

## Calendar No. 280

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SENATE

{ REPORT  
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### SBIC ADVISORY COMMITTEE ACT OF 2022

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MAY 3, 2022.—Ordered to be printed

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Mr. CARDIN, from the Committee on Small Business and  
Entrepreneurship, submitted the following

### R E P O R T

together with

### MINORITY VIEWS

[To accompany S. 2521]

The Committee on Small Business and Entrepreneurship, to which was referred the bill (S. 2521) to require the Administrator of the Small Business Administration to establish an SBIC Working Group, and for other purposes, reports favorably thereon, with an amendment in the nature of a substitute and an amendment to the title, and recommends that the bill, as amended, do pass.

#### I. INTRODUCTION

A bill to require the Administrator of the Small Business Administration to establish an SBIC Advisory Committee, (S. 2521) was introduced by Senator Ben Cardin and Senator Jim Risch on July 28, 2021.

This bill directs the U.S. Small Business Administration (SBA) Administrator to establish an SBIC Advisory Committee to develop recommendations for increasing the diversity of the investments made by the SBIC program to include a greater number of businesses owned by members of underserved communities and businesses located in underfinanced States.

During the markup of the bill, the Cardin substitute amendment and the Cardin long title amendment to the bill were approved by a voice vote as part of a manager's package. The Cardin substitute amendment changes the name of the SBIC working group to the

“SBIC Advisory Committee” and revises the membership and selection process. Of the 16 appointees, one will be from SBA, 7 will be chosen by the SBA Administrator, and 8 will be chosen by the Administrator from lists submitted by the Chairs and Ranking Members of the Small Business and Entrepreneurship Committee of the Senate and the Small Business Committee of the House of Representatives. The Advisory committee would then have 18 months to draft a report on recommendations to improve access to the SBIC program for underserved communities and underfinanced States. The bill, as amended, was also approved by a voice vote as part of a manager’s package.

## II. HISTORY (PURPOSE & NEED FOR LEGISLATION)

An SBIC is a privately owned and managed investment fund that is licensed and regulated by the SBA, which invest in small businesses through debt and equity. Concerns have been raised about SBICs’ lack of diversity among investments in businesses and locations. In FY 2021, the SBIC made 1,080 investments in small businesses. Of those investments:

- 75 (7%) of those businesses were owned by women, veterans, or minorities
- 200 (19%) of the businesses were located in low and moderate income (LMI) areas
- 253 (23%) of those businesses were Special Competitive Opportunity Gap Businesses.<sup>1</sup>

Similarly, in 2021, the top five states, California, Texas, New York, Illinois, and Pennsylvania, made up approximately 40% of total dollars invested by the SBIC program, while Wyoming, North Dakota, and New Mexico received practically zero SBIC investment.<sup>2</sup>

## III. HEARINGS & ROUNDTABLES

In the 117th Congress the Committee on Small Business and Entrepreneurship held a hearing on June 9, 2021 entitled, “Review of the Small Business Investment Company Program.” In her testimony, Ivelisse Rodriguez Simon, Managing Partner of Avante Capital Partners, spoke about the lack of diversity of the SBIC program and argued that increasing the number of women and minority fund managers would increase the diversity of the businesses that receive SBIC investments. Among Ms. Rodriguez Simon’s recommendations was the creation of a diversity task force at SBA that would track and implement initiatives that drive diversity of managers and investments.

## IV. DESCRIPTION OF BILL

This bill establishes an SBIC advisory committee (committee) to provide recommendations to SBA on how to increase demographic and geographic diversity in the management and investments of SBIC funds. The committee consists of 16 members, with the Associate Administrator of the Office of Innovation and Investment as

<sup>1</sup>Special Competitive Opportunity Gap Businesses are defined by SBA as those businesses in LMI areas or are owned by minorities, women, and veterans. For FY2021, 22 businesses are both owned by women, veterans, or minorities and are located in LMI areas under this category.

<sup>2</sup>The top 5 states received \$2.837 billion while the bottom 3 received less than \$300,000 combined.

the chairperson (or another designee as determined by the SBA Administrator). The Administrator has authority to appoint 4 members to the committee, and must also appoint 2 members each from lists of 3 provided by the Chairs and Ranking Members of the Senate and House Small Business Committees. Within 18 months, the committee must submit a report to Congress and the SBA Administrator with recommendations on how the SBA could expand SBIC program access to underserved and underfinanced communities. All appointed members of the SBIC Advisory Committee shall have no conflict of interest in the SBIC program.

