

INVESTING IN MAIN STREET ACT OF 2017

JULY 12, 2017.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. CHABOT, from the Committee on Small Business,
 submitted the following

R E P O R T

[To accompany H.R. 2364]

The Committee on Small Business, to whom was referred the bill (H.R. 2364) to amend the Small Business Investment Act of 1958 to increase the amount that certain banks and savings associations may invest in small business investment companies, subject to the approval of the appropriate Federal banking agency, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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COST ESTIMATE OF THE CONGRESSIONAL BUDGET OFFICE

The cost estimate prepared by the Director of the Congressional Budget Office pursuant to § 402 of the Congressional Budget Act of 1974 was not submitted timely to the Committee.

I. PURPOSE AND BILL SUMMARY

With the goal of growing the amount of capital available to small businesses within the Small Business Investment Company (SBIC) program at the Small Business Administration (SBA), H.R. 2364, the “Investing in Main Street Act of 2017,” increases the amount of capital and surplus that a financial institution and federal savings association can invest in an SBIC from 5 percent to 15 percent.

II. BACKGROUND AND NEED FOR LEGISLATION

With an ongoing economic recovery that is starting to show signs of improvement, small businesses around the nation continue to face obstacles when it comes to access to capital. To bridge the many financial challenges that exist, the SBA offers capital access programs to assist the nation’s smallest firms. To help small businesses in obtaining venture capital and private equity, the SBA administers the SBIC program, which utilizes a privately-owned and SBA-licensed model.

Currently, the Small Business Investment Act of 1958 limits the amount of capital and surplus that a financial institution or federal savings association may invest in an SBIC to 5 percent.

To enhance the SBIC program, H.R. 2364 increases the amount of capital and surplus that a financial institution and federal savings association can invest in an SBIC from 5 percent to 15 percent. Further, H.R. 2364 requires financial institutions and federal savings associations to be approved by their federal regulator prior to investing more than 5 percent.

Beyond increasing the percentage of an investment a bank can make into an SBIC, H.R. 2364 also brings into parity the Small Business Investment Act with the Office of the Comptroller of the Currency’s national bank charter percentage requirements.

III. HEARINGS

In the 114th Congress, issues related to SBICs were addressed at a hearing by the Subcommittee on Economic Growth, Tax and Capital Access of the Committee on Small Business entitled “Improving Capital Access Programs within the SBA” on May 19, 2015. As a result, no hearings have been held in the 115th Congress.

IV. COMMITTEE CONSIDERATION

The Committee on Small Business met in open session, with a quorum being present, on June 15, 2017, and ordered H.R. 2364 be favorably reported to the House by a recorded vote of 21 yeas and 0 noes at 11:29 A.M. No amendments were offered during consideration of H.R. 2364.

V. COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the recorded votes on the motion to report the legislation and amendments thereto.

**COMMITTEE ON SMALL BUSINESS
TALLY SHEET**

DATE: 6/15/17
BILL NUMBER: H.R. 2364
ROLL CALL:

QUORUM: 13
PRESENT: 21

AMENDMENT NUMBER: Final bill, as amended, reported to the House
VOTE: (AYE) (NO) 11-29

MEMBER	AYE	NO	NOT VOTING
Mr. Chabot, Chairman	✓		
Mr. King			
Mr. Luetkemeyer	✓		
Mr. Brat	✓		
Ms. Radewagen	✓		
Mr. Knight	✓		
Mr. Kelly	✓		
Mr. Blum	✓		
Mr. Comer			
Ms. González-Colón	✓		
Mr. Bacon	✓		
Mr. Fitzpatrick	✓		
Dr. Marshall	✓		
Mr. Estes	✓		
Ms. Velázquez, Ranking Member	✓		
Mr. Evans	✓		
Ms. Murphy	✓		
Mr. Lawson, Jr.	✓		
Ms. Clarke	✓		
Ms. Chu	✓		
Ms. Adams	✓		
Mr. Espallat	✓		
Mr. Schneider	✓		
VACANT			
TOTALS			

On this vote there were 21 ayes and 0 nos.

VI. SECTION-BY-SECTION ANALYSIS OF H.R. 2364

Section 1. Short title

This section designates the bill as the “Investing in Main Street Act of 2017.”

Section 2. Investment in Small Business Investment Companies

Since 1958, the Small Business Investment Company (SBIC) program has operated a private-public partnership model, whereby a privately owned and Small Business Administration (SBA) licensed company supplies debt and equity capital to small businesses. The program successfully runs at a zero subsidy rate to the American taxpayer. This section amends § 302(b) of the Small Business Investment Act by increasing the percentage a financial institution or federal savings association can invest in an SBIC. Currently, financial institutions and federal savings associations are limited to investing 5 percent of capital and surplus in an SBIC. This section increases the percentage to 15 percent and requires the financial institution or the federal savings association to be approved by their federal regulator prior to investing more than 5 percent.

VII. UNFUNDED MANDATES

H.R. 2364 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act, Pub. L. No. 104–4, and would impose no costs on state, local or tribal governments.

VIII. NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY AND TAX EXPENDITURES

The Committee has not received an estimate of new budget authority contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to § 402 of the Congressional Budget Act of 1974. In compliance with clause 3(c)(2) of rule XIII of the Rules of the House, the Committee opines that H.R. 2364 will not establish any new budget or entitlement authority or create any tax expenditures.

IX. OVERSIGHT FINDINGS

In accordance with clause 2(b)(1) of rule X of the Rules of the House, the oversight findings and recommendations of the Committee on Small Business with respect to the subject matter contained in H.R. 2364 are incorporated into the descriptive portions of this report.

X. STATEMENT OF CONSTITUTIONAL AUTHORITY

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the authority for this legislation in Art. I, § 8 of the Constitution of the United States.

XI. CONGRESSIONAL ACCOUNTABILITY ACT

H.R. 2364 does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of § 102(b)(3) of Pub. L. No. 104–1.

XII. FEDERAL ADVISORY COMMITTEE ACT STATEMENT

H.R. 2364 does not establish or authorize the establishment of any new advisory committees as that term is defined in the Federal Advisory Committee Act, 5 U.S.C. App. 2.

XIII. STATEMENT OF NO EARMARKS

Pursuant to clause 9 of rule XXI, H.R. 2364 does not contain any congressional earmarks, limited tax benefits or limited tariff benefits as defined in subsections (d), (e) or (f) of clause 9 of rule XXI of the Rules of the House.

XIV. STATEMENT OF DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c) of the rule XIII of the Rules of the House, no provision of H.R. 2364 establishes or reauthorizes a program of the federal government known to be duplicative of another federal program, a program that was included in any report from the United States Government Accountability Office pursuant to §21 of Pub. L. No. 111–139, or a program related to a program identified in the most recent catalog of federal domestic assistance.

XV. DISCLOSURE OF DIRECTED RULE MAKINGS

Pursuant to clause 3(c) of rule XIII of the Rules of the House, H.R. 2364 does not direct any rulemaking.

XVI. PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House, the Committee establishes the following performance-related goals and objectives in this legislation:

H.R. 2364 amends the Small Business Investment Act of 1958 to increase the amount of capital and surplus financial institutions and savings associations may invest in an SBIC.

XVII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

SMALL BUSINESS INVESTMENT ACT OF 1958

* * * * *

TITLE III—INVESTMENT DIVISION PROGRAMS

PART A—SMALL BUSINESS INVESTMENT COMPANIES

* * * * *

CAPITAL REQUIREMENTS

SEC. 302.

(a) AMOUNT.—

(1) IN GENERAL.—Except as provided in paragraph (2), the private capital of each licensee shall be not less than—

(A) \$5,000,000; or

(B) \$10,000,000, with respect to each licensee authorized or seeking authority to issue participating securities to be purchased or guaranteed by the Administration under this Act.

(2) EXCEPTION.—The Administrator may, in the discretion of the Administrator and based on a showing of special circumstances and good cause, permit the private capital of a licensee authorized or seeking authorization to issue participating securities to be purchased or guaranteed by the Administration to be less than \$10,000,000, but not less than \$5,000,000, if the Administrator determines that such action would not create or otherwise contribute to an unreasonable risk of default or loss to the Federal Government.

(3) ADEQUACY.—In addition to the requirements of paragraph (1), the Administrator shall—

(A) determine whether the private capital of each licensee is adequate to assure a reasonable prospect that the licensee will be operated soundly and profitably, and managed actively and prudently in accordance with its articles; and

(B) determine that the licensee will be able both prior to licensing and prior to approving any request for financing, to make periodic payments on any debt of the company which is interest bearing and shall take into consideration the income which the company anticipates on its contemplated investments, the experience of the company's owners and managers, the history of the company as an entity, if any, and the company's financial resources.

(4) EXEMPTION FROM CAPITAL REQUIREMENTS.—The Administrator may, in the discretion of the Administrator, approve leverage for any licensee licensed under subsection (c) or (d) of section 301 before the date of enactment of the Small Business Program Improvement Act of 1996 that does not meet the capital requirements of paragraph (1), if—

(A) the licensee certifies in writing that not less 50 percent of the aggregate dollar amount of its financings after the date of enactment of the Small Business Program Improvement Act of 1996 will be provided to smaller enterprises; and

(B) the Administrator determines that such action would not create or otherwise contribute to an unreasonable risk of default or loss to the United States Government.

(b) FINANCIAL INSTITUTION INVESTMENTS.—

(1) CERTAIN BANKS.—Notwithstanding the provisions of section 6(a)(1) of the Bank Holding Company Act of 1956, any national bank, or any member bank of the Federal Reserve System or nonmember insured bank to the extent permitted under applicable State law, may invest in any 1 or more small business investment companies, or in any entity established to invest solely in small business investment companies, except that in no event shall the total amount of such investments of any such bank exceed 5 percent of the capital and surplus of

the bank or, *subject to the approval of the appropriate Federal banking agency, 15 percent of such capital and surplus.*

(2) CERTAIN SAVINGS ASSOCIATIONS.—Notwithstanding any other provision of law, any Federal savings association may invest in any one or more small business investment companies, or in any entity established to invest solely in small business investment companies, except that in no event may the total amount of such investments by any such Federal savings association exceed 5 percent of the capital and surplus of the Federal savings association or, *subject to the approval of the appropriate Federal banking agency, 15 percent of such capital and surplus.*

(3) APPROPRIATE FEDERAL BANKING AGENCY DEFINED.—*For purposes of this subsection, the term “appropriate Federal banking agency” has the meaning given that term under section 3 of the Federal Deposit Insurance Act.*

(c) DIVERSIFICATION OF OWNERSHIP.—The Administrator shall ensure that the management of each licensee licensed after the date of enactment of the Small Business Program Improvement Act of 1996 is sufficiently diversified from and unaffiliated with the ownership of the licensee in a manner that ensures independence and objectivity in the financial management and oversight of the investments and operations of the licensee.

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