

Calendar No. 171

118TH CONGRESS
1ST SESSION**S. 2212**

To require the Administrator of the Small Business Administration to establish an SBIC Advisory Committee, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 22, 2023

Mr. CARDIN introduced the following bill; which was read twice and referred to the Committee on Small Business and Entrepreneurship

JULY 25, 2023

Reported by Mr. CARDIN, with amendments

[Omit the part struck through and insert the part printed in *italic*]

A BILL

To require the Administrator of the Small Business Administration to establish an SBIC Advisory Committee, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “SBIC Advisory Com-
5 mittee Act of 2023”.

1 **SEC. 2. SBIC ADVISORY COMMITTEE.**

2 (a) DEFINITIONS.—In this section—

3 (1) the terms “Administration” and “Adminis-
4 trator” mean the Small Business Administration
5 and the Administrator thereof, respectively;

6 (2) the term “Advisory Committee” means the
7 SBIC Advisory Committee established under sub-
8 section (b);

9 (3) the term “covered Members” means the
10 Chair and Ranking Member of—

11 (A) the Committee on Small Business and
12 Entrepreneurship of the Senate; and

13 (B) the Committee on Small Business of
14 the House of Representatives;

15 (4) the terms “licensee”, “small business in-
16 vestment company”, and “underlicensed State” have
17 the meanings given those terms in section ~~301~~ 103
18 of the Small Business Investment Act of 1958 (15
19 U.S.C. 662);

20 (5) the term “low-income community” has the
21 meaning given the term in section 45D(e) of the In-
22 ternal Revenue Code of 1986;

23 (6) the term “rural area” has the meaning
24 given the term by the Bureau of the Census;

25 (7) the terms “small business concern”, “small
26 business concern owned and controlled by veterans”,

1 and “small business concern owned and controlled
 2 by women” have the meanings given those terms in
 3 section 3 of the Small Business Act (15 U.S.C.
 4 632);

5 (8) the term “socially or economically disadvan-
 6 tagged individual” means a socially disadvantaged in-
 7 dividual or economically disadvantaged individual, as
 8 described in paragraphs (5) and (6)(A), respectively,
 9 of section 8(a) of the Small Business Act (15 U.S.C.
 10 637(a));

11 (9) the term “underfinanced State” means a
 12 State that has below median financing, as deter-
 13 mined by the Administrator; and

14 (10) the term “underserved community”
 15 means—

16 (A) a HUBZone, as defined in section
 17 31(b) of the Small Business Act (15 U.S.C.
 18 657a(b));

19 (B) a community that has been designated
 20 as an empowerment zone or an enterprise com-
 21 munity under section 1391 of the Internal Rev-
 22 enue Code of 1986;

23 (C) a community that has been designated
 24 as a promise zone by the Secretary of Housing
 25 and Urban Development; ~~and or~~

1 (D) a community that has been designated
 2 as a qualified opportunity zone under section
 3 1400Z-1 of the Internal Revenue Code of 1986.

4 (b) ESTABLISHMENT.—The Administrator shall es-
 5 tablish an SBIC Advisory Committee to convene outside
 6 experts to advise on the small business investment pro-
 7 gram under title III of the Small Business Investment Act
 8 of 1958 (15 U.S.C. 681 et seq.).

9 (c) COMPOSITION.—

10 (1) MEMBERSHIP.—The Advisory Committee
 11 shall be composed of 16 members appointed by the
 12 Administrator as follows:

13 (A) The Associate Administrator of the Of-
 14 fice of Investment and Innovation of the Ad-
 15 ministration, or another designee of the Asso-
 16 ciate Administrator, as determined by the Ad-
 17 ministrator.

18 (B) 7 members with competence *regarding*,
 19 interest *in*, or knowledge of the small business
 20 investment program under title III of the Small
 21 Business Investment Act of 1958 (15 U.S.C.
 22 681 et seq.), of whom—

23 (i) not fewer than 3 shall have a dem-
 24 onstrated record of expertise in investing
 25 in—

1 (I) low-income communities;

2 (II) communities that have been
3 designated as qualified opportunity
4 zones under section 1400Z–1 of the
5 Internal Revenue Code of 1986;

6 (III) businesses primarily en-
7 gaged in research and development;

8 (IV) manufacturers;

9 (V) businesses primarily owned
10 or controlled by individuals in under-
11 served communities before receiving
12 capital from the licensee;

13 (VI) rural areas; or

14 (VII) underfinanced States; and

15 (ii) not ~~fewer~~ *less* than 1 shall be a
16 representative from a trade association for
17 the small business investment program
18 under title III of the Small Business In-
19 vestment Act of 1958 (15 U.S.C. 681 et
20 seq.).

21 (C) 8 members appointed by the Adminis-
22 trator as follows:

23 (i) 2 members shall be selected from
24 among the individuals in the list submitted
25 by the Chair of the Committee on Small

1 Business and Entrepreneurship of the Sen-
2 ate under paragraph (2).

3 (ii) 2 members shall be selected from
4 among the individuals in the list submitted
5 by the Ranking Member of the Committee
6 on Small Business and Entrepreneurship
7 of the Senate under paragraph (2).

8 (iii) 2 members shall be selected from
9 among the individuals in the list submitted
10 by the Chair of the Committee on Small
11 Business of the House of Representatives
12 under paragraph (2).

13 (iv) 2 members shall be selected from
14 among the individuals in the list submitted
15 by the Ranking Member of the Committee
16 on Small Business of the House of Rep-
17 resentatives under paragraph (2).

18 (2) RECOMMENDATIONS.—Not later than 30
19 days after the date of enactment of this Act, each
20 of the covered Members shall provide to the Admin-
21 istrator a list of 3 candidates for membership on the
22 Advisory Committee, who shall be individuals who
23 have no conflict of interest in the small business in-
24 vestment program under title III of the Small Busi-
25 ness Investment Act of 1958 (15 U.S.C. 681 et seq.)

and hold a high-ranking position or senior leadership role in—

(A) a relevant industry trade association;

(B) the investment industry with expertise in pensions, endowments, and other non-banking institutions;

(C) academia with expertise in the investment industry; or

(D) a nonprofit institution, including a nonprofit institution that serves any of the entities described in subclauses (I) through (VII) of paragraph (1)(B)(i).

(3) PRIVATE SECTOR MEMBERS.—Not fewer than 2 and not more than 4 of the members of the Advisory Committee shall be investors in the private sector who—

(A) invest in small business concerns; and

(B) as of the date of appointment, do not participate in the small business investment program under title III of the Small Business Investment Act of 1958 (15 U.S.C. 681 et seq.).

(4) CHAIRPERSON.—The Chairperson of the Advisory Committee shall be the member of the Advisory Committee appointed under paragraph (1)(A).

1 (5) PERIOD OF APPOINTMENT.—Members of
2 the Advisory Committee shall be appointed for the
3 life of the Advisory Committee.

4 (6) VACANCIES.—Any vacancy in the Advisory
5 Committee shall be filled in the same manner as the
6 original appointment.

7 (d) DEADLINE FOR APPOINTMENT.—Not later than
8 60 days after the date on which the covered Members pro-
9 vide the lists to the Administrator under subsection (c)(2),
10 the Administrator shall—

11 (1) appoint the members of the Advisory Com-
12 mittee; and

13 (2) submit to Congress a list of the members so
14 appointed.

15 (e) DUTIES.—The Advisory Committee shall provide
16 advice and recommendations to the Administrator con-
17 cerning—

18 (1) policy and program development and other
19 matters of significance concerning activities under
20 the Small Business Act (15 U.S.C. 631 et seq.) and
21 the Small Business Investment Act of 1958 (15
22 U.S.C. 661 et seq.), including diversifying manage-
23 ment teams or companies;

24 (2) incentives for small business investment
25 companies to—

1 (A) invest and locate in underlicensed
2 States and underfinanced States; and

3 (B) invest in small business concerns, in-
4 cluding ~~those~~ *small business concerns* owned and
5 controlled by socially or economically disadvan-
6 tagged individuals, small business concerns
7 owned and controlled by veterans, and small
8 business concerns owned and controlled by
9 women;

10 (3) metrics of success, and benchmarks for suc-
11 cess, with respect to the goals described in this sec-
12 tion; and

13 (4) the impact of the small business investment
14 program under title III of the Small Business In-
15 vestment Act of 1958 (15 U.S.C. 681 et seq.) on the
16 private investment market, including whether invest-
17 ments under the program compete with the private
18 sector.

19 (f) REPORT.—Not later than 18 months after the
20 date on which the Administrator establishes the Advisory
21 Committee under subsection (b), the Advisory Committee
22 shall submit to the Administrator, the Committee on
23 Small Business and Entrepreneurship of the Senate, and
24 the Committee on Small Business of the House of Rep-

1 representatives a report that includes the recommendations
2 of the Advisory Committee described in subsection (e).

3 (g) TERMINATION.—The Advisory Committee shall
4 terminate on the date on which the Advisory Committee
5 submits the report required under subsection (f).

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