

must enforce this compliance. The facility must maintain documented procedures for identification, collection, indexing, access, filing, storage, maintenance, and disposition of quality system records. The facility must maintain quality system records to demonstrate conformance to the quality manual and the effective operation of the quality system.

(4) *Personnel*. There must be a selection procedure and a training system to ensure technical competence of all staff members. The education, technical knowledge, and experience required to perform assigned test and inspection functions must be documented and clearly defined. In addition:

(i) Evaluation of plant or tissue samples must be undertaken by a plant pathologist or by laboratory technicians under the supervision of a plant pathologist. Where personnel are required to be trained at a facility to evaluate the particular types of plants or tissue samples handled by the facility, the training program must be evaluated by APHIS and determined to be effective.

(ii) All staff must have access to and be familiar with the reference materials, guides, and manuals required for the routine performance of the tests and inspections they conduct.

(Approved by the Office of Management and Budget under control number 0579-0130.)

Done in Washington, DC, this 14th day of June 2000.

Richard L. Dunkle,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 00-15493 Filed 6-19-00; 8:45 am]

BILLING CODE 3410-34-U

SMALL BUSINESS ADMINISTRATION

13 CFR Part 107

Small Business Investment Companies

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: This proposed rule would implement a provision of Public Law 106-9, enacted April 5, 1999, under which certain types of consideration paid to a small business investment company (SBIC) by a small business are excluded from "cost of money" limitations.

DATES: Submit comments on or before July 20, 2000.

ADDRESSES: Address comments to Don A. Christensen, Associate Administrator

for Investment, U.S. Small Business Administration, 409 3rd Street, SW, Suite 6300, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Leonard W. Fagan, Investment Division, at (202) 205-7583.

SUPPLEMENTARY INFORMATION: This proposed rule would implement a provision of Public Law 106-9, enacted April 5, 1999, that amended section 308(i)(2) of the Small Business Investment Act of 1958. The amendment provided that certain types of consideration paid to an SBIC by a small business are excluded from the regulatory limitations on "Cost of Money" established by the Small Business Administration (SBA). The amendment excluded from these Cost of Money limits any consideration consisting of "contingent obligations" granting the SBIC an interest in the "equity or increased future revenue" of the small business.

To implement this change, SBA is proposing to broaden one of the exclusions from Cost of Money in § 107.855(g) and to add another. First, § 107.855(g)(12) would be revised to allow the exclusion of royalty payments for all SBIC financings. Currently, this exclusion applies only to "LMI Investments" as defined in § 107.50. To qualify for the exclusion, the royalty must be based on improvement in the performance of the small business after the date of the financing. The royalty could be expressed, for example, as a percentage of any increase in an underlying unit of measurement (*e.g.*, revenues or sales) after the date of the financing. As discussed in the preamble to the final rule establishing the original provision for LMI Investments (64 FR 52641), the royalty can be based on an increase in more than one unit of measurement. For example, a royalty could provide for payment to the SBIC if either the revenue or the profits of the small business increased.

If an SBIC makes an investment through a holding company or an investment vehicle, as permitted under § 107.720(b), performance improvements will be evaluated in the same manner already established for LMI Investments. In determining whether a business's performance has improved, SBA will look through any holding company or investment vehicle to the performance of the operating business itself.

SBA is proposing one additional change with respect to royalty payments. In § 107.815(a), the definition of a Debt Security would be revised to include a loan with a right to receive royalties that are excluded from the Cost

of Money. The effect of this change is that a financing of this type will be subject to the lower Cost of Money ceiling applicable to Debt Securities, rather than the higher ceiling applicable to Loans with no upside potential.

SBA also proposes to add § 107.855(g)(13), which would exclude from Cost of Money any gains realized by an SBIC from the disposition of Equity Securities issued by a small business. This provision has been added as a clarification, since SBA's longstanding practice has been to exclude such gains from the Cost of Money limits. For example, if an SBIC receives warrants that qualify as Equity Securities, or converts debt to an Equity Security, any gains realized on the disposition of these interests do not count against the Cost of Money ceiling.

Finally, SBA proposes to remove paragraph § 107.855(i). This paragraph allows an SBIC that is lending to a small business to receive a one-time "bonus" at the end of the loan term, contingent upon one or more factors reflecting the performance of the business during the loan period. Such bonus payments are excluded from the Cost of Money. The proposed revision of § 107.855(g)(12), which would provide a broader exclusion of contingent payments from the Cost of Money, renders the bonus provision redundant.