#### V. COMMITTEE VOTE

In compliance with rule XXVI (7)(b) of the Standing Rules of the Senate, the following vote was recorded on February 15, 2022.

A motion to adopt S. 2521, a bill to direct the Administrator of the Small Business Administration (SBA) to establish an SBIC Advisory Committee, as amended by the Cardin substitute amendment, was agreed to by a majority voice vote of a quorum present as part of a manager's package. Senators Paul, Ernst, and Marshall asked to be recorded as voting no.

#### VI. COST ESTIMATE

The Committee has not yet received the Congressional Budget Office's estimate of the cost of S. 2521 as ordered reported. When the Congressional Budget Office completes its cost estimate, it will be posted on the Internet at [www.cbo.gov](http://www.cbo.gov).

#### VII. EVALUATION OF REGULATORY IMPACT

In compliance with rule XXVI (11)(b) of the Standing Rules of the Senate, it is the opinion of the Committee that no significant additional regulatory impact will be incurred in carrying out the provisions of this legislation.

#### VIII. SECTION-BY-SECTION ANALYSIS

##### *Section 1. Short title*

This section designates the act as the "SBIC Advisory Committee Act of 2022".

##### *Sec. 2. SBIC Advisory Committee*

This section defines terms used to establish and carry out the SBIC Advisory Committee. The section also outlines the composition of the committee, including how selections are made, the process for Members of Congress to recommend panelists, the designation of a Chairperson, and the duties of the Committee. Finally, this section directs the Committee to issue a report on recommendations to diversify the program within 18 months to the SBA Administrator, the Committee on Small Business and Entrepreneurship of the Senate, and the Committee on Small Business of the House of Representatives. The SBIC Advisory Committee will terminate upon completion of the report and is subject to the Federal Advisory Committee Act.

## VIV. MINORITY VIEWS

*Minority Views of Senator Paul*

The SBA has authority to request input and stakeholder feedback on this topic. The SBA also has several interagency task forces and working groups established across the agency that have added to internal bureaucracy, creating bottlenecks for programs and services. Establishing the SBIC Advisory Committee would take time and resources away from SBA personnel providing services supporting small businesses and curbing risk to taxpayers.

The private investment market is already meeting the needs of diverse startups and entrepreneurs. For instance, as Ms. Ivelisse Rodriguez Simon, Managing Partner of Avante Capital Partners explained during the June 9, 2021 hearing entitled, “Review of the Small Business Investment Company Program there are a large number of existing diverse investment managers in the private market. The private market is currently empowering diverse individuals in the venture and private equity fields without the existence of the SBIC Advisory Committee. Further, Ms. Sarah Chen, co-founder and managing partner of Beyond the Billion, stated that globally, 80 percent of fund managers are women and minorities.<sup>3</sup> Ms. Chen confirms this trend in diverse fund managers and investment in women and minority-owned businesses in the private investment market.

Additionally, the private market is distributing historic levels of capital to diverse businesses. In 2021, private venture capital investment reached record levels with the National Venture Capital Association and Pitchbook recording nearly \$330 billion in investment in U.S. businesses of which \$6.4 billion went to female-only founded startups.<sup>4</sup> Similarly, in 2021 the American Investment Council reported private equity invested over \$1 trillion in America’s communities with 74% of capital investments supporting 5,205 small businesses.<sup>5</sup> The private market is creating diversity in representation and capital distribution without the use of government-backed leverage, rendering the SBIC Advisory Committee an unnecessary waste of taxpayer dollars.

RAND PAUL,  
*Ranking Member.*

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<sup>3</sup> <https://www.bizjournals.com/bizwomen/news/latest-news/2022/01/female-founded-companies-get-little-of-therecord.html?page=all#:~:text=Overall%2C%202021%20was%20an%20exceptionally,data%20by%20research%20firm%20PitchBook>.

<sup>4</sup> <https://www.bizjournals.com/bizwomen/news/latest-news/2022/01/female-founded-companies-get-little-of-therecord.html?page=all#:~:text=Overall%2C%202021%20was%20an%20exceptionally,data%20by%20research%20firm%20PitchBook>.

<sup>5</sup> <https://www.investmentcouncil.org/wp-content/uploads/2021-q4-aic-trends-report1.pdf>