

when you decide that you will no longer make any Financings other than follow-on investments, and that you update annually when you file your SBA Form 468. The plan must contain your best estimates of the following:

- (1) The remaining number of years you expect to operate.
- (2) For each of your Loans and Investments, the expected liquidation date and anticipated proceeds.
- (3) The timing of your repayment of obligations to SBA.
- (4) The timing and amount of any planned reductions in your Management Expenses.

(d) *Phase-in of activity requirements*—
(1) *General rule.* You must meet the activity requirements in this §107.590 as of the end of your first full fiscal year beginning after January 31, 1996. Until then, you will be considered active if you meet the activity requirements in effect on January 30, 1996.

(2) *Rule for new Licensees.* If you received your license after January 31, 1996, or if you received your license less than eighteen months before the fiscal year end determined under paragraph (d)(1) of this section, you must meet the activity requirements in this §107.590 as of the end of your second full fiscal year beginning after the date you received your license.

Subpart F—Recordkeeping, Reporting, and Examination Requirements for Licensees

RECORDKEEPING REQUIREMENTS FOR LICENSEES

§ 107.600 General requirement for Licensee to maintain and preserve records.

(a) *Maintaining your accounting records.* You must establish and maintain your accounting records using SBA's standard chart of accounts for Licensees, unless SBA approves otherwise.

(b) *Location of records.* You must keep the following records at your principal place of business or, in the case of paragraph (b)(3) of this section, at the branch office that is primarily responsible for the transaction:

(1) All your accounting and other financial records;

(2) All minutes of meetings of directors, stockholders, executive committees, partners, or other officials; and

(3) All documents and supporting materials related to your business transactions, except for any items held by a custodian under a written agreement between you and a Portfolio Concern or non-SBA lender, or any securities held in a safe deposit box, or by a licensed securities broker in an amount not exceeding the broker's per-account insurance coverage.

(c) *Preservation of records.* You must retain all the records that are the basis for your financial reports. Such records must be preserved for the periods specified in this paragraph (c), and must remain accessible for the first two years of the preservation period.

(1) You must preserve for at least 15 years or, in the case of a Partnership Licensee, at least two years beyond the date of liquidation:

(i) All your accounting ledgers and journals, and any other records of assets, asset valuations, liabilities, equity, income, and expenses.

(ii) Your Articles, bylaws, minute books, and license application.

(iii) All documents evidencing ownership of the Licensee including ownership ledgers, and ownership transfer registers.

(2) You must preserve for at least six years all supporting documentation (such as vouchers, bank statements, or canceled checks) for the records listed in paragraph (b)(1) of this section.

(3) After final disposition of any item in your Portfolio, you must preserve for at least six years:

(i) Financing applications and Financing instruments.

(ii) All loan, participation, and escrow agreements.

(iii) Size status declarations (SBA Form 480) and Financing Eligibility Statements (SBA Form 1941).

(iv) Any capital stock certificates and warrants of the Portfolio Concern that you did not surrender or exercise.

(v) All other documents and supporting material relating to the Portfolio Concern, including correspondence.

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(4) You may substitute a computer-scanned or generated copy for the original of any record covered by this paragraph (c).

[61 FR 3189, Jan. 31, 1996, as amended at 79 FR 62823, Oct. 21, 2014]

§ 107.610 Required certifications for Loans and Investments.

For each of your Loans and Investments, you must have the documents listed in this section. Except for information and documentation prepared under paragraphs (f)(2) and (3) of this section, you must keep these documents in your files and make them available to SBA upon request.

(a) SBA Form 480, the Size Status Declaration, executed both by you and by the concern you are financing. By executing this document, both parties certify that the concern is a Small Business. For securities purchased from an underwriter in a public offering, you may substitute a prospectus showing that the concern is a Small Business.

(b) SBA Form 652, a certification by the concern you are financing that it will not illegally discriminate (see part 112 of this chapter).

(c) SBA Form 1941 (for Section 301(d) Licensees only), executed both by you and by the concern you are financing. By executing this document, both parties certify that the concern is a Disadvantaged Business.

(d) A certification by the concern you are financing of the intended use of the proceeds. For securities purchased from an underwriter in a public offering, you may substitute a prospectus indicating the intended use of proceeds.

(e) For each LMI Investment:

(1) A certification by the concern, dated as of the date of application for SBIC financing, as to the basis for its qualification as an LMI Enterprise.

(2) If the concern qualifies as an LMI Enterprise as defined in paragraph (2) of the definition of LMI Enterprise in § 107.50, an additional certification dated no later than the date 180 days after the closing of the LMI Investment, as to the location of the concern's employees or tangible assets or the principal residences of its full-time employees as of the date of such certification, and

(3) Certification(s) by the SBIC, made contemporaneously with the certification(s) of the concern, that the concern qualifies as an LMI Enterprise as of the date(s) of the concern's certification(s) and the basis for such qualification.

(f) For each Energy Saving Qualified Investment:

(1) If a pre-Financing determination of eligibility by SBA is not required under the definition of Energy Saving Activities or Energy Saving Qualified Investment:

(i) A certification by you, dated as of the closing date of the Financing, as to the basis for the qualification of the Financing as an Energy Saving Qualified Investment;

(ii) Supporting documentation of the Energy Saving Activities engaged in by the concern;

(iii) Supporting documentation of either the percentage of its revenues derived from Energy Saving Activities during the concern's most recently completed fiscal year, which must be at least 50 percent, or the concern's intended use of the Financing proceeds, all of which must be used for Energy Saving Activities; and

(iv) A certification by the concern, dated as of the closing date of the Financing, that any information it provided to you in connection with this paragraph (f)(1) is true and correct to the best of its knowledge.

(2) If, prior to providing Financing, you must obtain a determination from SBA that the activities in which a concern is engaged are Energy Saving Activities, submit to SBA in writing a description of the product or service being provided or developed, including all available documentation of the energy savings produced or anticipated, addressing the factors considered under paragraph (4) of the definition of "Energy Saving Activities" in § 107.50 and certified by the concern to be true and correct to the best of its knowledge.

(3) If, prior to providing Financing, you must obtain a determination from SBA that the concern is "primarily engaged" in Energy Saving Activities, submit to SBA in writing all available information concerning the factors considered under paragraph (3) of the definition of "Energy Saving Qualified