/term of Financing.

You may make a Short-term Financing for a term less than one year if the Financing is:

(a) An interim Financing in contemplation of long-term Financing. The contemplated long-term Financing must be in an amount at least equal to the short-term Financing, and must be made by you alone or in participation with other investors; or

(b) For protection of your prior investment(s); or

(c) For the purpose of Financing a change of ownership under §107.750. The total amount of such Financings may not exceed 20 percent of your Loans and Investments (at cost) at the end of any fiscal year; or

(d) For the purpose of aiding a Small Business in performing a contract awarded under a Federal, State, or local government set-aside program for “minority” or “disadvantaged” contractors.

[61 FR 3189, Jan. 31, 1996, as amended at 64 FR 52646, Sept. 30, 1999; 69 FR 8098, Feb. 23, 2004]

§ 107.840 Maximum term of Financing.

The maximum term of any Loan or Debt Security Financing must be no longer than 20 years.

§ 107.845 Maximum rate of amortization on Loans and Debt Securities.

The principal of any Loan (or the loan portion of any Debt Security) with a term of one year or less cannot be amortized faster than straight line. If the term is greater than one year, the principal cannot be amortized faster than straight line for the first year.

[69 FR 8098, Feb. 23, 2004]

§ 107.850 Restrictions on redemption of Equity Securities.

(a) A Portfolio Concern cannot be required to redeem Equity Securities earlier than one year from the date of the first closing unless:

(1) The concern makes a public offering, or has a change of management or control, or files for protection under the provisions of the Bankruptcy Code, or materially breaches your Financing agreement; or

(2) You make a follow-on investment, in which case the new securities may be redeemed in less than one year, but no earlier than the redemption date associated with your earliest Financing of the concern.

(b) The redemption price must be either:

(1) A fixed amount that is no higher than the price you paid for the securities; or

(2) An amount that cannot be fixed or determined before the time of redemption. In this case, the redemption price must be based on:

(i) A reasonable formula that reflects the performance of the concern (such as one based on earnings or book value); or

(ii) The fair market value of the concern at the time of redemption, as determined by a professional appraisal performed under an agreement acceptable to both parties.

(c) Any method for determining the redemption price must be agreed upon no later than the date of the first (or only) closing of the Financing.

[61 FR 3189, Jan. 31, 1996, as amended at 64 FR 52646, Sept. 30, 1999; 69 FR 8098, Feb. 23, 2004]

§ 107.855 Interest rate ceiling and limitations on fees charged to Small Businesses (“Cost of Money”).

“Cost of Money” means the interest and other consideration that you receive from a Small Business. Subject to lower ceilings prescribed by local law, the Cost of Money to the Small Business must not exceed the ceiling determined under this section.

(a) *Financings to which the Cost of Money rules apply.* This section applies to all Loans and Debt Securities. As required by §107.800(b), you must include as Debt Securities any equity interests with redemption provisions that do not meet the restrictions in §107.850.

(b) *When to determine the Cost of Money ceiling for a Financing.* You may determine your Cost of Money ceiling for a particular Financing as of the date you issue a Commitment or as of the date of the first closing of the Financing. Once determined, the Cost of Money ceiling remains fixed for the duration of the Financing.