

Small Business Administration

§ 107.1181

SBA's share of the Distribution as follows:

(1) Determine the highest ratio of outstanding Leverage to Leverageable Capital that you have ever attained (your "Highest Leverage Ratio"). For the purpose of determining your Highest Leverage Ratio, any deferred interest Debentures issued at a discount must be included in the computation at their face value.

(2) Determine SBA's percentage share of cumulative Distributions:

(i) If your Capital Impairment Percentage under §107.1840 is less than 50 percent as of the Distribution date or your Highest Leverage Ratio equals 0.5 or less, except as provided in paragraph (d)(2)(iii) of this section, SBA's percentage share of cumulative Distributions equals:

$$\left[\frac{\text{Highest Leverage Ratio}}{\text{Highest Leverage Ratio} + 1} \right] \times 100$$

For example, if your Highest Leverage Ratio equals 1, then SBA's share of any distribution you make will be 50 percent.

(ii) If your Capital Impairment Percentage under §107.1840 is 50 percent or greater as of the Distribution date and your Highest Leverage Ratio is greater than 0.5, SBA's percentage share of cumulative Distributions equals 100 percent.

(iii) If you have a condition of Capital Impairment under §107.1830 and your Highest Leverage Ratio equals 0.5 or less as of the Distribution date, SBA's percentage share of cumulative Distributions equals 100 percent.

(3) Multiply the sum of all your prior Distributions and your current proposed Distribution (including Distributions to SBA, your limited partners and your General Partner) by SBA's percentage share of cumulative Distributions as determined in paragraph (d)(2) of this section.

(4) From the result in paragraph (d)(3) of this section, subtract the sum of all your prior Distributions to SBA under this §107.1180.

(5) The amount of your Distribution to SBA will be the least of:

(i) The result in paragraph (d)(4) of this section;

(ii) Your current proposed Distribution; or

(iii) Your outstanding Leverage.

(e) *Additional Leverage prepayment.* On any Payment Date, subject to the terms of your Leverage, you may make a payment to SBA to be applied to repayment of the principal of one or more outstanding Debentures in order of issue, without making any Distribution to your investors.

[77 FR 25053, Apr. 27, 2012]

§ 107.1181 Interest reserve requirements for Early Stage SBICs.

(a) *Reserve requirement.* If you are an Early Stage SBIC with outstanding Leverage, for each Debenture which requires periodic interest payments to SBA during the first five years of its term, you must maintain a reserve sufficient to pay the interest and Charges on such Debenture for the first 21 Payment Dates following the date of issuance. This reserve may consist of any combination of the following:

(1) Binding unfunded commitments from your Institutional Investors that cannot be called for any purpose other than the payment of interest and Charges to SBA, or the payment of any amounts due to SBA; and

(2) Cash maintained in a separate bank account or separate investment account permitted under §107.530 of this part and separately identified in your financial statements as "restricted cash" available only for the purpose of paying interest and Charges to SBA, or for the payment of any amounts due to SBA.

(b) The required reserve associated with an individual Debenture shall be reduced on each Payment Date upon payment of the required interest and Charges. If you prepay a Debenture prior to the 21st Payment Date following its date of issuance, the reserve requirement associated with that Debenture shall be correspondingly eliminated.

(c) Your limited partnership agreement must incorporate the reserve requirement in paragraph (a) of this section.

[77 FR 25053, Apr. 27, 2012]