§ 108.150 Management and ownership diversity requirement.

(a) Diversity requirement. You must have diversity between management and ownership in order to be a NMVC Company. To establish diversity, you must meet the requirements in paragraphs (b) and (c) of this section.

(b) Percentage ownership requirement. No Person or group of Persons who are Affiliates of one another may own or control, directly or indirectly, more than 70 percent of your Regulatory Capital or your Leverageable Capital.

(c) Non-affiliation requirement. At least 30 percent of your Regulatory Capital and Leverageable Capital must be owned and controlled by three Persons unaffiliated with your management and unaffiliated with each other, whose investments are significant in dollar and percentage terms as determined by SBA. Such Persons must not be your Associates (except for their status as your shareholders, limited partners or members) and must not Control, be Controlled by, or be under Common Control with any of your Associates. A single “acceptable” Institutional Investor may be substituted for two or three of the three investors who are otherwise required. The following Institutional Investors are “acceptable” for this purpose:

1. Entities whose overall activities are regulated and periodically examined by state, Federal or other governmental authorities satisfactory to SBA;
2. Entities listed on the New York Stock Exchange;
3. Entities that are publicly-traded and that meet both the minimum numerical listing standards and the corporate governance listing standards of the New York Stock Exchange;
4. Public or private employee pension funds;
5. Trusts, foundations, or endowments, but only if exempt from Federal income taxation; and
6. Other Institutional Investors satisfactory to SBA.

(d) Voting requirement. The investors required for you to satisfy diversity may not delegate their voting rights to any Person who is your Associate, or who Controls, is Controlled by, or is under Common Control with any of their investors.