Compliance With Executive Orders, 12866, 12988, and 13132, the Regulatory Flexibility Act (5 U.S.C. 601, et seq., and the Paperwork Reduction Act (44 U.S.C. Ch. 35))

SBA has determined that this proposed rule does not constitute a significant rule within the meaning of section 3(f) of Executive Order 12866.

Under the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, SBA has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities. The purpose of the proposed rule is to implement a provision of Public Law 106-9 allowing small business investment companies (SBICs) to realize contingent payments, such as royalties, from small businesses without being subject to regulatory limits on the amount of consideration received. Interest and other non-contingent payments made to SBICs by small businesses would continue to be subject to the existing Cost of Money regulations. This provision is expected to be attractive primarily to SBICs considering investments in small businesses that are seeking to grow, but whose owners do not want to give substantial equity interests to outside investors. In such cases, the SBIC can

participate in the growth of the business by collecting a royalty rather than through an ownership interest.

Based on recent statistics for the SBIC program, the circumstances that this proposed rule would address do not appear to apply to most small businesses currently receiving SBIC financing. In fiscal year 1999, SBICs provided financing to 1,983 different small businesses. In approximately two-thirds of all the financings closed during that year, the SBIC obtained an actual or potential equity interest in the small business; even if the proposed rule had been in place, it is unlikely that these transactions would have included royalty provisions. The remaining one-third of SBIC financings typically consist of loans to very small businesses with low growth potential, which are unlikely to have the ability to make royalty payments under any circumstances. Thus, it is unlikely that this proposed rule would affect a substantial number of small entities. The proposed rule is expected to expand financing opportunities for certain small businesses wishing to grow while remaining closely held, rather than make SBIC financing more expensive for small businesses currently being served by the program.

For purposes of Executive Order 12988, SBA has determined that this proposed rule is drafted, to the extent practicable, in accordance with the standards set forth in Section 3 of that Order.

For purposes of Executive Order 13132, SBA has determined that this proposed rule has no federalism implications.

For purposes of the Paperwork Reduction Act, 44 U.S.C. Ch. 35, SBA certifies that this proposed rule contains no new reporting or recordkeeping requirements.

List of Subjects in 13 CFR Part 107

Investment companies, Loan programs-business, Reporting and recordkeeping requirements, Small businesses.

For the reasons set forth in the preamble, SBA proposes to amend 13 CFR part 107 as follows:

PART 107—SMALL BUSINESS INVESTMENT COMPANIES

1. The authority citation for part 107 continues to read as follows:

Authority: 15 U.S.C. 681 *et seq.*, 683, 687(c), 687b, 687d, 687g and 687m.

2. In § 107.815, revise the first sentence of paragraph (a) to read as follows:

§ 107.815 Financings in the form of Debt Securities.

* * * * *

(a) *Definitions.* Debt Securities are instruments evidencing a loan with an option or any other right to acquire Equity Securities in a Small Business or its Affiliates, or a loan which by its terms is convertible into an equity position, or a loan with a right to receive royalties that are excluded from the Cost of Money pursuant to § 107.855(g)(12).

* * * * *

3. In § 107.855, revise paragraph (g)(12), add paragraph (g)(13), and remove paragraph (i) to read as follows:

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

* * * * *

(g) * * *

(12) Royalty payments based on improvement in the performance of the Small Business after the date of the Financing.

(13) Gains realized on the disposition of Equity Securities issued by the Small Business.

* * * * *

Dated: June 8, 2000.

Aida Alvarez,

Administrator.

[FR Doc. 00-15421 Filed 6-19-00; 8:45 am]

BILLING CODE 8025-01-U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00-ASO-23]

Proposed Establishment of Class D Airspace; Kissimmee, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to establish Class D airspace at Kissimmee, FL. Air traffic controllers at Kissimmee Municipal Airport, FL, are being certificated as weather observers. Therefore, the airport will meet criteria for Class D airspace. Class D surface area airspace is required when the control tower is open to accommodate current Standard Instrument Approach Procedures (SIAPs) and for Instrument Flight Rules (IFR) operations at the airport. This action would establish Class D airspace extending upward from the surface to and including 2,500 feet MSL within a 4-mile radius of the Kissimmee Municipal Airport.

DATES: Comments must be received on or before July 20, 2000.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 00-ASO-23, Manager, Airspace Branch, ASO-520, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, telephone (404) 305-5627.

FOR FURTHER INFORMATION CONTACT: Nancy B. Shelton, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305-5586.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made:

“Comments to Airspace Docket No. 00-ASO-23.” The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of the comments received. All comments submitted will be available for examination in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM)