§ 107.1570 Distributions by Licensee—optional Distribution to private investors and SBA.

If you have outstanding Participating Securities or Earmarked Assets, you may make two types of optional Distributions under this §107.1570: quarterly Distributions determined the same way as the required annual Distributions in §107.1560, and Distributions allocated between SBA and your private investors in proportion to the capital contributions of each. You must notify SBA of any planned distribution under this section 10 business days before the distribution date, unless SBA permits otherwise.

(a) Quarterly Distributions subject to conditions in §107.1560. (1) You may
make Distributions under this paragraph (a) as of the end of any fiscal quarter, giving SBA (or its designated agent or Trustee) a percentage share determined under §107.1560(e).

(2) Such Distributions are subject to all the provisions in §107.1560 (a)(1), (a)(3), (a)(4), (d), (f)(2), and (g).

(3) You may make such Distributions only on the next Payment Date following the end of your fiscal quarter.

(4) The total amount of such Distributions may not exceed the result of the following computation:

(i) Your Retained Earnings Available for Distribution as of the end of your fiscal quarter; minus

(ii) All previous Distributions under this paragraph (a) or §107.1560 that were applied as redemptions or repayments of Leverage; plus

(iii) All previous Distributions under paragraph (b) of this section that reduced your Retained Earnings Available for Distribution.

(b) Other optional Distributions. On any Payment Date, you may make additional Distributions to your private investors and to SBA (or its designated agent or Trustee) under this paragraph (b).

(1) Conditions for making a Distribution. You may make a Distribution under this paragraph (b) only if:

(i) You have distributed all Earned Prioritized Payments, earned Adjustments, and earned Charges, so that the balance in your Distribution Account is zero (see §107.1520).

(ii) You have distributed all Profit Participation computed under §107.1530 which you are required to distribute under §107.1560 or permitted to distribute under paragraph (a) of this section, as appropriate, and you have made all required Distributions under §107.1560.

(iii) You satisfy the liquidity requirement in §107.1505 or obtain SBA’s prior written approval of the Distribution.

(iv) You do not have a condition of Capital Impairment.

(v) The Distribution does not reduce your Regulatory Capital (excluding commitments from Institutional Investors) below the minimum required under §107.210, unless SBA approves the reduction as part of a plan of liquidation.

(vi) The Distribution does not cause you to have excess Leverage contrary to section 303 of the Act.

(2) SBA’s share of Distribution. (i) If your Capital Impairment Percentage under §107.1840 is zero, SBA’s percentage share of any Distribution under this paragraph (b) equals:

\[
\text{SBA’s Share} = \frac{\text{Leverage}}{\text{Leverage} + \text{Leverageable Capital}} \times 100
\]

In this formula, use Leverage and Leverageable Capital as of the date of the Distribution, after giving effect to any Distribution under §107.1560 and paragraph (a) of this section.

(ii) If your Capital Impairment Percentage under §107.1840 is greater than zero, you must modify the formula in paragraph (b)(2)(i) of this section by replacing Leverageable Capital with:

\[
\text{Leverageable Capital} \times \frac{100\% - \text{CIP}}{\text{CIP}}
\]

where “CIP” is your Capital Impairment Percentage or 100 percent, whichever is less.

(3) How SBA will apply Distributions. Any amounts you distribute to SBA, or its designated agent or Trustee, under this paragraph (b) will be applied as a repayment or redemption of Leverage in the order set forth in §107.1560(g)(3) through (g)(5).

(4) Effect of Distributions on Retained Earnings Available for Distribution. Any amounts you distribute to non-SBA investors under this paragraph (b) must reduce your Retained Earnings Available for Distribution to zero before reducing your Private Capital.

(5) Permitted exception to §107.385. You may make any Distribution permitted by this paragraph (b), even if the result is a reduction in your Regulatory Capital that would otherwise be prohibited under §107.385.


§107.1575 Distributions on other than Payment Dates.

(a) Permitted Distributions on other than Payment Dates. Notwithstanding any provisions to the contrary in §§107.1540 through 107.1570, you may make Distributions on dates other than Payment Dates as follows: