

on a private character and the non-profit corporation or institution is not a mere conduit.

(e) You may not accept any capital contribution made with funds borrowed by a Person seeking to own an equity interest (whether direct or indirect, beneficial or of record) of at least 10 percent of your Private Capital. This exclusion does not apply if:

- (1) Such Person's net worth is at least twice the amount borrowed; or
- (2) SBA gives its prior written approval of the capital contribution.

[61 FR 3189, Jan. 31, 1996, as amended at 63 FR 5866, Feb. 5, 1998; 64 FR 70995, Dec. 20, 1999]

**§ 107.240 Limitations on including non-cash capital contributions in Private Capital.**

Non-cash capital contributions to a Licensee or license applicant are included in Private Capital only if they fall into one of the following categories:

- (a) Direct obligations of, or obligations guaranteed as to principal and interest by, the United States.
- (b) Services rendered or to be rendered to you, priced at no more than their fair market value.
- (c) Tangible assets used in your operations, priced at no more than their fair market value.
- (d) Shares in a Disadvantaged Business received by a subsidiary Section 301(d) Licensee from its parent Licensee, valued at the lower of cost or fair value.
- (e) Other non-cash assets approved by SBA.

**§ 107.250 Exclusion of stock options issued by Licensee from Management Expenses.**

Stock options issued by any Licensee, including a 1940 or 1980 Act Company, are not considered compensation and therefore do not count as part of a Licensee's Management Expenses.

APPLYING FOR AN SBIC LICENSE

**§ 107.300 License application form and fee.**

SBA evaluates license applicants, giving first priority to applicants headquartered in Underlicensed States

with below median SBIC Financing dollars per State, as determined by SBA and published periodically in a notice on the SBIC website. Once priority is established, such applicants will continue to receive priority throughout the licensing process. SBA reviews and processes applications in two review phases (initial review and final licensing), as follows:

(a) *Initial review.* Except as provided in this paragraph (a), SBIC applicants must submit a Management Assessment Questionnaire ("MAQ") and the Initial Licensing Fee, as defined in paragraph (c) of this section. An applicant under Common Control with one or more Licensees must submit a written request to SBA, and the Initial Licensing Fee, to be considered for a license and is exempt from the requirement in this paragraph (a) to submit a MAQ, unless otherwise determined by SBA in SBA's discretion. Eligible "Expedited Subsequent Funds" as described in §107.305(e) are permitted to submit a streamlined "Short-Form" Subsequent Fund MAQ.

(b) *Final licensing.* An applicant may proceed to the final licensing phase only if notified in writing by SBA that it may do so. Following receipt of such notice, in order to proceed to the final licensing phase, the applicant must submit a complete license application with all required appendices, within the timeframe identified by SBA and the Final Licensing Fee, as defined in paragraph (c) of this section. If you are seeking to be licensed as a Leveraged Licensee and SBA approves your License, SBA will also approve your Total Intended Leverage Commitment amount and ratio as defined in §107.50 based on the target fund size stated in the MAQ, which means the total Leverage commitments available to you for the life of your SBIC, subject to the provisions of §§107.320 and 107.1150. A Licensee is permitted to hold multiple fund closings within and for up to 12 months of receiving a License to reach the target fund size. SBA will then determine the final Total Intended Leverage Commitment which is either the dollar amount or ratio to targeted Private Capital provided at the Green Light. SBA will determine the Total Private Capital Commitment (defined